

Alaska Criminal Justice Commission
Ad Hoc Workgroup on Commission Sunset

Meeting Summary

Tuesday, November 17 2020, 10:00 a.m.

Via Zoom

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

Participants: Troy Payne

Staff: Barbara Dunham, Staci Corey

Proposed Statutory Changes

Commissioner Steve Williams explained that he had drafted changes to the Commission statutes based on the previous conversations of this workgroup. The idea was to come up with a draft so that the group would have something more concrete to work with. The proposed statutory changes had been circulated to the group.

First, Commissioner Williams explained, he had changed the name from “Criminal Justice Commission” to “Criminal Justice Taskforce” in AS 44.19.641 to indicate that the successor entity to the Commission would be a separate body. He’d looked at previous similar bodies in Alaska’s history, and thought this kept the same kind of gravitas, and denoted that it would include state leaders on public safety and criminal justice. Next, he explained that the membership statute, AS 44.19.642, was changed to reflect this group’s conversation from the last meeting – the law enforcement representative and victims’ rights representative would be appointed by the Alaska Chiefs of Police and ANDVSA, respectively, and a subsection was added to encourage geographic diversity.

Commissioner Nancy Dahlstrom asked whether the new name would be for the year post-sunset. Commission and Workgroup Chair Matt Claman said that it would be effective whenever the legislature chooses to enact the law. The existing name would continue until then. Commissioner Dahlstrom said she thought “Taskforce” was fine— the term indicates people actively working towards a goal. Commissioners Alex Cleghorn and Samantha Cherot also thought it was fine. Chair Claman noted that there is some negative public perception of the Commission, and a name change would help distance the new entity from that negative connotation.

Commissioner Dahlstrom asked if anyone was removed from membership. Commissioner Williams said no. The changes in membership were only to how the victims and law enforcement representative seats were appointed. He kept the same number of judges noting Judge Stephens’ comments at the last meeting that judges can help provide some geographic diversity. Commissioner Dahlstrom thought that having geographic diversity was important, though she was still concerned based on comment from the last meeting that judges will sort of vote as a bloc. Commissioner Williams said that was a good point, and that it would be good to hear from the judges on that dynamic. He noted that in the proposed version of the statutes the recommendation function was removed, so it was possible that

dynamic wouldn't come in to play as much. Commissioner Cherot agreed that as the draft statutes were written there would be less voting, but also agreed on Commissioner Dahlstrom's point about voting in blocs.

Chair Claman recalled the group had discussed adding members to the roster but that ultimately there had not been enthusiasm for that and he also thought there was some hesitation to remove the judges. He noted that Justice Alex Bryner was very active when he was on the Commission, and agreed that the situation might be different if the new entity had different tasks.

Commissioner Dahlstrom asked whether the DHSS seat had been included. Chair Claman said that it had been changed to a voting seat.

Commissioner Dahlstrom said that if the new entity wouldn't be making recommendations, a legislator might look at this proposal and ask what the purpose of having such an entity would be. Commissioner Cherot said that she liked Commissioner Cleghorn's suggestion from the last meeting, to give the new entity the ability to make recommendations if the legislature asks it to.

Commissioner Williams added that as written, the new entity would not be making recommendations, but could make findings, and the departments can take that information for use in policy decisions. Commissioner Cleghorn added that sometimes just the statement of the facts can be very valuable; for example, stating the disproportionality of who is impacted by violent crime. It's valuable just to have that information out there.

Regarding the language on geographic representation, Commissioner Cleghorn observed that if the goal was to ensure urban and rural representation, it might be best to state that more explicitly. Commissioner Williams agreed. The group agreed to change the word "geographical" to "rural."

Commissioner Williams explained that AS 44.19.643 (Compensation) and AS 44.19.644 (Meetings) were kept essentially the same, with just the change from "Commission" to "Taskforce" in each statute.

[At this point Deputy Attorney General John Skidmore entered the meeting.]

Commissioner Williams said that AS 44.19.645 (Powers and Duties of the Taskforce) was where he'd made more changes—a lot of the previous statute reflected priorities from SB 91, so tried to take that out and leave in provisions relating to data analysis per the previous discussions from the audit process. Chair Claman said that this section preserved the idea that the taskforce would do the kind of data analysis that would continue to allow the legislature and governor to make informed policy decisions, which really got to the heart of the matter.

