

Alaska Criminal Justice Commission

Meeting Summary

Thursday, October 15, 2020, 1:00 p.m.

Via Zoom

Commissioners Present: Scotty Barr, Joel Bolger, Sean Case, Samantha Cherot, Matt Claman, Alex Cleghorn, Nancy Dahlstrom, Shelley Hughes, Stephanie Rhoades, Trevor Stephens, Steve Williams

Commissioners Absent: Adam Crum (Deputy Commissioner Albert Wall served as proxy for Commissioner Crum), Amanda Price (Special Assistant to the Commissioner Randi Breager served as proxy for Commissioner Price), Ed Sniffen (Criminal Division Director Paul Miovas served as proxy for Acting AG Sniffen)

Participants: Mike Ramsay, Travis Welch, Ezekiel Kaufman, Will Fanning, Troy Payne, Rachel Gernat, Karl Clark, Tony Piper, Troy Payne, Kathy Monfreda, Nancy Meade, Laura Russell, Natasha McClanahan, Alysa Wooden

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

Introductions

Chair Matt Claman suggested rearranging the proposed agenda by moving the preliminary audit report and the Commission's response to the bottom of the agenda so participants would not have to wait through the executive session.

Commissioner Nancy Dahlstrom moved to approve agenda with this change and Justice Bolger seconded the motion. There was no objection and the agenda was approved.

Summary of Previous Meeting

Commissioner Alex Cleghorn moved to approve the summary of the previous meeting and Commissioner Dahlstrom seconded the motion. There was no objection and the summary was approved.

Victims' Rights and Services Recommendation

Commissioner Steve Williams explained that the Commission had previously considered this recommendation at the September 10 meeting. This recommendation, regarding victim-witness coordinators, was the third of three recommendations; the first two recommendations were adopted. Paul Miovas from the Department of Law brought up some concerns about the third recommendation, so the Commission we tabled it. The Victims' Rights and Services Workgroup met a couple of times since then to address those concerns. A reworked

recommendation was drafted following the first discussion, then the workgroup met again to approve the new draft.

Commissioner Williams explained that changes made were to delineate the paralegal role from the victim coordinator role, and to make it clear that the focus is on what the Commission has heard from victims: that victims needed someone to be able to reach out to on a regular basis to receive basic (non-legal) information on the status of their case and to get referrals to services and supports. This role would be different from the paralegal role. The title was also changed to become “victim coordinator” rather than “victim-witness coordinator” also to make things clearer.

Commissioner Dahlstrom moved to approve the recommendation and Mr. Miovas seconded the motion. There was no objection and the recommendation was approved.

Draft Annual Report

Chair Claman noted there were some comments on the draft annual report to work through. The goal for the meeting was to approve the sections of the report that were done and then when the Commission next met, it would approve the other sections. Commission project attorney Barbara Dunham walked the group through the report, noting sections where there had been suggestions for substantive change.

One such section was the recommendation from the Domestic Violence Workgroup to make bail conditions accessible to law enforcement. Randi Breager, special assistant to DPS Commissioner Amanda Price and proxy for Commissioner Price said she had reached out to DPS’ IT department regarding the difficulty of having court personnel enter bail information into APSIN. They reached out to the court personnel in Fairbanks. Court personnel in Fairbanks are entering bail conditions into the court system software, and APSIN pulls from that software. Ms. Breager wanted to make sure the report was technically accurate and did not convey the impression that court personnel were entering information directly into APSIN, or entering information more than once. Chief Justice Joel Bolger noted that the software court personnel were currently using must be replaced. He suggested changing the word “enter” to “provide.”

In the section recommending the Legislature support *Crisis Now* efforts, Ms. Breager suggested adding more language to discuss how *Crisis Now* would be rolled out in rural Alaska and how it should not create increasing disparities in health care treatment between rural and urban areas. Commissioner Williams thought that was a great point, and suggested that he work with Ms. Breager and Ms. Dunham to add some language to that effect. He wanted to assure everyone that the coalition supporting Crisis Now was including rural Alaska in its current efforts. The four urban communities where significant work is being done were the first to come forward to ask for this framework. Not everywhere in Alaska will be able to implement the full model but at least some elements should be available in rural Alaska. Chair Claman said he thought it would take years to implement fully.

Regarding the recommendation for a second-look parole provision, Ms. Breager wondered whether the language used was modeled after another statute. Commissioner Samantha Cherot

explained that she drafted the language, and the concept was from the legislative blueprint from Human Rights For Kids.

In the section containing data the Commission was required to report, a placeholder chart had been inserted with prison population projections that had been calculated in 2014 and 2016. Ms. Dunham explained that the Commissioners had requested a projection and that staff had asked DOC whether they might be willing to provide an updated projection. The analysis required was tricky for a number of reasons. Commissioner Dahlstrom said that members of her team would be providing updated information.

