

Alaska Criminal Justice Commission

Meeting Summary

Monday, October 28, 2019

4:30 p.m.

Audio-teleconference

Commissioners present: Joel Bolger, Sean Case, Samantha Cherot, Matt Claman, Nancy Dahlstrom, Shelley Hughes, Amanda Price, Stephanie Rhoades, Trevor Stephens, Steve Williams

Commissioners absent: Kevin Clarkson (John Skidmore served as proxy for AG Clarkson), Adam Crum, Greg Razo, Brenda Stanfill

Participants: Tony Piper, Lauree Morton, Triada Stampas, Alysa Wooden

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

Approval of Meeting Agenda

Justice Bolger moved to approve the agenda and Judge Rhoades seconded the motion. The agenda was approved without opposition.

Review and Approve Annual Report Draft

New Sections

Barbara Dunham, project attorney for the Commission, went through the report to point out new substantive changes since the draft distributed at the last meeting. There was an executive summary, and a new section describing the research and policy priorities that the Commission had identified at the last meeting.

There were also some new charts of the prison population broken down by race, which showed a racial disparity in Alaska's prisons. Alaska Natives made up a disproportionately large share of the prison population relative to their share of the general population, and this disparity had increased slightly in recent years. There was not any data showing why this was the case.

Chair Claman noted that while this information had been requested by Commissioners, staff had some reservations about including this information without being able to provide a ready explanation for it. He asked the Commissioners to share their opinions.

John Skidmore, serving as proxy for Commissioner Clarkson, said he thought the information should absolutely be included. He said that one of the original goals of SB 91 was to try to reduce that disparity.

Chair Claman noted that last year's bail study showed a reduction in the disparity in pretrial releases.

Senator Hughes wondered whether it was possible to include information on whether there was a disparity in victims. Ms. Dunham said that the Commission did not specifically collect data on victims but that it might be possible to get that information from DPS' universal crime

reports. Sen. Hughes wondered if that information could be included in the report. Chair Claman said that at this point including additional research would be impractical but that would be something the Commission could take up at a later date. Sen. Hughes noted the Victims' workgroup could take up the issue too.

Ms. Dunham explained that there was new information on sentences for drug crimes and factors that might be contributing to pretrial admissions. Mr. Skidmore said he thought the latter section should also include some discussion of changes in sentencing and classification of crimes, such violation of conditions of release, which would also affect pretrial admissions.

Chair Claman wondered whether it was possible at this point to add this data. Ms. Dunham said it would be relatively easy to add language to the report; adding data might not be necessary to convey this information. Sen. Hughes and Commissioner Dahlstrom agreed with Mr. Skidmore. Mr. Skidmore offered to draft some language.

Ms. Dunham noted that she had not received data on discretionary parole releases and would be taking the placeholder for that information out of the final draft. She explained that she had also simplified the recidivism section, placing more information in the related appendix. She said she had also added information on the Suspended Entry of Judgement, violent crime rates, information on vehicle thefts with drug charges, and demands on the criminal justice system. She noted she had included information on workloads for the public defense attorneys and that Mr. Skidmore had informed her he would also send her information on workloads for prosecutors.

Ms. Dunham continued that the reinvestment implementation section had new information on programming in DOC institutions and programming funded through DHSS. She encouraged Commissioners to read those sections as there was a lot of really programming happening through reinvestment.

Ms. Dunham concluded that there were two new appendices that provided additional information on recidivism and the LSIR/risk factor study. She thanked AJC staffers Brian Brossmer and Teri Carns for their hard work on those sections in particular.

General Comments

Chair Claman asked if there were any other thoughts on the report. Mr. Skidmore said that he thought that the report was generally too supportive of SB 91 and did not include information on why HB 49 was needed. He thought this was especially true in the executive summary, in the probation and parole section, and in the drug crimes section.

Mr. Skidmore said that the probation lists a greater number of successes, but he believed that was due to the goal posts being changed, meaning that people were spending less time on probation and therefore did not have as much opportunity to violate the conditions of their probation. He thought this was more a reflection of changes in the law rather than behavior change.

Regarding the drug crimes section, Mr. Skidmore thought that the lower incarceration rates for people convicted solely of drug crimes was touted as a success. He thought it was necessary to qualify the issues identified to maintain the credibility of the Commission.