Commissioner Williams explained that in subsection (a) he'd added in consideration for the needs of victims, as he thought that was important. He was referring to all victims of crime. Commissioner Dahlstrom suggested looking at the VCCB statute to ensure the same usage of "victim."

Commissioner Williams explained that subsection (b) gets to what Commissioner Dahlstrom was talking about regarding purpose; it would allow the taskforce to identify areas for improvement.

Chair Claman said he thought an example of that was Crisis Now. There were discussions about it at the Commission, and while the process was not started based on a recommendation, he thought the Commission played a role.

Commissioner Williams agreed it was discussed within the Commission, which helped affected departments understand the value in the Crisis Now framework, and having the support of the Commission for this kind of work helped—it needed support from all areas of criminal justice system to push it forward. It began with the Trust and DHSS trying to address the crisis in the state’s psychiatric system. He added that the Commission is helpful in that it provides a regular opportunity for all policy heads to be in one place, and in the future the Taskforce would also be an opportunity to get feedback on how Crisis Now is working.

Commissioner Williams noted that subsection (c) of AS 44.19.645 was one place where the word “recommend” used. The idea was to have the taskforce recommend allocations from the marijuana tax fund. If the group wanted to retain any recommendation function, this would be one place where that could happen. Without a recommendation, he was not sure how funds would be distributed effectively. Commissioners Dahlstrom and Cleghorn liked this idea. Commission project attorney Barbara Dunham suggested referring to the “Recidivism Reduction Fund” as that is how the fund titled in statute.

Commissioner Cherot though this could also be a place to add the ability to make recommendations if requested by the legislature. Chair Claman asked if the idea would be to include the language “may make recommendations if requested by the legislature” in subsection(c).

Commissioner Cleghorn suggested adding a new subsection below it. The new subsection could also revise language from the current subsection (a) (“The commission shall make recommendations for improving criminal sentencing practices and criminal justice practices, including rehabilitation and restitution”) and add the words “upon request”.

Commissioner Cherot liked that idea but thought the language could be even broader, to avoid tying the phrasing to SB 91. The language should be broad enough to allow the legislature to identify the topic. She agreed that it should be a separate subsection from (c).

Chair Claman said it sounded like the group supported the idea of making recommendations for allocations from the Recidivism Reduction Fund. For the provision regarding making recommendations upon the request of the legislature, he suggested also adding that the governor or judiciary could make requests. Commissioner Cherot liked that idea, and noted adding that provision might engender more discussion among the full Commission as to how broad the subject matter for requested recommendations should be.

Ms. Dunham asked to clarify what language the group wanted for subsection (c) language. Commissioner Cherot wondered whether the recommendation should be made to the legislature. Ms. Dunham said that would make sense since the legislature appropriates funds from the Recidivism Reduction Fund. Commissioner Williams noted the annual report would be due November 1, and wondered whether that made sense with the budget. Commissioners Dahlstrom and Cherot said that preparing department budgets is an ongoing process, and preparing the proposed budget for the next fiscal year really starts in late summer. Deputy Attorney General John Skidmore agreed that November was too late for the departments to take any recommendation on allocations into account.

Mr. Skidmore said that for subsection (a), he want to note that there are other criminal justice and sentencing goals other than reducing recidivism, and one of his criticisms of the Commission has been that it hasn’t been as focused on those. He suggested making a specific reference to the statute with the

Cheney criteria, and said he would try to come up with some language. Chair Claman said that it could just be a simple cross reference to the statute or constitutional provision.

Commissioner Dahlstrom said she also wanted to point out that there are varying definitions of recidivism out there, and this was something DOC has tried to bring uniformity to and would like to see in the statute. Ms. Dunham noted the recidivism definition was in the annual report statute (AS 44.19.647). Chair Claman said that the definition could also be added into the definition section. He agreed with Commissioner Dahlstrom noted that that there had been criticism in the legislature about varying definitions of recidivism.

Commissioner Williams explained that AS 44.19.645(f) talks about the data. He used phrase “efficiencies and effectiveness of the criminal justice system” to describe the subject matter and purpose of the data collection, which he thought was broad enough to encompass the taskforce’s data needs and to be flexible. The group agreed this was a good approach.

