

**Alaska Criminal Justice Commission**  
**Ad Hoc Workgroup on Commission Sunset**  
**Meeting Summary**

Tuesday, December 1 2020, 10:00 a.m.

Via Zoom

Commissioners Present: Steve Williams, Matt Claman, Kelly Goode (on behalf of Commissioner Dahlstrom), Samantha Cherot, John Skidmore (on behalf of Acting AG Sniffen)

Participants: Troy Payne

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

**Introductions**

Commission and workgroup chair Matt Claman noted that while the meeting materials had included three different documents with proposed statute amendments, he suggested focusing instead on the draft recommendation, a one page document. The goal of the meeting was to reach consensus on a recommendation to send to the full Commission on Thursday, and the workgroup might get bogged down if it tried to come to a consensus on the statutory changes. The proposed statutory changes would help guide the recommendation discussion, however.

**Draft Recommendation**

Chair Claman explained the draft recommendation explaining the basic structure of the successor entity had been circulated, and he asked if anyone had any initial comments on the draft. Commissioner Steve Williams noted that the recommendation didn't include "advisory" in the title, and asked whether there was a decision to drop that from the name of the Taskforce. Chair Claman said that was an omission, not a decision. The group agreed to edit the recommendation to call the successor entity the "Criminal Justice Advisory Taskforce."

Chair Claman noted that the first section of the recommendation talks about the duties and functions of the Taskforce. The group had talked about referencing sentencing goals. Right now the recommendation made a reference to the statute (AS 12.55.005) and Chair Claman wondered if the reference should be to the constitution. Deputy AG John Skidmore recommended using constitution, simply because the constitution trumps the statute and it is harder to change the constitution. It could reference Art. 1 sec. 12 of the constitution. Chair Claman asked whether the reference should be to a specific provision or just to the constitution. Commissioner Samantha Cherot said she would prefer a broader reference. The group agreed to reference the constitution in general terms.

Chair Claman noted the first section also provided that any of the three branches of government could request recommendations from the Taskforce. There was no opposition to the first section of the recommendation as edited.

### *Membership—Deputy AG*

Chair Claman noted that the next section discussed the membership of the Taskforce. He also noted that the third bullet point contained a new idea from Mr. Skidmore that the director of the criminal division should replace the attorney general on the Taskforce. Mr. Skidmore said the purpose of his proposal was to have appropriate representation on the Taskforce. Attorneys general in Alaska typically have not had experience in criminal law, which is what is really needed. He proposed the criminal division director as it was comparable to the public defender position as the director of a statewide division.

Commissioner Williams said he understood the logic behind the change. When the Commission's statute was first written, the idea was to have parity among members at the commissioner level, hence the attorney general position. The current version of the statute allows for a designee. The attorneys general and other commissioners have at times designated people to serve and also brought in people within their organizations with the appropriate expertise. Practically speaking, the proposal wouldn't change much but having the attorney general in the position creates parity and then allows designation.

Mr. Skidmore said that wasn't how things have worked historically on the Commission. He thought it was a matter of what voice the group wanted for the Taskforce. If the group wanted a prosecutor's perspective, historically speaking that would not be what you're getting with the attorney general. A number of attorneys general on the Commission thus far have chosen to occupy the seat, and have not brought a prosecutor's perspective.

Commissioner Cherot thought that what was important was to have someone with decision-making authority; having a representative who does not have that authority has been an issue with the workgroups, which can impact efficiency. DOC Deputy Commissioner Kelly Goode said she agreed that consistency was important, and she has noticed the same thing. That said she liked Mr. Skidmore's idea, and thought it might render better participation.

Chair Claman noted that since the Commission was created in 2014, there have been five or six attorneys general, but only one John Skidmore. Mr. Skidmore noted there had been two changes in the director of the criminal division but agreed with the broader point.

Commissioner Williams asked whether the criminal division director would have the kind of policymaking authority that Commissioner Cherot mentioned. Mr. Skidmore said yes.

Commissioner Cherot asked to clarify—would the representative be the criminal division director or the deputy attorney general? Mr. Skidmore said he was thinking it would be the director, as that position was the director of a division much as the public defender was the director of a division. The current division director was Paul Miovas. Commissioner Cherot said she would prefer the deputy attorney general, since that was the most senior prosecutor position. Mr. Skidmore didn't have a problem with that.

Chair Claman noted that on the question of parity, the public defender was subject to confirmation, and the only person at the Department of Law subject to confirmation was the attorney general. He also thought the Legislature, when presented with this recommendation, might question why the attorney general was not included. He thought there were good reasons to have someone from the criminal division, but it will be a question.

Commissioner Williams said it did sound like there were good reasons, which was not a particular comment on anyone in particular. The proposal does make sense. He wondered whether, without necessarily thinking about the parity, issue, it would make sense to designate the deputy attorney general. Mr. Skidmore agreed that was the senior-most person in the criminal division. The group agreed to go with the deputy attorney general for the criminal division.

#### *Membership—Peace Officers*

Chair Claman said the next suggestion from Mr. Skidmore was to have two law enforcement officers, one from a community of under 2500 people. Mr. Skidmore said one reason for this was that there is a very different perspective from a small law enforcement agency versus a larger one. Anchorage, Fairbanks and Juneau are very different from smaller communities like Bethel and Dillingham. The number was taken from the Alaska Police Standards Council, which they use that to differentiate sizes of communities to ensure rural representation. Also, if the taskforce would be adding the DHSS commissioner as voting member, this proposal would render an odd number. Although not everyone always shows up to meetings, so that may be less important. DPS also has an important statewide perspective particularly regarding data. The problem with this proposal was that including DPS there would be three law enforcement positions, but his goal was more rural representation. He was interested in the Public Defender's perspective on this.

