

Alaska Criminal Justice Commission
Ad Hoc Workgroup on Commission Sunset

Meeting Summary

Friday, October 9 2020, 10:00 a.m.

Via Zoom

Commissioners Present: Matt Claman, Steve Williams, Samantha Cherot, Alex Cleghorn, Nancy Dahlstrom, John Skidmore (serving as proxy for Acting Attorney General Ed Sniffen)

Participants: Troy Payne

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

Alaska Justice Information Center (AJiC) Projects and Funding

Dr. Troy Payne, Director of AJiC, explained that the group had had questions at the last meeting about AJiC's funding and project list. AJiC receives \$225,000 from the Alaska Mental Health Trust and \$150,000 in general funds appropriated by the legislature from the mental health budget. Funds from those two sources go almost entirely to salaries for AJiC's research professionals, its part time director (Dr. Payne, funded for essentially 1/3 FTE), and the associate director. The University doesn't take anything from that for overhead. The UAA College of Health provides office space and other infrastructure. In recent years AJiC has received between \$100,000-150,000 in grant funds, offsetting the salaries and funding professional development for the researchers, travel, and commodities.

Dr. Payne said that the overwhelming majority of AJiC's time is spent on things other than the Commission. Right now they have about seven discrete projects going on, none of which are ACJC projects. They do ad-hoc data analysis for a variety of stakeholders, and are asked to do presentations on a variety of topics. For example, APD recently asked for Anchorage crime stats compared to other places. As far as Commission work goes, occasionally AJiC will provide TA to Judicial Council staff, and AJiC will sit in on Commission meetings, and if there are questions AJiC can answer, they will.

Dr. Payne said there had also been a question at the last meeting as to how much of AJiC's work is directed by the Commission, and the answer is essentially none. AJiC takes on projects at its own direction. Recently they had a steering committee meeting to get advice on what questions people in the state want answered.

Commission and workgroup chair Rep. Matt Claman asked how projects were funded, for example, the request from APD—was that a grant? Dr. Payne said it depends on the scope of work. The request from APD was a question they could answer in a few hours, and was within scope of their general funds. They had a recent request from the therapeutic courts task force regarding results first and other topics, which took about 8-10 hours, and was also within scope of the general funds. On the other hand, the Home for Good project required extensive data analysis and consumes a lot of time. They entered into a contract with the project to get funds for that. Same thing for a Trust project on FASD, which will take a lot of time. Another project was staffing studies for the Alaska State Troopers, which are very

involved, and they needed funding for those. They typically will need extra funding for large projects, especially when there are direct costs, such as travel to talk to the troopers.

Commissioner Nancy Dahlstrom said that was a really beneficial overview. She wondered what, if the Commission did not exist, AJiC would need to collect the data that the Commission is now collecting and to make the data available for stakeholders. Dr. Payne noted that AJiC doesn't really have a position on whether the Commission should continue to exist; there would need to be a change in the statute to collect the data. Currently, the data collection function is in the Commission's enabling statute.

Commissioner Samantha Cherot asked what type of funding AJiC would need to do that work if the Commission didn't exist. Dr. Payne said it would depend on the scope of work. There could be scenarios where the scope of work would fall in the range of AJiC's existing general funds.

Susanne DiPietro, executive director of the Alaska Judicial Council, noted that right now the statutes really set forth the scope of work for the data analysis—essentially the analysis that is contained in the annual report. So that was also tied up in the statutory authorization. Ms. Cherot said that given that the Commission staff probably put a lot of hours into the annual report, she imagined that would require another position.

Commissioner Steve Williams said he was almost thinking the question of funding was secondary to what the group wants this entity to do—whether the entity is the Commission, AJiC, or a new body. Once the group decides what the charge of the entity is, the discussion can then turn to what funding it would need and where it should live, and how that will happen in terms of data analysis. He noted that the agreement the Trust has with AJiC includes some expectations about what they'll do with that funding. He wondered whether diving into the funding piece at this point was too into the weeds.

Dr. Payne thought that was a good point. It would probably be better to discuss what the group wants to do with the data.

Chair Claman thought one question was “is the wheel broken and does it need to be reinvented?” The conclusion from the auditor was that the recommendation function shouldn't continue but data function should continue. So starting from the assumption that the entity will not be making recommendations, was the research and analysis function currently working well? It sounded like there was not a lot of free time at AJiC, and the Judicial Council was already doing this function.

Chair Claman asked if there was anyone who wanted to continue the recommendation function. Commissioner Alex Cleghorn said he was not convinced that recommendations are themselves bad. The Commission doesn't make law. The task is to make recommendations to lawmakers, who can take them or not. He thought there was some value to that. He has been in other positions where a group of people makes recommendations, and other people are making the decisions. He thought there were questions to look at like whether recidivism rates were still too high, and whether Alaska is getting a good return on its public safety dollars.

