

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.

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).

Alaska Criminal Justice Commission
Ad Hoc Workgroup on Commission Sunset

Meeting Summary

Thursday, November 5 2020, 1:00 p.m.

Via Zoom

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

Participants: Troy Payne

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

Introductions

Workgroup and Commission Chair Matt Claman asked if there were any additions to the summary of the last meeting. There were none.

Membership of Guidance Entity

Chair Claman reminded the group that at the last meeting, the group had discussed a collective homework assignment—if there is to be a new guidance entity, what should membership of that entity look like? The Commission statute listing the current 14 members had been circulated before the meeting.

Commissioner Samantha Cherot said that in looking at the current statute and what the commission is evaluating, including the data required to be evaluated, she thought membership should be substantially the same as what's listed in the statute if that same data is to be collected going forward.

Commissioner Nancy Dahlstrom agreed, and added that she knew there were times when the judges have to recuse themselves. She was open to looking at other membership possibilities. She was not sure how to address judges needing to recuse themselves.

Susanne DiPietro, executive director of the Alaska Judicial Council and staff to the Commission, said that if the judges recuse themselves they typically do so when the Commission is going to recommend legislation, since the judge might need to make a ruling on that legislation should it become law. But if the guidance entity is not going to be making any recommendations for legislation, those circumstances will occur less often if at all. Additionally, the restrictions don't apply to retired or inactive judges.

Commissioner Alex Cleghorn agreed with Commissioners Cherot and Dahlstrom in that the right branches of government were at the table. One thing to discuss might be who designates the representatives; the Alaska Native community representative is designated by ANJC, and the Mental Health Trust representative is designated by the Trust's CEO. The local law enforcement and victims' rights representatives are designated by the Governor—would other bodies be appropriate to make those designations? The victims' representative could be designated by an organization such as Victims for Justice or another well-established organization.

Deputy Attorney General John Skidmore noted that a representative body for law enforcement outside the Governor's office could be the Alaska Chiefs of Police, which represents most law enforcement in the state. For victims' representatives, he thought the most significant statewide organization would be ANDVSA. They are the most expansive organization geographically, but they also only focus on DV/SA crimes. Victims for Justice and the Office of Victims' Rights represent more crimes but don't have quite the breadth or scope.

Mr. Skidmore agreed with Commissioners Cherot and Cleghorn that many seats that are currently designated on the Commission also make sense as representation for a future group. He also appreciated Commissioner Dahlstrom's comments about the judges. He had seen judges refrain from voting on issues other than policy; for example at last meeting they abstained from voting to approve the annual report. He thought the judiciary should be represented, but if three judges are in the group and they all abstain, that's a big chunk.

Mr. Skidmore added that when it comes to looking at law enforcement representation it would make sense to have representation of both rural and urban areas, not just municipal and statewide representatives. Also, the current makeup of the Commission has the Commissioner of DHSS as a nonvoting member, but DHSS plays a significant role in the criminal justice system, both in behavioral health and juvenile justice. DHSS should have a voting seat.

[Judge Trevor Stephens joined the meeting at this point.]

Commissioner Dahlstrom agreed with Mr. Skidmore about DHSS; it was a large department and had a reach in so many things relevant to criminal justice. She also wanted to say thank you to Judge Stephens for the letter he'd sent to the workgroup and that she appreciated the time and effort he put into it.

Commissioner Steve Williams said that he'd gone through the current roster a couple different times in thinking about this. He appreciate Mr. Skidmore's comment about having a rural law enforcement component, which got him thinking about VPSOs and VPOs—having someone at that level of law enforcement was something to consider. He also appreciated the comments about the Commissioner DHSS being a voting member. Regarding judges recusing, he wondered why judges would recuse from non-legislative votes such as for the annual report. He thought judges should be part of the group but participation was important. He wondered if eliminating the recommendation function might help.

Judge Stephens said he was not sure why a judge would abstain from voting on the annual report. He noted that with regard to the annual report vote, he was in court when the final vote came, He had, however, voted on the earlier amendments to the report. Speaking candidly, when the legislature decided that there should be three members of the judiciary, he never really gave a thought to the ethics problem when he was appointed. When the current Chief Justice came in he took a hard look at it, and his bottom line was that active judges shouldn't be voting on potential legislation. Judge Stephens also spoke to Marla Greenstein who is more conservative on the issue. Had he been present he would have voted on the report. Perhaps there's a spectrum of what's appropriate. He had worked on things like the SEJ and three-judge panel recommendations, and under the current view he didn't think it was appropriate to vote on things like that but on other things he would vote. There may be times when he would prepared to vote but the Chief Justice doesn't; if it's a close call he won't vote. He still intended to fully participate in the Commission and would only abstain on votes if he thought it was ethically required.

Chair Claman noted that Justice Alex Bryner, the former appellate court representative, and Judge Stephanie Rhoades, the current district court representative, were retired. He thought considerations regarding when to abstain were different for active Supreme Court justices, because if they have to recuse themselves for a case it is harder to find replacement.

Chair Claman asked the group for thoughts on having someone other than the Governor appoint the victims' representative and law enforcement representative. Commissioner Cleghorn thought Mr. Skidmore's thought about ANDVSA appointing the representative was a good one. Chair Claman said that OVR was technically an arm of the Legislature, which might militate in favor of ANDVSA. He asked if the Alaska Chiefs of Police would be able to have rural and urban representation. Mr. Skidmore said they represent agencies from all across the state although his suggestion regarding rural and urban representation wasn't necessarily intended to grow the membership of the oversight entity. He also thought DPS representation was important because they were custodians of relevant data, though the group didn't necessarily need 3 law enforcement members.

Chair Claman asked whether there was a consensus that 14 was a good number in terms of representation, along with giving DHSS vote, and having the two appointments made by ANDVSA and the Alaska Chiefs of Police.

Commissioner Williams thought that sounded right, though he wondered whether, since OVR has a broader reach in terms of subject matter, OVR could also be included in the appointment process. He was also fine with way membership currently stands.

Regarding the appointments being made by the administration vs another body, Mr. Skidmore noted that the administration is already set up to make appointments to boards and commissions. But he also realized that politics color the perception of those decisions.

Chair Claman said that when the Legislature was discussing whether to appoint the DHSS Commissioner as a voting member, one concern was whether that would increase the Governor's reach on the Commission; having someone else appoint the two other seats might strike a balance there. It sounded like the group was reaching consensus on the DHSS Commissioner voting, a victims' representative appointed by ANDVSA, and a law enforcement officer appointed by the Alaska Chiefs of Police.

Mr. Skidmore asked whether the oversight body needed three judges. Judge Stephens replied that the three levels of judges provide different perspectives on practice, and also can provide more rural representation. The courtroom experience is different in rural areas compared to urban areas. Mr. Skidmore said that it made sense to have people from different districts, and he agreed they function very differently.

Chair Claman asked whether statutory language should be added that judicial appointments should have an urban and rural mix, or whether it should be left up to the Chief Justice. Judge Stephens said it wouldn't hurt, and Mr. Skidmore and Commissioner Dahlstrom agreed. Mr. Skidmore noted that from his perspective, Ketchikan wasn't necessarily rural, and that experiences were very different in western Alaska. Judge Stephens did not disagree but noted that he does hear cases in places like Prince of Wales.

Commissioner Cleghorn suggested that the language could be broadened to include magistrate judges, which could reach locations without appointed judges. Chair Claman suggested that it could be modified to call for two trial court judges rather than one district court judge and one superior court judge, allowing more room to broaden the geographic perspective.