Ms. Breager wondered whether it was appropriate to include an SB 91 projection, which was calculated to support the passage of SB 91, which has since effectively been repealed. It could be confusing since the projection was premised on repealed statutes. Commissioner Dahlstrom thought it could be confusing to some people, but then any of the information in the report could be confusing. DOC doesn't get a lot of questions on SB 91 anymore. Chair Claman said it was the same with the Legislature. He noted that one reason to keep the projection was that it does show what SB 91 was supposed to do and the Commission is supposed to report on the impact of SB 91, so it was consistent with the Commission's statutory obligation. Dr. Troy Payne from the Alaska Justice Information Center noted that typically a projection starts when the data stops. He thought the chart was useful and might be useful with more visual changes.

Commissioner Cleghorn said he was surprised to see the chart depicting the share of the prison population between people who were sentenced, pretrial, and other. He thought that information was lost a bit, and suggested moving it up closer to the first chart to emphasize it.

Commissioner Williams remarked that using the term "admissions" for people remanded to DOC custody might be confusing for the reader, and he wondered whether it might be better to use "booked into a facility." Commissioner Cleghorn said he had a similar thought, and suggested "taken into custody." Commissioner Williams said it would be good to make it clear that admission does not equal convicted. Chair Claman suggested there could also just be a short paragraph explaining what admission means. Ms. Dunham noted that DOC uses the term remand. Commissioner Cherot thought remand or booked made sense.

Ms. Dunham explained that the Department of Law had provided a report on sex offense case processing, which she had not yet incorporated into the annual report. She asked the commissioners to weigh in on how the report should be included. Chair Claman suggested that it could be an appendix. He noted there would be a lot of interest in this information. Commissioner Williams wondered if this information was required. Ms. Dunham said that it was required per HB 49.

Mr. Miovas noted that if there were any questions, the Department of Law had analyzed this data thoroughly, and would probably be in a good position to answer any further questions the commission might have.

Susanne DiPietro, executive director of the Alaska Judicial Council and staff to the Commission, asked whether a “sex offense prosecution” in Law’s report was the same as charges filed in court. Mr. Miovas said it was. Ms. DiPietro said she couldn’t tell from Law’s report how many cases were felonies and how many were misdemeanors. She guessed only a handful of them were misdemeanors and that distinguishing them would probably not be meaningful. Mr. Miovas said that was correct, and that misdemeanors were a very small portion of the cohort.

Ms. DiPietro said that this may be the first time this type of information would be published. She was concerned that people wouldn’t understand some of the terms used. She appreciated the explanation of the process and it made sense to her but for someone who was not familiar with the process they might get lost, and might jump to conclusions. She suggested adding a little more about the process and noting how many in the sample are misdemeanors.

Mr. Miovas said he would confer with Law’s data analyst, Ezekiel Kaufman, but thought that the information about misdemeanors could be added. If there were suggestions to add language regarding Law’s process, he asked the commissioners to send him those edits. He noted that Law started with a larger document, and tried to whittle it down.

Chair Claman said it sounded like the statute asked Law to report the data to the Judicial Council and asked the Commission to analyze the data. From this report it looked like Law had also done the analysis. Since the Commission was getting a report from Law, the Commission couldn’t really say that the Commission has done the analysis. This gets back to the question of how this information should be included in the annual report, whether in the appendix or the body of the report.

Mr. Miovas said that Mr. Skidmore had been discussing this with Judicial Council staff but he didn’t know that that particular point had been discussed, and was not sure what Mr. Skidmore’s opinion would be. His understanding was that this was what is required.

Commissioner Williams noted that the commissioners were seeing Law’s report now for the first time. He thought this was a good discussion, but it felt like given the Nov. 1 deadline he was a little uncomfortable including the report without a qualification that it was received from Law, or it could be put in as an addendum.

Commissioner Cleghorn suggested including a short summary of the basic information in Law’s report—of 621 referrals, 322 were prosecuted—and attach Law’s report as an addendum to the annual report. The flow chart presentation might be a little confusing.

Commissioner Cherot agreed with Ms. DiPietro that it could be confusing and noted that the number of cases pending was affected by the pandemic since jury trials were suspended. She agreed with summarizing the information in the body of the report and including Law’s report as an appendix. She was concerned that people could reach the wrong conclusions.

Justice Bolger said he didn’t have strong feelings about where the information should go, but as a matter of presentation, thought that the tables listing the offenses included in the analysis

should be put at the end. They get in the way of the more important information which was provided in figure one.

Mr. Miovas said he could check with Mr. Skidmore during the break about the raw data. Ms. DiPietro explained that the Commission's statute requires that the other criminal justice agencies provide raw data to the Commission, which is what the Commission receives with a couple of exceptions. She recalled she did talk about this with Mr. Skidmore and her understanding was that he was open to providing the raw data, though she understood that Law might be concerned. She did assure him that staff have APSIN clearance.