Dr. Payne noted that outside of very narrowly defined projects, AJiC has never been in the business of making legislative recommendations. Their goal is to do the research, and report the research honestly, and that's what they would like to continue doing. They don't want to make recommendations. After conducting one of the trooper detachment studies, they found that the detachment was understaffed, and explained how many more troopers were needed based on AJiC's model. That was a

finding based on the evidence and the research task, and represented the extent of recommendations they would be comfortable making.

Commissioner Dahlstrom said she thought that the Commission has done a really good job and made some recommendations on policy, and also thought the legislature made a decision on this when it set a sunset date. There was also the fiscal reality to think about. She thought everyone would be looking at cuts. In order to continue to collect the information, the statute needed to change. She thought the Commission has done what it was asked to do. She did think the data analysis should continue, just not through the Commission.

Commissioner Cherot said she did see value to the Commission as it exists in statute, and noted that the data collection is useful to make recommendations. She also saw value in the workgroups. She agreed that the data collection function should continue. It seemed to her that AJiC and the Commission work well together, a system that was not broken and not duplicative. She thought that should continue.

Deputy Attorney General John Skidmore said he thought everyone agreed that there should be ongoing data collection. He thought the Commission has struggled in type of data it has collected. He thought of Dr. Payne's description of AJiC's other projects, all of which were within Alaska's criminal justice system, none of which were in the statutory direction of the Commission. The statute was focused on recidivism, but recidivism was not the end-all-be-all. He thought it kept coming back to the question of scope. The way the Commission is set up and the direction of the statute was not fully adequate. Even if there was a will to continue the Commission, there would still be a need to revisit what direction the Commission is going in, and revise the statute.

Ms. DiPietro noted the statute does two things: one, it tells the agencies what information they must send the Commission. Although the Commission does not receive complete information from the Department of Law, the data required from DPS, DOC, and the Court System was pretty much complete and by and large would support almost any analysis of the system that you would want to do. The data collection piece is almost on autopilot right now. The other thing the statute does is set forth how the Commission must analyze the data, looking at things like the recidivism rate, population trends, etc. If there was a desire to have different/more analysis, the statute could be tweaked. What the statute was asking for right now was to analyze SB 91, which didn't make a lot of sense. She thought the group would want to keep the recidivism analysis, court filings and dispositions, parole and probation trends, etc. She thought the part of the statute about sending data was pretty solid.

Dr. Payne thought the data piece was necessary but not sufficient. The data that is sent now is a pretty good base from which to start, but it doesn't provide everything needed to do every project. He agreed with Ms. DiPietro that it made sense to open up the scope of the statute. There are limits to what criminal justice data analysis is allowed – the analysis must be authorized. A broad scope of analysis in the statute will allow greater flexibility.

Ms. DiPietro agreed there would be some projects requiring additional data that people will want, which would need specific data sharing agreements. She also agreed there was a restriction on the analysis function. For example a judge wanted information on race and arrests; while the Commission has that data, she couldn't provide that information to the judge because it wasn't a Commission function. On the other hand, without that restriction, the universe of questions that could be answered was incredibly broad, which was why she thought there needed to be some kind of group to direct the analysis.

Commissioner Cleghorn thought, in looking at the statute, that AS 44.19.645 might already have a broad enough scope.

Commissioner Williams agreed with Ms. DiPietro that there should be an entity guiding the work which has to represent the system. Without that, there will just be one-off projects. That was one reason he liked the inter-disciplinary structure of the Commission, being able to have the lens of all of his colleagues to analyze an issue. Single agencies just won't have a system-wide perspective. He thought the group should look at the structure of that guiding entity and then look at the data that is needed.

Dr. Payne said that one thing that is important to every project is being responsive to stakeholders. There was a lot of value in having a group to guide the work, which is one reason AJiC recently reconstituted its steering committee. AJiC would keep going with that regardless. There is no data that just speaks for itself. The analysis should have an impact.

Chair Claman asked Mr. Skidmore what kind of analysis he would like to see that was not currently being done. Mr. Skidmore said he was interested in looking at crime rates from the standpoint of victimization—that was part of what was already provided by the UCR, but then also looking at prosecution, sentences, treatment, whether that treatment was completed, restitution, and how much was collected. For probation/parole, he'd like a better sense of all of the violations. He'd like to look at timeliness – from the time of the report through the decision to file charges through disposition. Throughout this process, what was going on with victim notification. There were a number of things that Law has to do in that regard, and he would welcome more assistance to evaluate their effectiveness. Another example was the work they were already doing with AJiC on the use of force—when the use of force occurs, what are the circumstances? – that was part of the national conversation.