Chair Claman said it sounded like the group wanted to leave the membership as is but add language calling for attention to be paid to rural and urban representation.

Alaska Judicial Council Capacity

Ms. DiPietro explained that when the Commission was extended, the Judicial Council was given extra funding for staffing. She asked for the minimum possible in the fiscal note. So the fiscal note had some travel money, some overhead for office capacity and supplies, and salaries for an entry-level attorney and a part-time research analyst. That money is now in the Judicial Council's base. When it comes to actually supporting the work of the Commission, things operate a little differently. The Commission's statute says the Commission must meet quarterly, but it actually meets more often, plus there are workgroup meetings. So the level of staffing from the fiscal note is inadequate. In addition to the dedicated staff, Ms. DiPietro, Teri Carns, Susie Dosik, and Brian Brossmer all put in significant time, which varies week to week depending on what's going on with the Commission. So if the new group were to continue with the current level of engagement, including workgroups, policy recommendations, and special reports, she would continue the current fiscal note. If the scope of work were less, just meeting quarterly and looking at data, she could ask for less money. It was hard to be specific without specific details on the scope of work. It was not just about whether the new group would be doing recommendations, but also the frequency of meetings, and what projects they want to work on.

Commissioner Williams said it sounded like the scope of work is the critical piece. Reviewing the statute, he noted that even with weeding out the formal recommendation piece, continuing with the data, research and analysis was not really decreasing the workload much. It made sense to think about the work in terms of reports and analysis rather than whether or not recommendations would be issued. He thought it was helpful to have reports, which can be used by agencies for a variety of things. He thought the new group would still need capacity for that function.

Ms. DiPietro said that one thing the Commission hasn't done that staff have talked about is publishing information more frequently. That could be useful to policymakers and other interested parties.

Chair Claman asked how difficult it would be to transfer day-to-day management to AJiC or another body? Ms. DiPietro wasn't sure, the Council was already set up to support the Commission because the work was similar to supporting the Council. She was not sure about what AJiC would need.

Alaska Justice Information Center (AJiC) Capacity

Dr. Troy Payne, director of AJiC, said he thought that was a fair question, and again, capacity needs would depend on the scope of work. He could come up with a budget if, e.g., 50% of AJiC's time were to be devoted to this new project, but he would need to know what they're doing. At this time, AJiC was not really set up to provide support for a body like this— it lay outside of AJiC's core competency. But AJiC can do data analysis. What AJiC has already done with the Commission is in collaboration with Judicial Council

staff. He thought the focus should be on what needs to be done, then the group can go from there in terms of who would be the most appropriate to staff that effort.

Commissioner Williams asked if the bulk of support for a future entity were to be shifted to AJiC, whether AJiC would need at least some additional resources. Dr. Payne said yes, as AJiC doesn't have idle capacity right now. Commissioner Williams said that was his impression from the last meeting, and that it seemed like AJiC and the Judicial Council have worked out a collaboration. Dr. Payne said that was true. Thinks like coordinating meetings and arranging for travel, lunch, and materials can be a full time job—one that would be outside the job description of current AJiC employees or would require a new employee. So either AJiC would forgo doing some of the other things it was currently doing, or it would need additional resources. It wasn't a zero-cost idea. He noted there are entities similar to AJiC in other states that do half of their work at the direction of the legislature, and half special projects of their own initiative.

Chair Claman said it sounded like the question was whether to move duties to AJiC or the Judicial Council or use the existing relationship between the two. Commissioner Williams said it sounded like the current structure was the most efficient, and that collaboration happens as needed.

Mr. Skidmore said it was a difficult question. He agreed that the administrative part is not what AJiC is set up to do. But he also thought they're better set up to do the research part. Other entities are already supplying information to them, and it made more sense to have one clearinghouse for state data. There was also value in having an entity that exists outside of one of the three branches of government.

Next meetings

Commission project attorney Barbara Dunham noted that Commissioner Dahlstrom needed to leave early and suggested scheduling the next meetings at this point. The next two meetings were scheduled for Tuesday, November 17 from 10 am to 12 pm, and Tuesday, December 1 from 10 am to 12 pm.

[Commissioner Dahlstrom left the meeting at this point.]

Recommendation Function

Chair Claman said it sounded like the big question is whether to keep the recommendation function. Commissioner Cherot said she thought there was value in the recommendation function. Noting that the original purpose of the recommendation function was reform, she expected that if the recommendation function were retained, it would be narrower. Even without recommendations, the Commission should continue to evaluate the same subjects.

Commissioner Cleghorn said he also still saw value in the recommendation function. The point Ms. Cherot raised was an interesting one. If the recommendation function was narrower, would that be more palatable? Right now it was pretty broad.

Mr. Skidmore said that any kind of recommendation function moves into policy territory rather than just looking at data, and can be seen as non-objective. He thought the most helpful function was to gather data and report it, without any kind of agenda. If an entity is making recommendations, it might be seen as having an agenda. He wanted to see an entity that would last beyond one or two administrations, something that becomes a significant part of the state's functions.

Commissioner Williams said those were valid points, though he still fell on the side of having recommendations from a broad cross-section of organizations based on data. He recognized that created tension but thought these were healthy conversations. At a base minimum, having an entity in perpetuity might be overly ambitious but having a diverse group to look at data for the use of various parts of state policymakers was important, and he didn't want to sacrifice that for the recommendation function. He also wanted to add that the marijuana fund exists and thought that a group like this should make recommendations regarding how to spend that money. He thought that without that, what would happen was that individual departments would advocate for its use for their own ends.

Judge Stephens explained that he had said what he wanted to say about this in the memo that he sent. He would defer to others as to political realities. He thought there was a real benefit to having balanced, thoughtful, evidence-based recommendations with input from all the relevant players. Regarding the marijuana funds, he noted that the three agencies given the funds had never been directed to be coordinated about its use. More coordinated discussion could be helpful. He thought Alaska would be back where we were in 2015 in a couple of years, and at that point the Legislature might want input on how to get out of that.

Public Comment

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

Next Steps

Chair Claman said that Commissioner Williams and Ms. DiPietro had been working on proposed changes to the statute. Commissioner Williams said that they were really just a first stab at taking a look at what needs to be reworded, deleted or added—a starting point for discussion. They might tweak it based on this conversation. Ms. DiPietro noted that looking at the language will help this discussion be more concrete.

Commissioner Cleghorn suggested the ability to make recommendations “if invited by the Legislature.” That way a recommendation function wouldn't need to be added to the statute later if the Legislature wanted a recommendation. Ms. DiPietro said that was similar to how the Judicial Council operates. Dr. Payne said it was also similar to how the Washington State Institute for Public Policy operates. The legislature sends WSIPP questions about specific policy changes, to be reported back on a particular time frame. The data access part of the statute for such a function could be drafted as “use for policy analysis”. One of the limitations of the existing structure is that the Commission is receiving and analyzing data for the purpose of criminal justice reform, a limitation.

Chair Claman said that was something the group could look into before the next meeting.

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..

Alaska Criminal Justice Commission
Ad Hoc Workgroup on Commission Sunset

Meeting Summary

Tuesday, September 22, 2020, 10:00 a.m.