Commissioner Williams explained that subsection (g) was about how agencies report the data. Chair Claman asked whether this was consistent with maintaining current functions. Commissioner Williams said it was.

Commissioner Williams said that subsections (h)-(j) concerned the specific duties of the agencies reporting data, with a few changes from the current practice. Ms. Dunham noted that the addition of pretrial release and bail information from the court system in subsection (h) was information the Commission had received by request in the past, putting in statute makes things more efficient.

Regarding DPS information in subsection (i), Mr. Skidmore was concerned that it involved UCR data. Ms. Dunham explained that it was not UCR data but disposition data that was sent from the court system and compiled at DPS as part of DPS’s role in being the state’s criminal justice information repository. Dr. Troy Payne said DPS’s reporting requirement involved that disposition data as well as criminal history data. The group expressed interest in double-checking subsection (i) with DPS. Chair Claman asked if Mr. Skidmore wanted to do that and Mr. Skidmore said he would.

Regarding the DOC information in subsection (i) – Ms. Dunham noted that it had been edited to clarify the duties and to reflect reality. Commissioner Dahlstrom said that she would have DOC staff review that section, and said that she also wanted to make the process of gathering data for the annual report more efficient.

Commissioner Williams explained that AS 44.19.646 was the methodology statute, wherein he had suggested deleting things under subsection (b) that were more connected to SB 91, and had used broader terms to capture some of those elements. Chair Claman said that subsection (b) outlined the research priorities for the task force, and encouraged the group to suggest other priorities as well. Mr. Skidmore said he wanted to give some thought to this section, as he thought it could be more balanced; he said he would try to come up with some language.

Commissioner Williams explained that AS 44.19.647 outlined the requirements for the annual report, and he had removed the word “recommendations” and replaced it with “findings.” Chair Claman suggested that this section should also to refer back to the Recidivism Reduction Fund recommendation, and he suggested adding that the deadline should be July 1. The group suggested that might be too early, and agreed August 1 made more sense. Ms. Dunham asked whether that deadline would be only for the

Recidivism Reduction Fund recommendation or for the whole annual report. Chair Claman said it would just be for the Recidivism Reduction Fund recommendation, and that November 1 should remain the deadline for the annual report.

Ms. Dunham noted that this statute contained the recidivism definition, which was broader than DOC's definition. Typically, when DOC reports recidivism data, it refers only to people who have left DOC custody after serving time for a felony, and whether they return to prison within three years. While that definition made sense for DOC, because it reflected both the effectiveness of their programming and the use of their prison beds, it did not cover all justice-involved individuals. The definition in this draft proposal reflected the approach the Commission had been using, which was to look at all people convicted of a crime (both felonies and misdemeanors) regardless of whether they'd spent time in custody.

Chair Claman suggested that the definition used should also be reflected in the definition statute. He noted the group may not reach a consensus on the definition itself. Mr. Skidmore noted that Commissioner Dahlstrom had stepped away from the meeting at this point. He said he agreed with adding the definition to the definition section, but said that for the substance of the definition itself he would need to spend more time reviewing it.

Commissioner Williams noted that subsection (a) of the statute described more of what should be in the annual report. Subsection (a)(5) would need to be amended to reflect the discussion of the Recidivism Reduction Fund recommendation, and another subsection would need to be added to reflect the possibility of optional recommendations if requested.

The group agreed to keep the November 1 deadline for the annual report and to add the recidivism definition to AS 44.19.649 ("Definitions").

Chair Claman asked if there were any other comments on the draft. It sounded like there was broad agreement on the substance, and there would maybe be some additional suggested changes from Mr. Skidmore.

Public Comment

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

Next Steps

Chair Claman suggested two steps—first, to make a general recommendation that refers to the proposed changes in summary form, less than a full page. That way commissioners wouldn't have to sign on to every little change in the statute. Second, the proposed statute would be attached as an exhibit.

Commissioner Cleghorn asked if there were there any areas where there was not consensus. Mr. Skidmore said he thought the issue of the recidivism definition was still outstanding, but other than that didn't see anything. Chair Claman said the recidivism definition would go on the agenda for the next meeting, and that he would come up with a draft recommendation document with Ms. Dunham in advance of that meeting (on December 1).