Commissioner Cherot noted that in talking about the taskforce's membership the group had talked about having the same number of people or fewer. She felt that this proposal was a little bit slanted. She did think a rural perspective was important. But three law enforcement representatives along with representatives from the Departments of Law and Corrections gives the group a certain slant.

Chair Claman wondered whether peace officers in communities of less than 2500 would have time to participate. His sense was that they were constantly working and might not have time. Mr. Skidmore said that was a valid concern, but that having the Alaska Chiefs of Police make the appointment would allow them to find someone who would have time. He could think of a couple people on the Alaska Police Standards Council who were from those smaller communities.

Commissioner Cherot wondered whether a sole peace officer could be someone with rural experience. Another option could be to have the additional peace officer be a nonvoting member, although there will be less voting anyway.

Commissioner Williams said that the Commission has historically pulled in other perspectives when needed. He added that DPS represents the Alaska State Troopers and VPSOs. So the Commission does have the ability to pull in context from small communities. There was a balance in trying to maintain the size of the successor entity and trying to get rural representation; in striking that balance he didn't think the entity necessarily needed another person.

Ms. Goode agreed with Mr. Skidmore that the rural members of the Alaska Police Standards Council are regular participants, and they can find people who can devote the time. She thought this proposal would work to get more rural representation. She saw the benefits, and didn't see how an extra person could hurt.

Chair Claman asked what the group thought about not increasing the number of members but making sure the peace officer comes from a small community. He also thought that even numbers might

not be a problem, as it tends to encourage consensus, and there is strength in making consensus-based decisions. Commissioner Williams thought 2500 might be too low. That number filters out Bethel, Nome, and Kotzebue. Chair Claman wondered whether 5000 might be better. Commissioner Williams noted that the current statute refers to “municipal” law enforcement. He thought that given the volume of cases in Anchorage, not having that perspective would be a loss. He was leaning toward keeping the current structure and tapping the resources of DPS to pull rural perspectives. He thought the group had wanted to keep membership small. Commissioner Cherot agreed. Commissioner Williams said he still agreed with the Alaska Chiefs of Police making the appointment.

Chair Claman wondered whether using the word “municipal” would exclude small communities. He thought the only municipality in Alaska was Anchorage. He suggested using the word “local.” Mr. Skidmore thought it might be something to leave it up to the drafters—they might have other ideas. Just conveying the concept might be more efficient.

Chair Claman asked if the group could support keeping only one peace officer and replacing “municipal” with “local.” Mr. Skidmore said he preferred the version he had proposed but wouldn’t put his foot down. He thought “local” was an improvement, and would prefer to have the two peace officers but understood the reasons against it. Ms. Goode agreed.

### **Proposed Statutory Changes**

*[At this point Commissioner Alex Cleghorn joined the meeting]*

Chair Claman observed that it might not be possible to get to consensus on proposed statutory changes. He wondered whether the group wanted to go through the different proposals.

Mr. Skidmore said he thought the recommendation was the appropriate format to bring to the full Commission rather than specific statutory amendments. Working on amending the statutes was useful within the group to shape the conversation, but whatever recommendation the Commission comes up with will be revised by legislative legal and legislators.

Commissioner Cherot thought the goal should be to get the full support of the Commission for the recommendation before getting into statutory recommendations. Mr. Skidmore agreed. Commissioner Williams thought that what was on the recommendation represented the substantive changes.

Mr. Skidmore said the only thing the group hadn’t discussed was the definition of recidivism. He hadn’t had a chance to read the materials circulated on the topic, and knew that DOC had a perspective on the issue. He thought it was a larger conversation.

Ms. Goode agreed that it was a larger conversation, and something DOC was open to discussing. DOC also has concerns about the data reporting requirements. DOC was more than willing to report the data, but wanted to be sure it could provide the information called for.

Chair Claman recalled that the group had earlier discussed moving the definition of recidivism out of the annual report section to the definition section of the statute. Without debating actual definition, was there a benefit to note moving that definition in the recommendation? It was currently in an obscure location. Commissioner Cherot said that she would support that; it made more sense. Ms. Goode said that was fine as long as there was consistency with what Alaska law defines as recidivism.

Chair Claman thought there was a larger discussion to have on the Commission level about what that definition is, but didn't think the group would get to that today.

The group agreed to add a sentence to the recommendation that the definition should be moved in the statutes.

Ms. Goode asked if this would be the same definition that's currently in statute. Commissioner Williams said the current definition didn't capture everything. The current definition was an appropriate starting place but could be added to.

Dr. Troy Payne from AJiC said that there was a large portion of people excluded from the current definition. Whatever the definition would be, it shouldn't be limited. It was a complicated issue. Perhaps language could be added to the effect of "and other aspects of post-conviction conduct."

Ms. Goode said that DOC was concerned about the issue of consistency. Other groups often appear before the Legislature to talk about their outcomes and they're not comparing apples to apples. The result is that DOC is the only one abiding by the statutory definition.

Dr. Payne said he understood and that it could be vexing when different definitions were used. For that reason, researchers always define recidivism in every instance of using the word.

Chair Claman said that this discussion was reflective of how thorny the issue was. He suggested that a workgroup from the Commission look at it.

Commissioner Williams moved that the workgroup adopt the recommendation with the changes made by the group. Commissioner Cherot seconded the motion and there was no opposition.

### **Public Comment**

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

### **Next Steps**

Chair Claman said the recommendation as revised would be sent to the Commission. Commissioner Williams offered to present the recommendation to the Commission and said he thought that the workgroup had done a lot of good work in a compressed timeframe. Chair Claman thought it had been helpful to go through the statutes even though the group did not end up finalizing them; it helped the group think about what changes were needed. Commissioner Cherot agreed.