Via Zoom

Commissioners Present: Steve Williams, Matt Claman, Alex Cleghorn, Sam Cherot, John Skidmore (serving as proxy for the Attorney General), Nancy Dahlstrom

Participants: Araceli Valle, Brad Myrstol, Troy Payne

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

Commissioner Matt Claman offered to chair the workgroup, noting that a chair had not been appointed when the workgroup was formed. Commissioner Alex Cleghorn said he thought having a chair was necessary, and Rep. Claman would be a good choice. Commissioners Steve Williams and Samantha Cherot agreed.

Commission project attorney Barbara Dunham said that she had not sent a formal agenda since there was only one issue for the workgroup, to come up with a recommendation regarding the Commission's sunset by December. Broadly she thought that today the group should decide what needs to be decided, on what timeline, and what additional information was required. She noted that the Division of Legislative Audit had sent their preliminary report, and the Commission's response would be an agenda item at the next plenary meeting on October 15.

Rep. Claman said the focus in prior discussions had been on the Commission's data collection and analysis functions, and he saw four options post-sunset: maintain the status quo and continue the Commission as is, revise the Commission's statute to create a scaled-down Commission (mission TBD, but mostly focused on data), move the data collection and analysis function over to AJiC, or let the sunset take its course and have a complete shutdown of Commission operations including the data collection and analysis function.

Commissioner Nancy Dahlstrom said she had given a lot of thought to this, and thought that a lot of good has come from the Commission; looking at the state's fiscal situation she thought the responsible thing to do was have AJiC to continue with data function. She thought it would be best to be proactive and maintain the information flow. She didn't think a complete shutdown would be good. She also didn't think the Commission would be allowed to maintain its current form.

Commissioner Williams asked who would direct the data analysis in that case? Commissioner Dahlstrom said she didn't necessarily have a solution, but suggested something like the Commission but scaled down to 5 members. She was open to suggestion.

Commissioner Williams said that he had also reflected on the good work being done with the Commission, and also how things have changed since the Commission's statute was written. He was trying

to reimagine the mission for the Commission as an entity. The data and analysis piece was really important, and has helped to guide and shape policy. He also thought AJiC was an important piece to this conversation, and it was valuable to have a nonpolitical research arm. But the group needed to think about how their work gets guided.

Commissioner Dahlstrom observed that AJiC would basically just need a steering committee.

Rep. Claman asked if AJiC had any statutory authority. Deputy Attorney General John Skidmore said it was not; it operated through MOUs and executive orders. He thought it made sense to put something in statute if the Commission wanted to go the AJiC route. AJiC currently has a steering committee, which he thought should be in statute as well.

Commissioner Cleghorn said he understood the need to be fiscally responsible. He wondered how is AJiC was funded, and whether that would in fact be more stable.

Dr. Troy Payne, director of AJiC, said that AJiC was funded by mental health general funds, also some funds from the Alaska Mental Health Trust. If there were to be a substantial change in AJiC's mission, there would need to be a conversation on how that would be paid for. For the last several years AJiC has been able to do work that impacts Trust beneficiaries. If AJiC had an expanded statutory role, there would be a question of how to fund that.

Susanne DiPietro, executive director of the Alaska Judicial Council which staffs the Commission, said that Judicial Council and AJiC staff have worked collaboratively to divvy up data collection, analysis, and reporting. It has been a good way to spread out the work. The Judicial Council has as part of its constitutional authority the ability to conduct research on the administration of justice. She didn't want to lose sight that the Judicial Council has the capacity for data analysis and has been doing this work for 50 years. The Judicial Council also has staff, and she thought the group would need to talk about staffing.

Dr. Payne agreed that the Judicial Council and AJiC have been complementary, and thought the two organizations work well together. They have each played to their strength and not been duplicative. He didn't think there was a lot of fat to cut there.

Rep. Claman asked how much of the Judicial Council's budget went to the Commission. Ms. DiPietro said that the Commission's budget was for Ms. Dunham, Commission research analyst Staci Corey, and a few hours of administrative services. She would look up the numbers.

Rep. Claman asked how much of AJiC's work was Commission work and how much was other work. Dr. Payne said AJiC hasn't really tracked its work that way. On balance, he would say AJiC does more work that is not for the Commission than for it. He could come back with better estimate.

Commissioner Williams thought it would be helpful to get those numbers. He explained that the Trust provides around \$225,000 to AJiC and then AJiC also has gotten mental health general funds in the level of about \$150,000. He was not sure if they were using other funds.

Dr. Payne said the general fund number has changed a bit over years but he could get it. It would be difficult to identify what is Commission-related vs what is non-Commission related. There is some overlap, as they will be working on a project and then share it with the Commission. Historically AJiC has not received direct orders from the Commission. AJiC staff have listened in at meetings and tried to be responsive to what the commissioners are interested in, but AJiC has not been given marching orders. It

would be hard to piece out. There are other questions about how much of the director's time would be counted. He is part-time AJiC, and also teaching, which is funded by general funds. AJiC does have a broad portfolio of projects. They have done dashboards for the Bureau of Justice Statistics (BJS), are working with APD on domestic violence data, working with the Department of Law on the use of force, among other projects. There is a lot of non- Commission work.

Ms. DiPietro said she had looked up the Judicial Council's fiscal note: \$262,000 was the amount allocated to the Commission. The Judicial Council's actual spending is more because more of the staff work on Commission projects than just Ms. Dunham and Ms. Corey.

Dr. Payne said AJiC has four research professionals (three full-time and one half-time), plus the director (him) who is part-time.

Commissioner Williams said that when AJiC first got started in 2015 and 2016, there were discussions on getting all criminal justice data in the same place, being compliant with CJIS requirements from BJS, and being able to look at the criminal justice system as a system. They were looking at other national models at the time. Pew was part of that conversation, as they had developed Results First.

Dr. Payne said that AJiC also traces roots to the statistical analysis center, which eventually merged into AJiC. Alaska was one of the few states where BJS funds go to the university, so it was easier to be independent as opposed to housing the statistical research center in the executive branch. AJiC was initially focused on Results First, then started branching out. For example, AjiC worked on the revalidation of the pretrial risk assessment tool.

Rep. Claman noted that the Commission was organized such that no one branch controls the conversation. That was another thing this group might want to consider, how to structure independence.

Dr. Payne said that as far as AJiC was concerned, independence is essential to its work. AJiC is truly independent, truly nonpartisan, and presents the facts as they are and not as anyone wants them to be. They have an ethical commitment to independence. Independence was a key element to them, along with access to data.

Ms. DiPietro said she wanted to echo those sentiments. Throughout the years the Judicial Council has considered it important that data is presented as it is—the reports can explain it, but must remain objective. That was one reason the Judicial Council works well with AJiC, as they have consistent approaches.

Commissioner Cleghorn said he appreciated this discussion. He thought the makeup of the Commission and diversity of commissioners helps provide perspective and drives certain questions. His concern with shrinking the Commission would be a lack of variety of stakeholders. Ms. DiPietro agreed that the diversity of perspectives had been extremely helpful, in terms of what the Commission's interest is, comments on the data, and sometimes an explanation of the data staff would not have known otherwise.

Commissioner Cherot said it sounded like the relationship between the Judicial Council and AJiC was working well and was not duplicative, and that was something that stood out to her. For the next meeting she would like to know more about each body's funding and how that works. Looking at things

like reform, reentry, the rights of accused, and the rights of victims, she wondered if those were still the objectives. It seemed like the data collection function worked well in its current form.

