Alaska Criminal Justice Commission

Meeting Agenda

Wednesday August 23, 2017

9:30 AM

Snowden Training Center

820 W. 4th Avenue, Anchorage

And audio-teleconference

Commissioners Present: Greg Razo, Joel Bolger, Sean Case, Matt Claman, John Coghill, Jahna Lindemuth, Walt Monegan, Stephanie Rhoades, Brenda Stanfill, Quinlan Steiner, Trevor Stephens, Dean Williams, Steve Williams.

Participants: Kaci Schroeder, Heather Parker, Patrick Fitzgerald, Teri Tibbet, Natasha McClanahan, Amory Lelake, Don Habeger, Donald Revels, Carrie Belden, Kara Nelson, Jordan Schilling, Gregg Olsen, Tony Piper, Talia Eames, Geri Fox, Tara Rich, John Skidmore, Nancy Meade, Gennifer Moreau-Johnson, Bob Polley, Alysa Wooden, Lizzie Kubitz, Jon Woodard, Rob Henderson, Mike Schawaiger

Staff: Susanne DiPietro, teri Carns, Susie Dosik, Brian Brossmer, Staci Corey, Barbara Dunham

Approval of Meeting Agenda

Chair Razo called for a motion to approve the agenda. Judge Stephens so moved, Judge Rhoades seconded the motion, and the motion passed without opposition.

Appointments and reappointments

Chair Razo noted that his term as chair of the Commission would be expiring. He called for a motion to appoint a chair and noted that he was willing to serve again, unless there were other volunteers. There was no opposition to Chair Razo continuing for another one-year term. Chair Razo also suggested reappointing Commissioner Stanfill as the vice chair. There was no objection to Commissioner Stanfill serving in this capacity again. Judge Rhoades volunteered to be "backup" for Commissioner Stanfill.

Pretrial Assessment Tool Recommendation

Susanne DiPietro explained that Alaska now has a tool for performing pre-trial risk assessments. The technical assistance provider, the Crime and Justice Institute (CJI), has given presentations to practitioners and judges on how the tool was developed and how it would operate. As was discussed at the July 5 Commission meeting, there is a slight glitch. The statute mandates that the tool look at the defendant's risk of failure to appear (FTA) and risk of a new criminal arrest (NCA). The data would not allow these to be calculated using one score—there must be a separate score for both FTA and NCA. They cannot mathematically or statistically be

combined into one, but the statute contemplates that judges and pretrial services officers will use just one score.

At the July 5 meeting, the Commission appointed a small ad-hoc working group to determine how to reconcile the tool with the statute. This group met four times, and consulted with CJI and Dr. Bechtel, who developed the tool. The group went through all the available options and decided the best course was to use higher of the two scores to make release decisions and recommendations. Therefore if a defendant's NCA score was high, while the FTA score was moderate, the NCA score would guide the release decision for that defendant.

Ms. DiPietro went on to explain that the group also talked about recommending a legislative change to address this situation. Commissioner Lindemuth clarified that the Department of Law was of the opinion that there is no need for a statutory change.

Chair Razo asked Geri Fox, director of Pretrial Services for the Department of Corrections (DOC), to explain the issue further. Ms. Fox explained that she was also involved in the ad-hoc group's discussions. She added that another problem was the statute also anticipated that there three would be 3 outcomes (low, moderate, high) for one scale, but the tool that was developed used 4 outcomes for one scale and 5 for the other. The group has made recommendations to clump the tool's outcomes into low, moderate and high outcomes. Her team is prepared to go forward with using the highest score, though they are concerned about getting a regulation finished by January.

Commissioner Dean Williams agreed with the Attorney General that recommending a statutory change was perilous. He was confident Ms. Fox's team would make this recommended fix work. Chair Razo asked whether full assessment (including the lower score) would be available. Ms. Fox said it would.