Chair Claman asked if the Commission's statute would prevent the Commission from doing that right now. Mr. Skidmore thought the Commission could do some of it, it was not necessarily prohibited.

Mr. Skidmore said he agreed with Commissioner Williams and Dr. Payne that there does need to be a multi-disciplinary guidance entity. The AJiC Steering Committee currently lacks any representatives from the Public Defender Agency right now. There needed to be a balance of perspectives. Chair Claman ask Mr. Skidmore what the membership of an ideal group would be. Mr. Skidmore said that he would need to give fuller thought to that. He has at times thought the Commission was unbalanced. He had observed that the judicial members have stopped voting.

Ms. DiPietro said that the Commission already had the data to do some of the research projects Mr. Skidmore was talking about, but some rely on Law data, which the Commission doesn't have right now (though it will be getting some related to sex offenses). Chair Claman asked whether, if the Commission asked for research on what Mr. Skidmore had identified, its analysis would be allowed? Ms. DiPietro said that some of the items listed don't really fit within the scope of the statute, some would. The statute really constrained the Commission to some extent by the reforms of 2016.

Alaska Judicial Council Projects and Funding

Ms. DiPietro explained that Ms. Dunham had sent the group some attachments about the Judicial Council's funding. The OMB detail shows total funding. The Judicial Council has three main constitutional functions: judge selection, judge retention, and conducting studies to improve the administration of justice. The Commission is part of that third function. The Judicial Council has done a number of studies

over the years, and she thought that was why it ended up staffing the Commission. The research that the Judicial Council does is civil and criminal. Its projects come at the request of agencies, the legislature, or the Alaska Supreme Court. For purposes of staffing the Commission, the Judicial Council received additional funding, summarized in the fiscal note which was also circulated. That additional funding was rolled into the Judicial Council's base at this point.

Ms. DiPietro noted that the Judicial Council also staffs the Criminal Justice Working Group, a multidisciplinary group that has been around since the '70s. It hasn't met in a while. It was similar to the Commission, but has never made any policy or statutory recommendations. In general it's a problem solving group, and uses data to solve interdisciplinary problems.

Chair Claman ask how much of the Judicial Council's research function was devoted to Commission work. Ms. DiPietro said the Judicial Council was a small agency with a staff of nine. Probably 80% of the Judicial Council's research capacity was devoted to the Commission right now.

Public Comment

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

Next Steps

The group agreed to complete a Doodle poll for Nov. 5-6.

Chair Claman suggested that Commissioners take a look at the Commission's roster, and think about what would your ideal makeup would be for a guidance entity. He thought that would help the discussion. He was hearing there was a consensus on what gets analyzed.

Ms. DiPietro asked whether it would be helpful to edit the current statute or come up with a proposal for a statute on how the data should be collected and how analyzed. It would not mention which body would become the guidance entity. Commissioner Williams said it would also be helpful to know what is now obsolete, and whether the data exists that will achieve the analysis the group wanted.

Commissioner Dahlstrom agreed that would be helpful if it didn't mention what the guidance entity was.

Dr. Payne echo Commissioner Williams' comments on the availability of data. Every project AJiC does includes a data quality assessment.

Chair Claman said he would also like a better idea of capacities of AJiC and the Judicial Council. Maybe something in writing that describes what capacities each organization has, and if either body needed to do the tasks that would be carried out, what additional funding and staff would be needed.

Ms. DiPietro said it would depend on if the entity would be providing substantive recommendations. Chair Claman suggested an analysis with the recommendation function and without.

Commissioner Williams said that was a good point, it does have an impact on workload. The group hasn't gotten to a place of structure yet, that will further inform what the structure will do. Also the Commission's task right now on how marijuana money used. That was something else that could be included.

Chair Claman asked if AJiC received any funding from the Commission. Dr. Payne said no. Chair Claman said it sounded like the Commission's fiscal note was for less than what the Commission costs. Ms. DiPietro said that was true, the additional funding for the Commission was for Ms. Dunham and Ms. Corey's positions and some administrative staff time, but other staff time also goes into the Commission. It takes a significant amount of time for Mr. Brossmer. Chair Claman said it would help to have a better ballpark of costs; it sounded like the \$260,000 didn't cover everything.

Commissioner Cleghorn said it would be helpful to kind of put a pin in the cost. It sounded like the thought is that sunset will save the state money. He wanted to get into that. He also wanted to get into the value of the work, what Chair Claman was getting at—whether the Commission's value is greater than its current funding.

Dr. Payne noted that if the Commission sunsets, AJiC's work continues as is.

Chair Claman said he thought the group had a starting point to talk about costs, and he thought the group should take that up at the next meeting. The point is well-taken that the Commission's cost doesn't accurately reflect the value given. AJiC's work will carry on..