Rep. Claman asked if there was analysis that the Judicial Council does that AJiC doesn't do. Ms. DiPietro said that Judicial Council staff do the data analysis for the Commission's annual report. Judicial Council staff consider themselves responsible for what is required for the annual report. There is a list of what needs to be reported in statute. The Judicial Council shares all data with AJiC, and Dr. Payne and his crew do additional reports, such as providing information to support the domestic violence workgroup.

Dr. Payne agreed that close to 100% of the annual report is done by the Judicial Council; AJiC has provided some editorial comments but that's it. AJiC does more of the ad-hoc requests, such as for the DV workgroup, or analysis that relates to questions that the Commission has. For example, AJiC staff heard questions about rearrest at a Commission meeting, realized they could answer those questions, and did. That was the advantage of the flexibility that having access to Commission data gives—they can answer questions as they come up.

Commissioner Cherot said she was looking at the Commission's reporting requirements in statute. There seemed to be a lot of focus on recidivism in terms of the objectives of the Commission. Ms. DiPietro agreed the three-year recidivism rate is key, and noted the Commission will be able to provide a robust analysis of that metric in the report this year.

Rep. Claman said it would be helpful to have a list of what both the Judicial Council and AJiC are doing, and thought that would facilitate discussion.

Mr. Skidmore said it would also be helpful to hear about funding: how each entity is funded, and the funding sources. He was also thinking about not just about the work the Commission has done, but of a more global perspective: what work could be done overall for the functioning of the criminal justice system. He viewed this as a moment to think about how the state was going to move forward with data collection in these terms. He wondered if there were additional data or concepts that should be considered.

Rep. Claman agreed information on funding would be helpful. Commissioner Cleghorn said it would also be helpful to know the stability of the funding, whether it was short term, etc. Dr. Payne noted that AJiC also does a lot of grant work, funds for which have to be used for that project.

Ms. Dunham noted this was a public meeting and asked if there was any public comment. None was offered.

Rep. Claman suggested that the group's next meeting take place in about 2 weeks. The tentative plan was to meet on October 6 at 10:00 a.m.

Alaska Criminal Justice Commission

Ad-Hoc Working Group

Meeting Summary

Tuesday, March 17, 2020, 2:00 pm
Audio-teleconference

Participants: Stephanie Rhoades, Renee McFarland, Sean Case, Steve Williams, Cathleen McLaughlin, Travis Welch

Staff: Susanne DiPietro, Barbara Dunham

This meeting was convened to discuss possible uses for the funds available through the Bureau of Justice Assistance (BJA) for a Commission-approved project. These funds are made available to states that have engaged in the justice reinvestment process. A previous proposal that the Commission had approved was not feasible to complete within the given time frame (by September, 2020).

Commissioner Judge Rhoades said she asked Susanne DiPietro, executive director of the Judicial Council and staff to the Commission, to send a copy of the previous proposal for using these funds plus what would need to be done to submit a new proposal. The Commission would need to send a written proposal with approval from the Commission to the Crime and Justice Institute (CJI), the grant manager who would get approval from BJA. If approved the Commission would need to sign an agreement with CJI.

Judge Rhoades said she developed a proposal to address an unmet need that people working at the public defender agency mentioned some time ago at a reentry coalition meeting. All of the reentry centers are able to help people who are sentenced, but people who are pretrial and have been released on bail have the same issues, and are not able to access these services. Pending criminal cases are made public on CourtView, so people who are pretrial have trouble obtaining employment and housing.

Judge Rhoades said that the Commission had just had a presentation about pretrial admissions and violations of conditions of release cases (VCORs) increasing. She spoke with Cathleen McLaughlin, director of Restorative and Reentry services, and they thought there might be something the Commission could pull together quickly to connect the pretrial population with existing resources. Cathleen wrote the project description and proposed budget. The proposal needs more detail but they wanted to run the idea by this group before filling in those details.

Travis Welch, program officer with the Alaska Mental Health Trust, said it sounded like this project would need a case manager, and wondered where that person would be located.

Cathleen said the thinking behind the proposal was that Anchorage has enough housing for this population. The reason Partners Reentry Center has not served this group was because the expectation was that the defendants would go to jail, and all work done with them would be a wash if they had to remand. But because the people in this population are pretrial and they will have a sentence imposed, if providers know about them from the get-go they can provide services in Anchorage because there is housing for this population. There are also existing services for peer mentoring and case management. Funds could go to the existing reentry program to stabilize pretrial defendants to make sure they go to

court appearances, and maybe receive a sentence that is an alternative to jail time. They would receive the same approach as reentrants receive at Partners: real-time services on demand.

Cathleen explained that there are three phases of getting back into the community after going to jail—stabilization, incentivization, and restoration. These funds would go toward stabilization by putting participants into housing, and then offering referrals to programming.

Travis wondered if the program would include participants in the therapeutic courts. Cathleen thought not, as people in those programs are already being served. Her thought was that it would be for who have an open criminal case, and referrals should be through the Public Defender Agency or Denali Law Group, or perhaps municipal prosecutors. Judge Rhoades added that people who are in the therapeutic courts are further along on the sequential intercept model. The proposal was more targeted at people who are homeless and may not be able to comply with their conditions of release without help.

ACJC Commissioner and APD Captain Sean Case wondered how many people would fall into the proposed program's criteria. Judge Rhoades said she wasn't sure, but thought that APD, the Public Defender Agency (PDA) or the Denali Law Group could probably identify a large number of people. The number of people would be limited as a practical matter given the size of the available funds. Cathleen added that the housing would be the most expensive component, and the funds would probably accommodate between 40 to 80 people. Judge Rhoades added that the population would likely be a similar group to Sean's previous diversion program.

Assistant Public Defender Renee McFarland asked whether the money was coming directly from BJA. Susanne said that it was not, and that it would be coming through CJI—essentially, CJI reimburses the funds. It can be an awkward financial structure. Renee said the Public Defender Agency supported the idea, as housing had been a real problem for PDA clients. They have an AmeriCorps volunteer who can get clients to services but there was no funding to allow the clients into those services. Sounds like this program would have a similar administration. The AmeriCorps volunteer could make the necessary referrals, but the funding would be awkward. Renee also wondered if there might be a duplication issue. Susanne said she could look into that, and noted that there also may be a problem with providing direct services. It might be more doable if funds went toward a case manager.

Cathleen said she just approached the proposal with the idea that she had \$70,000 to spend, what would she do to make the most impact in a short amount of time. The idea was just that if you want a pilot program, this is how you could do it.

Judge Rhoades observed that the pilot program in Juneau was similar and also used these funds. She added that the AmeriCorps volunteers were stymied because they can't get people into housing, etc. because services are earmarked for reentrants.

Susanne said she was developing a clearer idea of what the ask would be. It sounded like there was already a way to identify the clients through the existing AmeriCorps volunteers, and there just needed to be someone to pay for the services. Renee agreed. She said there were volunteers at PDA offices all over the state (though not all positions were currently filled) plus a paralegal coordinating them. They have run into issues of not being able to get people into housing, etc. which was frustrating for them because they can identify problems but can't do anything about it.

Judge Rhoades noted that the Denali Law Group did not have AmeriCorps volunteers which should be addressed if this was going to be an Anchorage program. Susanne asked if they might need a case manager there. Commissioner and Trust COO Steve Williams asked whether the PDA could subcontract with the Denali Law Group. Renee said it might be possible to have the PDA paralegal supervise an AmeriCorps volunteer there, but it might be difficult to set up if the money has to be spent by the end of September.