Regarding probation, Chair Claman said he believed that the report accurately described that people who were high risk were kept on supervision while people who were low risk were

discharged sooner. He also thought the report accurately described the changes in the drug laws and did not offer an opinion on whether that was positive.

Chair Claman also noted that this report had been available to read for a while and that Mr. Skidmore's timing was unfortunate in that he was raising these issues this close to the statutory deadline. He wondered what could be realistically accomplished on this in the time remaining.

Sen. Hughes said she shared the same concerns as Mr. Skidmore. She thought that incorporating his suggestions didn't have to be complicated and could involve adding a few sentences in places rather than analyzing new data. Commissioner Dahlstrom agreed, noting that many people could be successful on probation for a year and then get lax. She offered help from DOC.

Chair Claman thought the way to proceed was to entertain a motion to approve the report and then entertain motions to amend that motion. Commissioner Williams moved to approve the report and Judge Stephens seconded the motion. Chair Claman called for a motion to amend the motion.

Mr. Skidmore said he wanted to make it clear he wasn't necessarily asking for additional data. He noted this was his first day back in the office since the last meeting and he hadn't had time to look at the report until now. He moved to amend the report with his considerations and Commissioner Price seconded the motion.

Chair Claman asked the Commissioners what the process should be; he wondered if Mr. Skidmore should provide additional language and another meeting be held to approve it.

Judge Rhoades asked Mr. Skidmore to clarify what exactly he wanted to say. Mr. Skidmore said that he wanted to qualify some of the language to note that there were other factors to consider that may have impacted some of the data. He didn't think there was time for new data analysis. He didn't think the decrease in drug admissions was a success when there was also an increase in crime.

Judge Rhoades wondered if the report actually claimed any successes or if it was just stating the fact of things changing. Susanne DiPietro, executive director of the Judicial Council and staff to the Commission, said it was the latter, that the law was changed to hold fewer people in prison for possession of drugs, and that fewer people were now in prison for possession of drugs, consistent with the change in the law.

Sen. Hughes said she wanted to be sure the report didn't give the impression that SB 91 had improved substance use disorder statistics, and thought it made sense to add language to the effect that SB 91 hadn't necessarily solved the opioid crisis but that we stopped arresting people for drugs.

Ms. DiPietro noted SB 91 did not change an officer's ability to arrest. Mr. Skidmore said that it effectively told them to stop arresting because officers saw no point to arresting someone who wasn't going to stay in jail.

Judge Stephens said he had a hard time following and participating in the discussion without specific proposed language to look at. Judge Rhoades agreed and thought it would be helpful to be pointed to the specific pages where Mr. Skidmore objected to the content. She added that the obvious consequence of reducing sentences was to reduce use of jail beds, and thought

that was really all you could say about the changes to the drug laws. The Commission didn't have any data on people who weren't arrested, or on the prevalence of opioid misuse in the community generally, and it wasn't the Commission's duty to report on that.

Chair Claman said it sounded like there were several points in the report where Mr. Skidmore wanted substantive amendments. Judge Stephens suggested meeting again later in the week after reviewing proposed language from Mr. Skidmore. Commissioner Case agreed that he would like to see proposed language before deciding anything.

Chair Claman said it looked like another meeting would probably be necessary and that Mr. Skidmore would have to propose some language. He wondered whether Mr. Skidmore saw these issues as being significant enough to warrant another meeting. Mr. Skidmore said he could provide additional language by Tuesday and that the Department of Law would not be comfortable moving forward with the report in its current state.

Sen. Hughes said she agreed with Mr. Skidmore that she would have reservations about the report as is, even though she was not a voting member. She agreed that the Commission's credibility was at stake.

The Commission agreed to reconvene telephonically at 4:30 on Thursday October 31. Mr. Skidmore and anyone else with additional suggestions would need to get them to Ms. Dunham by close of business Tuesday, and Ms. Dunham would send out a revised draft by close of business Wednesday. She would incorporate any stylistic changes and track or highlight any substantive changes. The Commission would then address the substantive changes at Thursday's meeting, hopefully in one motion but possibly by multiple motions if need be.

Commissioner Williams moved to adjourn the meeting and thanked Ms. DiPietro and Ms. Dunham for their work on getting the report together. The motion was seconded by multiple Commissioners and the meeting was adjourned without opposition at 5:35pm.

Public Comment

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