[10-minute break]

Chair Claman asked whether the Commission should be providing more detailed recommendations on how to spend the marijuana funds. Commissioner Williams said he thought that what was in the report reflects on what is being done and what the Commission has intended. He thought this was a key role of the Commission. In terms of detail, he thought what was in there was adequate. He had provided a few comments on this and thought it by and large covered it.

Chair Claman said that statutes seemed to suggest that the Commission having a sunset date of June 2021 really means that the Commission stops work in 2022. He wondered if that was still the opinion of the Department of Law. Mr. Miovas said it was still the AG's opinion. Subsection (b) of the sunset statute is pretty clear. The civil division agrees, and Law still adheres to that provision. Chair Claman suggested modifying the report to reflect that.

Mr. Miovas said that during the break he had looked up the sex offenses processing data statute. He thought the report provided by Law meets the requirements of the statute. The statute asks for numbers, not raw data. He also spoke with Mr. Skidmore during the break, who confirmed one of Mr. Miovas' concerns; Law could probably provide some of the information, but given the nature of the way the data was kept he was not sure that it would be useful, and didn't think it would necessarily provide more than what is already in the report.

Ms. DiPietro noted that subsection (b)(1) of the statute calls for reporting data that doesn't exist yet. Mr. Miovas concurred, and said Law was working on that with DPS. It will be a cumbersome process.

Commissioner Cherot said she thought it would be helpful to give everyone time to digest the report. She wanted to look more closely at it before weighing in. Chair Claman said that the next opportunity to approve this section would be right on the verge of publication, and asked if there was any objection to reserving discussion for the next meeting. There was none. Ms. DiPietro noted that staff could also send the statute for reference. Chair Claman thought the best approach might be to summarize what is required by the statute in the body of the report, and attach Law's report as an appendix.

Ms. Dunham encouraged the commissioners to read their bios in Appendix B to ensure they were still accurate.

Chair Claman suggested moving through each section of the report and approving those that did not have any objection. Commissioner Dahlstrom said she would like to have members of her team look over the report before approving the sections using DOC data. The sections of the report were approved or set aside as follows:

- Executive Summary: Set aside.
- Introduction: Approved.

[Judge Stephens stepped out of the meeting at this point]

- Subsection II (A): Approved except for Recommendation 3.
- Subsection II (B): Approved after changing the word “enter” to “provide.”
- Subsection II (C): Chair Claman noted this was the section that needed wordsmithing on how the recommendations would affect rural Alaska. Commissioner Williams also had some other wordsmithing, and wondered if he should work with commission staff to revise this section. Chair Claman said that would be fine. Commissioner Sean Case asked if the revisions would provide more explanation of *Crisis Now*. Commissioner Williams that would be included. This subsection was set aside.
- Subsection II (D): Approved.
- Subsection II (E): Approved.
- Subsections III (A), (B), (C), (D): Set aside.
- Subsection III (E): Approved.
- Section IV: Subsection on COVID moved up to the top of the section, approved.
- Subsection IV (Statewide crime rates): Approved.
- Subsection IV (Crime in anchorage): Approved with updated data.
- Subsection IV (Criminal case processing): Approved.
- Subsection IV (Data on victims): Approved.
- Subsection V (A): Set aside.
- Subsection V (B): Approved.
- Subsection V (C): Set aside.
- Section VI: Approved.
- Conclusion: Set aside.
- Appendices: Set aside.

Preliminary Report from the Division of Legislative Audit

Chair Claman explained that the Division of Legislative Audit had sent the Commission a confidential preliminary report, which had been circulated along with a draft response. Because the preliminary report was confidential, it would need to be discussed in executive session. Judge Stephanie Rhoades moved to allow Ms. Dunham and Ms. DiPietro to join the executive session. Commissioner Dahlstrom seconded the motion and it was approved without opposition. Judge Rhoades moved to go into executive session for the purpose of taking up the discussion of the preliminary audit report and the Commission’s response. Commissioner Williams seconded the motion and it was approved without opposition.

[While the Commission was in executive session, Judge Stephens rejoined the meeting and Senator Hughes joined the meeting.]

Once the Commission was out of executive session, Justice Bolger moved to adopt the draft response to the preliminary audit report with modifications made in executive session. Judge Rhoades seconded the motion. There was no opposition, and the response was approved.

Chair Claman said the response would be signed and sent to the Division of Legislative Audit the next day.

Next Steps

The Commission agreed to meet again on Tuesday October 27 at 2:00 p.m. to take up the revised annual report draft. A revised draft would be distributed on October 21. If Commissioners had written comments on any section that still needed to be approved, those written comments were due Monday October 26 at noon.

Public Comment

There was an opportunity for public comment but none was offered.