Judge Rhoades said another question was whether this proposed program could be run through Partners Reentry Center. Susanne said she couldn't think of any structural reason why not. She thought having it structured through the PDA might be more effective as there was an easy conduit from clients to attorneys to volunteers. Judge Rhoades was thinking of having a centralized referral source. IT could all be one program. She thought the bottom line was to find a way to expand reentry services to the pretrial population.

Susanne said that if this group likes the idea, she could talk to CJI about the duplication and direct services issues, how billing would work, and get the exact timeline. Last time CJI went to BJA to get approval to spend these funds, it was a 2-3 month process. Barbara wondered if there might be any extension because of the coronavirus crisis. Susanne said no, that the authority to spend this money ends absolutely in September. The idea was that these funds would be used to implement criminal justice reform. The fact that Alaska mostly repealed its reforms is an issue. The Commission's contact at CJI convinced BJA to let us keep this last little bit of funding.

Judge Rhoades noted that the parts of SB 91 that remain are pretrial enforcement and reentry services. Susanne agreed.

Steve said he was thinking about pretrial diversion and the Pretrial Enforcement Division, and reducing the incidence of new criminal arrests while defendants are out on bail. He wondered whether the money could go to DOC for PED to pay for pretrial services. Susanne said she had thought of that, although the high rates of new criminal arrests were not necessarily actual crimes, but included VCORs—that seems to be the thing that is now flooding the courts, a result of a lot of the population being supervised by PED. She was not sure how receptive PED would be to that. Judge Rhoades said that she didn't think PED was really set up to accomplish what was proposed.

Cathleen said the key to all of this is that it's a voluntary program; it can't be mandated if we want it to be successful. Judge Rhoades agreed, nothing could be mandated this population anyway. Susanne suggested a longer term project might be to shift this idea to DOC. Cathleen said she wanted to be clear that she was not advocating any particular program. There are potential partners all over, and many existing programs for reentry. The limitation is funding.

Judge Rhoades said that at this point it sounded like the group needed to decide whether it was interested in doing this and if so to have Susanne ask for the information needed. Susanne asked if the idea was to get some clarity from CJI before pushing the recommendation out to the rest of the Commission. Judge Rhoades thought so. Susanne agreed, saying that it might be a hard no right away anyway.

Judge Rhoades asked whether the other group members were in favor of this proposal. Sean said he was in favor of the concept. He had tried to do this before, and the barrier was not having a coordinator.

Steve said he was also in favor of the concept. He thought it would also be good to get a sense from the PDA whether they have the volume for a project like this.

The group agreed it was in favor of the proposal and getting more information from CJI as to whether it would be an acceptable use of the BJA funds.

[Note: the Commission's liaison from CJI asked BJA about this proposal, and BJA replied it would not be an acceptable use of these funds.]

Alaska Criminal Justice Commission

Ad-Hoc Workgroup Re: Victim Listening Session Planning

Meeting Summary

Monday, December 3, 2018, 12:00p.m.

Teleconference

Commissioners present: Sean Case, Matt Claman, Greg Razo, Stephanie Rhoades, Brenda Stanfill, Steve Williams

Staff: Barbara Dunham

Who Does the Commission Want to Hear From?

Commission Project Attorney Barbara Dunham explained that the previous roundtables, which took place in Bethel and Fairbanks in 2015, were focused on victims of violent crimes. She had heard interest from some Commissioners in making it open to victims of all crimes (i.e. including property crimes). Judge Rhoades asked what the roundtables had looked like before. Barbara explained that the Commission had invited victim advocacy groups who primarily represent victims of violent crime, particularly domestic violence and sexual assault.

Judge Rhoades thought this was a good question. People in Anchorage and the Mat-Su Valley are very concerned about property crime, but then again, a discussion on property crime could dominate the conversation. Commissioner Case said there was value to hearing from victims of property crime but the Commission would largely know what they would say already. He agreed that it might dominate the conversation.

Judge Rhoades thought this went to the purpose of these listening sessions, and that the group should think about why the Commission wanted to do this. She wondered if a solution might be to have two sessions with different subjects.

Commissioner Razo said he was most interested in making sure the Commission reached rural Alaska. Judge Rhoades said she thought Commissioner Razo's idea of picking times when a lot of people would be around (i.e. statewide or areawide conventions or meetings) was a good one—it would be best to make these listening sessions easy to get to by being where people will already be. She thought that victims of property crime and victims of violent crime would have different conversations, but it was important to have a forum for them. In smaller areas it might not be possible to have separate forums, but in urban areas it could work. Commissioner Razo agreed.

Commissioner Williams thought that the Commission would have to be clear in communicating its purpose to the attendees, and explain thoroughly what the Commission can and can't do. If attendees misunderstand the Commission's mandate, it might engender further frustration.

Commissioner Stanfill said that she attended the roundtable in Fairbanks in 2015 and that it was more focused on violent crimes because that was the purview of the advocacy groups who were invited. She noted that this time around the Commission needed to hear from the public what sanctions they would like to see in lieu of jail time or in addition to jail time given the lower penalties enacted by criminal justice

reform. Commissioner Razo said that he thought the recommendations that came out of the 2015 roundtables had been given short shrift, and that they were great recommendations the Commission should continue to highlight.

Commissioner Claman said he thought it was valuable to hear from victims of all crimes, but that focusing one session on property crime might not give the Commission a realistic view of all victimization happening in Alaska. Judge Rhoades thought that most feedback from victims of property crime would involve criticism of SB 91, while victims of violent crime would have other feedback that could get drowned out.

Commissioner Williams noted that much of the reaction to property crime actually goes to crime processing and resource issues, which is important to hear about but the Commission can't do much about them. He thought this could lead to more frustration. He knew people on the Commission tried to do some public education last fall, but he was not sure those sessions were effective because of the emotion involved. He suggested including clear information on what the Commission does as a way to channel concerns.

Commissioner Claman noted that he had hosted some education sessions in Anchorage's West side, and the attendees at those sessions did not just talk about property crime. He noted that it might be hard to predict what a listening session might be about because social media does not always give an accurate picture. He speculated that if the Commission had hosted a session in October, much of the conversation would have been about sexual assault in reaction to the Justin Schneider case. Commissioner Williams agreed and thought this led back to the need to frame the conversation and manage expectations ahead of time. Judge Rhoades said the Commission should also think about what information it wants to get out of these sessions.

Commissioner Stanfill said that the Commission had spent a lot of time hearing about the issues people face on reentry; equivalent time should be spent listening to those affected by crime. She thought there would be some venting but also thought the Commission could get some good information. In a listening session format, it would be important to hear directly from victims, not the organizations that work with them. Victim services organizations were invited to the roundtables previously, and she thought that because of that some victims felt like their voices hadn't been heard.

Commissioner Case agreed it was important to focus on the intended outcome of these sessions. He was concerned there would be a lot of people on the anti-reform bandwagon. It was important to hear from all voices, but he wondered how the Commission should deal with those expressing desire for harsher prison sentences or criminal justice reform repeal. Commissioner Razo said the Commission would just record and report these sentiments—this was essentially a data gathering exercise. Commissioners Claman and Williams noted that the Commission was a public body and that this would be a way to get more feedback from the public than they typical public comment period at meetings.

Logistics

Commissioner Williams suggested deciding the number and locations of the listening sessions and to go from there.

The Commissioners suggested two dates for Anchorage, Bethel, Nome, Kotzebue, Ketchikan and the Mat-Su. They also noted that the TCC conference in Fairbanks in May might also be a good time and place, and that the Commission would already be in Juneau for its plenary meeting in January. Nome and Kotzebue were on the same flight schedule so that scheduling them together could make sense. Commissioner Razo noted he had contacts in those areas to help with logistics.

Commissioner Williams suggested sending a letter to contacts in the areas where the Commission would like to host a listening session and to ask for an invitation. The local contacts could help facilitate community engagement with the Commission.

Facilitation and education

Barbara asked whether the Commissioners were interested in having these discussions facilitated, similar to the previous roundtables. She explained that the previous facilitator was under contract with Pew/CJI and that her contract may be renewed next year. She agreed to keep the Commissioners updated about whether she might be available.

The Commissioners agreed to begin each session with a presentation of around 30 minutes giving an overview of what the Commission does and what research it has looked at as a way of managing the expectations of attendees.

Commissioner Williams said he had ideas for doing some pre-education before the listening sessions, e.g. a blurb on the local radio. He suggested also sending materials ahead of time so that attendees would not have to absorb all the information in one day.

Next steps

Barbara said she would draw up a draft schedule after checking in with contacts at the identified locations, and would send the draft schedule to the group.

Alaska Criminal Justice Commission

Ad-hoc Working Group for Reinvestment Discussion Planning

Meeting Summary

June 18, 2018

10:30 AM

510 L Street, Anchorage AK, 99501

And Audio-teleconference

Commissioners Present: Greg Razo, Brenda Stanfill, Steve Williams

Staff: Susanne DiPietro, Barbara Dunham

The group discussed the following ideas:

- Whether to use the term reinvestment or investment.
 - Brenda noted that it would be better not to wait for savings to accumulate and she didn't want to limit investment into incarceration alternatives by tying it to accumulated savings. Susanne said she was not sure the state was necessarily spending less. The group discussed the prison population bump when the Pretrial Enforcement Division came online and the increase in the police force in Anchorage.
- Process
 - The group discussed the idea of having the agencies receiving reinvestment money collaborate to develop a plan.
 - Steve noted that he had tentatively booked a facilitator, Gwen Kennedy, to help with the discussion, noted there should be ground rules for facilitation. He also noted that the ACJC is a public body and wondered how best to have the public weigh in.
 - Steve also note the ACJC has been reacting to things by making recommendations piecemeal, he thought it would be better to have a proactive, systematic approach
- DOC allocation/funding issues
 - DOC is looking to alter its procurement process to change the CRC model (bills didn't pass this session)
 - Remainder DOC's BJA JRI grant, approved by ACJC, can't be accepted next year due to DOC not having receipt authority for it – Susanne will verify if there is a way to extend those projects.
- Evidence-based programming/Use of Results First results
 - Susanne noted that the ACJC has already endorsed reinvesting in evidence-based and cost-efficient; Results First is a good resource for individual programs once ideas and priorities are identified.
- Reach out to agencies to determine allocations/expenditures

- No need to oversee or second guess current expenditures or allocations but need to gauge what has already been done and where the gaps are.
- Want to know basic plan for FY19 and 20 as well, and anything else criminal justice related the agencies would like to share.
- Victim restitution
 - What changes were made with Rep. Kopp's bill?

The group decided the following items would be on the agenda for the July 20 meeting:

1. Decide what product the Commission is going to create: a guideline or process for reinvestment, recommendations for specific allocations, or something in between.
 - a. Note Commission's oversight authority and purview, recommendations that have already been made
2. What pot of money is the Commission's plan going to use—reinvestment, frontloaded investment?
3. Walk through expenditures and allocations to date.
 - a. Have each agency give a brief description
4. Walk through crosswalk and discuss whether/how to use the overlapping plans.

The group discussed using the following materials at the July 20 meeting:

- Crosswalk of current recommendations and strategic plans
 - Gives a picture of what ideas overlap and where the ACJC could be most useful in making recommendations
 - Add victims' roundtable suggestions
- Table of expenditures and allocations
- Previous ACJC recommendations

Alaska Criminal Justice Commission
WORKGROUP ON ARREST AND INTOXICATION

Meeting Summary
October 6, 2017, 12:00-2:00 PM

Denali Commission Conference Room
510 L Street, Suite 410
Anchorage, AK
And teleconference

Commissioners: Sean Case, Joel Bolger, Steve Williams, Stephanie Rhoades, Quinlan Steiner, Walt Monegan

Participants: Anne Kreutzer, Vivian Echavarria, Jeannie Monk, Natasha McClanahan, Claire Sullivan, Nelson Price, John Skidmore, Randall Burns, John Papasodora, Laura Brooks

Staff: Barbara Dunham, Susanne DiPietro

Workgroup focus and relationship to Criminal Justice Working Group

Commissioner Sean Case began by explaining the purpose of the workgroup. He said he didn't want to cross paths with any other efforts in this area and wanted to narrow down the issues and define the problem. He thought this issue started with the changes to the bail schedule, which removed the "sober hold" in some districts (others didn't have it). In the districts that did have it, it was used by law enforcement officers to hold those who were under the influence but not incapacitated. They would be held until sober (typically until a .02 BAC).

Without the sober hold, there is a gap for those people who have been arrested and are under the influence but are not incapacitated and therefore don't fall under Title 47 holds. If they are in the OR release category or cited and released, law enforcement doesn't have the authority to take them anywhere.

Barbara Dunham noted that the Criminal Justice Working Group had also expressed interest in tackling this and the larger Title 47 issues. Justice Bolger [co-chair of the Criminal Justice Working Group] said that the intent was to defer to this workgroup and see what happens here.

Judge Rhoades suggested putting off discussion of how this group fits into other efforts to the end of the meeting until the issues have been more fully fleshed out. Commissioner Steve Williams agreed.

Input from hospitals

Anne Kreutzer, COO of the Alaska Native Medical Center (ANMC), said they have been working with APD to understand why they were seeing an increase in intoxicated patients in the Emergency Department and an increase in assaults on staff. They have staff quitting because of this problem. They are seeing 10 to 15 of these patients per day in a 20-bed ED facility. Often the patients are suicidal which requires one-to-one staffing. If they can't get them into API, they have to admit these patients to the

hospital which is not something they're really equipped for. Their tribal health partners are seeing the same problems. She has heard from other hospitals and all are feeling overwhelmed and their staff feel that they are not working in a safe environment. The Providence Psych Emergency Department is always at capacity.

Nelson Price, chief of security at Providence, said that the Anchorage hospitals were now on a no divert policy, meaning that no hospital can turn away anyone dropped off for emergency medical services. (There were times in the past when all three hospitals were on divert and therefore there was no place for people needing an ED to go; the hospitals jointly agreed to this policy.) The Providence ED is now overflowing, with ED patients in the waiting area and other areas of the hospital. They have also seen an increase in code greys (code grey indicates a security risk) over the last 18-24 months. He wasn't sure it was due to the change in the bail schedule or SB 91 but thought it was part of it.

Ms. Kreutzer said that in terms of numbers, drug and alcohol patients are usually around 10 per day, with an increase over the past few months, plus around 10 psych patients who they are holding until a more appropriate placement can be found. The latter category requires a one-to-one behavioral health observer and often a security guard as well. They now have a security guard full time.

Vivian Echavarria, VP at ANMC, added that the hospitals always managed some alcohol withdrawal patients, but what is new is that they are now seeing an increase in violence to the extent that they are losing doctors and staff because of it. The violence is disturbing to other ED patients and the ED is not designed to handle the numbers of patients they are seeing.

Ms. Kreutzer added that the hospitals didn't know about the change to the bail schedule and they weren't prepared. Commissioner Case asked her how the patients were getting to them. She replied that it was a combination of AFD, APD, and some walk-ins. On a recent day they had 7 from AFD and 3 from APD. Mr. Price added that they were seeing the same ratio in terms of people brought it—the patients have a mix of alcohol, drug, and psych issues.

Commissioner Case asked what the charges were for people brought in by APD. The hospital representative said they didn't have that information. Commissioner Case asked whether they were able to go elsewhere or whether they needed to stay in the ED for medical care. Ms. Kreutzer said they all needed to be evaluated. After that some would need medical care but not everyone needs to go to the ED to sober up.

DOC process

Commissioner Case asked if the hospitals were holding on to patients who would have previously gone to DOC for booking. The hospital representatives replied with an emphatic yes. They added that they often can't release these patients because of liability. Commissioner Case noted that DOC's concern was that if a patient was cleared by an ED to go to DOC custody that patient (now an inmate) could still be a problem. He wondered what standard was usually used to clear a patient for release to DOC custody. The hospital representatives said that no one standard was used because each person's tolerance is different.

Laura Brooks from DOC explained that DOC facilities do not have anywhere near the medical capability of hospitals. For intoxicated arrestees, DOC has a new process this year. Previously, anyone who was at a .3 BAC or higher had to go to the hospital. The new process is based on the inmate's

physiology and immediate needs, not on a particular number. They look at the inmate's ability to stand and breathe. If a law enforcement officer brings in an intoxicated arrestee, DOC will screen them before they are booked and send them to a hospital (not book them into custody) if they don't meet DOC's standard. If an inmate has been booked into custody somewhat intoxicated but then worsens, or is failing on withdrawal, they will send them to the ER (the inmate will still be in custody at this point). They treat inmates and Title 47 holds similarly.

Bail schedule and legal considerations

Commissioner Case noted that the bail schedule sets monetary bail for misdemeanor assaults and second-time DUIs but most other misdemeanors are OR release unless the arresting officer calls a magistrate. The people he is concerned about are those who are between a .08 and a .3 BAC who are to be released OR- he is not sure what to do with them.

Commissioner Quinlan Steiner asked whether Commissioner Case was including non-criminal people who are intoxicated in public in that group. Commissioner Case said that APD will try the same channels with those people—try to get them home or someplace safe. If they don't have a place to go and are around a .2 or above they will call the Safety Patrol.

Judge Rhoades noted that the latest version of the bail schedule explicitly mentions intoxication and directs officers to call the magistrate and ask for a condition that the defendant be released when sober. Commissioner Case said that it is not as easy as it sounds in practice, as getting a magistrate to hold them with conditions can be very challenging, and some magistrates do not want to hold someone solely based on their intoxication. Typically these magistrates will require some link between the crime charged and the defendant's intoxication.

Judge Rhoades asked if the magistrate does not order the defendant to be held, whether those defendants would be held under Title 47. Commissioner case said no, they would be taken to the ED. They don't fall under the Title 47 statute because they are not incapacitated. Judge Rhoades said she thought subsection (a) applies to intoxicated people while subsection (b) applies to incapacitated people. She wondered whether the steps listed under (a) were being followed, and whether this was a systems problem or a legal problem.

Ms. Kreutzer said her reading of the Title 47 statute was that intoxicated persons were to be taken to an ED, but the EDs are overwhelmed, or to DOC, where they may be refused because of their state of intoxication—to her, this was a systems issue.

Commissioner Case said that APD's initial contact with a person is an arrest. They will take someone home if they fall under (a) of the Title 47 statute but they consider it a different case if the person is an arrestee.

Randall Burns, director of the Division of Behavioral Health (DBH), added that the emergency commitment statute for intoxicated persons (AS 47.37.180) is not used at all as it is outdated and doesn't reflect the current reality.

Justice Bolger asked whether, in the case of a person who was held in the hospital under title 47 for incapacitation, if there was a mechanism for holding that person if they were no longer incapacitated but still intoxicated. Mr. Burns said that there was no legal mechanism, it would be up to the hospital and what their policy is.

Judge Rhoades said that she needed to put on the table that the behavioral health population and DOC has been overrepresented for decades. Jail is not appropriate for them if there is no risk of harm to the public. These are sick people and they shouldn't be in DOC custody; there is a reason that DOC is supposed to be the last resort.

Commissioner Case said that in the case of someone who is a first-time DUI, has a .18 BRAC, and is functional enough not to be a Title 47 hold, that person is an OR release, and the Safety Center won't take them. There's no where for them to go. Judge Rhoades said she found it difficult to believe that the magistrates won't order those people to be held if they were called. Commissioner Case noted that of the 18 most recent arrests for DUI, 12 were OR released.

Justice Bolger asked why, if a person's BRAC clearly indicated they should be held, that wasn't just on the bail schedule. Judge Rhoades said not all the presiding judges agreed on what to do in that scenario, and that was a question for them.

Assaults and hospitals

Mr. Price said that the hospitals were just not equipped to handle these new security concerns. They want to protect the community at large by caring for these patients but at the same time this makes things more unsafe for hospital personnel and other patients.

Natasha McClanahan, representative of the Alaska State Hospitals and Nursing Homes Association (ASHNHA), said she had heard there was a problem of assaults not being filed because the officers couldn't get the paperwork on it. Ms. Echevarria said that was true and staff also feel that there's no point in calling assaults in (to APD) because nothing would be done. Commissioner Case noted that the newest bail schedule allows APD to take assaultive patients into custody.

Ms. Dunham asked whether an intoxicated person brought to a hospital wants to stay once brought there. The hospital representative said there was a mix. Some people are repeat customers who want a warm place to stay but don't need to be there. Some need to be there but don't want to say.

Mr. Price said he thought the increase in assaults was due to intoxicated patients.

Safety Center and alternatives

Mr. Burns said that DBH routinely gets inquiries as to whether there is a public treatment facility to take people to, as the title 47 statute suggests, and the answer is no, aside from the Anchorage Safety Center, which isn't really about treatment. He agreed it was a systems problem. There are only 14 beds at the Ernie Turner center for withdrawal management and APD can't be expected to drive someone over there only to be almost certainly turned away.

Commissioner Steiner asked Mr. Burns who gets picked up by the Safety Patrol. Mr. Burns said anyone who was under a .3 BAC, intoxicated, and not on the barred list. The Safety Center has about 100 spots. Commissioner Case added that it was usually people who were homeless.

Commissioner Steve Williams asked how often the Safety Center was full. Commissioner Case said he was not sure. AFD and APD will both transport people there if there is space.

Commissioner Rhoades suggested talking to the Safety Patrol to get information on drivers of this population.

Mr. Price noted that in previous discussions someone had mentioned creating a separate space to put this population that had both medical and security staff. Ms. Dunham added that it had been Commissioner Walt Monegan's idea to create an enhanced version of the safety center. Staff had been discussing enhancing the center by providing food and linkages to services.

Judge Rhoades said that was only addressing half the problem, as once diverted to such a place people would need an option for intermediate (withdrawal management) treatment. She thought it would help engage people and divert them to treatment but there has been a longstanding need in Alaska for intermediate services.

Data and next steps

Commissioner Case asked about data and what was needed to understand more about this problem. Judge Rhoades said that it would be nice to have APD information on specific cases and hospital data on who they're seeing: who referred or brought problem patients in, what their needs were, what the result was of their stint at the hospital.

Commissioner Case said that would be a challenge for APD as an in-depth case study would take time. They are looking for a more urgent response. Ms. Kreutzer said the hospitals would have the same challenge.

Commissioner Monegan noted that the Safety Patrol had done a study of 19,000 and found that 90% of their calls were for about 10% of all the people served. In other words, there was a small group of frequent fliers. He would expect the numbers to be roughly the same now.

Judge Rhoades noted that Clitheroe had tried to serve this exact group of people with long-term treatment but they had trouble getting them interested in participation and they needed legal representation for a commitment; the program failed. She said the Anchorage Homelessness coalition likely had similar data. It would be hard for the Commission to take action without data, though the Criminal Justice Working group might be able to take more immediate action.

Mr. Burns said that the Clitheroe project also suffered from a staffing problem and finding quality treatment providers for this population was always a challenge. He said that DHSS is working on these things with the 1115 Medicaid waiver but that will take at least two years to come on board and a more immediate solution is needed.

Commissioner Case asked if there was a need to get a legal opinion on these issues. Ms. Dunham said that the statute provided for taking people to a facility and that an additional legal mechanism would not be necessary if they went and stayed voluntarily. Commissioner Case noted that people were not always happy to be taken places by law enforcement officers.

Justice Bolger said there seemed to be a gap in the statutory scheme as there was no provision to hold people brought under protective custody pursuant to subsection (a) of AS 47.37.170, and there was also a gap for those people in the bail schedule. He noted that he had been in places where there was a sober hold policy in place and that tended to create inertia (in terms of finding better solutions.) He thought there was an opportunity to create a mid-level quasi-custody mechanism, whether criminal or civil.

Commissioner Williams said he thought that it came back to needing data. He had a sense from this discussion that the populations at issue have been changing from a largely alcohol-based diagnosis

to a poly-substance and mental health diagnosis. The group needed to know what the drivers were. There were other studies out there on high utilizers of these systems that he thought the group could take a look at. He also wanted to know the flow of people and the processes that got them from one place to another. How many magistrates were being called for alternate bail? What's happening with the tools that exist? He noted that other communities in Alaska have tackled this issue, such as Bethel, where a new sobering center helped reduce ED usage and Title 47 holds.

Mr. Price asked who was funding the sobering center in Bethel. Mr. Burns said it was DHSS, using an allocation from last year. A similar center was about to go online in partnership with the TCC in Fairbanks. It took over a year to get over community objections to the placement of the center. Mr. Price asked how those facilities were different from the one in Anchorage. Commissioner Williams said they had more social services and used their revolving door model to build a therapeutic relationship with high utilizers.

Judge Rhoades said on that note she would like to know if these problems are statewide. Mr. Burns and Ms. Kreutzer said they thought it was.

Ms. Kreutzer said it would be worth looking at whether a cost-benefit analysis of the sobering centers would prove that they were a cheaper alternative than hospitals or DOC. Judge Rhoades said data from hospitals would be needed for that.

Ms. Kreutzer said that it might be possible to query the provider notes in the electronic records to get a sense of the problem, or they could create a new field. Data collection should be thoughtful and methodical. Commissioner Case said that he had similar issues with APD data, and that he would look to see what he could come up with easily.

John Skidmore asked whether the court system could track the number of calls to magistrates. Justice Bolger said he wasn't sure. Mr. Skidmore said it would be worth checking to explore all avenues for data sources.

Mr. Burns said that ASHNHA collects ED data, and that something may be gleaned from that. Jeannie Monk said the state manages that program now, in the bureau of vital statistics. They have a lag but would have data through 2016.

Judge Rhoades suggested collecting data going forward. Ms. Echevarria said she had the same thought, and that it could even just be a one week snapshot if everyone committed to it. Ms. Dunham noted that if the data was collected, the Judicial Council could analyze it.

Commissioner Steiner suggested creating a flow chart of decision points at each step in the justice system to help drill down to the root of the problem and identify what data was needed. There was a need to tease out the different populations affected.

Public comment

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

Next meeting

The group agreed that those with access to data would look to see what they had and set a meeting date when that data was identified.

SB 91 Data Collection Meeting

Thursday, Nov. 3, 1:30
Prow Conference Room,
Snowden Administration Building, 820 W. 4th Ave
Teleconference 1-800-768-2983, access code 513-6755

Meeting summary

Participants: Mike Matthews, DOC; Kelly Howell, Lorena Bukovich-Notti, DPS; Nancy Meade, Doug Wooliver, ACS; Dunnington Babb, Public Defender Agency; Alysa Wooden, DHSS; Brad Myrstol, AJIC; John Skidmore, Law; Staci Corey, Susanne DiPietro, Teri Carns, Brian Brossmer, Barbara Dunham, AJC.

Baseline Data and historical perspectives.

John suggested compiling historical data to compare with data collected going forward. Susanne said that Pew had collected baseline data from 2014 but that it might be better to have data from 2015. Teri noted that time to disposition of a case is typically greater than one year so the baseline data may need to cover more than one year. John said he envisioned collecting data over a 3- to 5-year lookback period. Teri mentioned the 2012-2013 sentencing study which may have some data already compiled. Mike said he compiles data on DOC admissions and length of stay which will have much the same information for misdemeanors.

Focus areas for data collection

Teri suggested the focus be on recidivism (remands and rearrests), cost reduction, reductions in reported crimes and arrests, and drug offenses.

John suggested the data points to look at would be:

- Reported incidents
- Citations/Arrests
- Charges
- Convictions
- Length of stay
- Petitions to revoke probation
- Treatment attendance

Barbara also suggested adding number of beds used in a given timeframe.

Mike noted that for PTRPs, DOC has not been able to track the type of probation violation in the past, but will be able to do so starting in January.

Brad said it was important to note that the legislature wanted the Commission to track the reforms proposed in the JRI package, and that would help focus data collection. Susanne said

that there would be no need to focus on pretrial issues yet, and that she was concerned about drug offenders.

Issues with data collection

Doug stated he was concerned about linkage and causation- the Commission would have to be careful to attribute any changes to the right source, whether SB91 or not. John noted that even before SB91 passed, there were decreases in the number of cases referred to the Dept of Law, and an increase in the number of cases the Dept of Law declined to prosecute, and that these were attributable to the budget.

Kelly stated that local law enforcement should still be reporting the number of incidences reported to law enforcement, notwithstanding any decline in follow up. Teri noted that local departments were not required to report, but the reporting that is done should cover about 98% of Alaskans. Brad said that data was from the Uniform Crime Reporting system, which has a voluntary participation rate of about 98% from local law enforcement units. The NIBORS system, used in other jurisdictions and formerly used in Alaska, would be more accurate than the UCR.

Alysa noted that for purposes of getting treatment participation data, DHSS has different data tracking systems for each program and uniformity will be hard to come by. Teri thought that the McDowell group study could provide money spent on treatment, and that the Trust might be able to provide some numbers. Brad said that the Behavioral Risk Factor study (of high school students) and the National Survey on Drug Use and Health would also provide estimates of treatment need. There was not much in the way of general comprehensive victim surveys although there is one for victims of sexual violence/stalking. Dunnington noted that UA testing sites such as Beacon might be able to give a picture of relapses.

Next steps

Susanne and/or Alysa will reach out to others at DHSS about data tracking; John will ask Seneca and an APD rep to join the group. Next meeting December 15 at 10am.