Commissioner Steiner said his support for this recommendation was conditioned on the knowledge that something needed to get put in place by January 1. He was concerned that this recommendation would be unfair to those with a high FTA score but a low NCA score. This was likely to be a small percentage of the pretrial population but that would still be a number of people. It wasn't necessary to go to the legislature, but he would like to continue to look at ways to use both scores in a way that is consistent with the legislative intent—perhaps weighting each score somehow.

Chair Razo said his understanding was that this will be part of the Commission's oversight duties. Commissioner Lindemuth agreed. She added that only the only mandatory release decision was for those with low scores—anything with a high score is left to the judge's discretion. So the practical effect of choosing one score over the other would be limited.

Chair Razo said he was aware that these tools need to be monitored for unintended consequences. Ms. DiPietro explained that DOC is required to report out all information on pretrial outcomes.

Commissioner Claman said he broadly agreed with using the risk assessment tool, though he was worried that there was no plan for beta testing the tool in some courts before January 1. He would want to see how the tool was working before launching it statewide. He agreed it was

something the Commission should monitor carefully. He was sure fine-tuning would be necessary. Ms. DiPietro added that Dr. Bechtel had cautioned that the tool will have to be validated and evaluated on ongoing basis—she fully expected that it would not be the same tool 5 or 10 years out.

Ms. Fox explained that her team received the tool in late July. They have been working with software programmers to put the tool into software. They will be ready to launch the software system around September 18. At that point her staff will come in every morning, and all of the newly-booked defendants will be in their hopper – that will tell them who needs an assessment. They will populate reports for each defendant. In the first few weeks the team will be looking at scores and making sure everything is working correctly. The software will use the decision matrix DOC has given it-- choosing the highest score to highlight for the release decision. Once that seems to be going smoothly, they will go out to all the courts to train judges on the process. They will not have time to run a full pilot in one location. The court training will happen though December and the system should be ready to launch in January.

Commissioner Stanfill asked who would be conducting the rigorous evaluation of the tool. Ms. DiPietro said she was not sure, but it would not be CJI— it must be a third party. Ms. Fox said she has been talking with Melissa Threadgill at CJI about this. DOC will need to contract with an assessor, someone who has the expertise in this area. CJI will help identify a candidate. Commissioner Stanfill asked when the evaluation would be done. Ms. Fox said they would need to collect a full year's worth of data on pretrial release for the evaluation.

Judge Rhoades noted that the court system is keen that the pretrial assessment reports be distributed to attorneys. Ms. Fox said the reports will be available through a web portal, and both prosecutors and defense attorneys will have accounts with passwords to access the portal.

Judge Rhoades also asked if there would be funding for evaluating outcomes, to make sure tool will work the way it's supposed to. Ms. DiPietro explained that quarterly data will be coming from DOC, and staff will be doing that evaluation, possibly with the help of AJIC.

Commissioner Case asked to clarify the application of the dual scores— if a defendant scores "moderate" for FTA and "high" for NCA—the recommendation release decision will be based on the high score, and judges will have discretion on what to do with the other score? Ms. DiPietro said yes. Judge Rhoades added that was also something the defense can argue.

Commissioner Case also asked about the low, moderate and high categories. In looking at the slides from Dr. Bechtel's July presentation, he noted that in the sample data, defendants labeled "moderate-high" have a 53% of NCA—but the ad-hoc group's recommendation was to combine the moderate-high with the moderates. He asked why moderate-high was bumped down; the NCA rate seemed high to him.

Commissioner Steiner explained that there were very similar outcomes whether the moderate-highs were combined with moderates or the moderate highs were combined with the highs. But with the latter, larger numbers of people would be kept in custody pretrial. Combining the moderate-highs with the highs would generate a high incarceration rate for a very minimal

public safety gain. Ms. DiPietro said the ad-hoc group's recommendation also followed the recommendation from Dr. Bechtel; the tool works best if the larger group of people is categorized as moderate. Commissioner Steiner added that the data showed the new offenses committed when defendants are released pretrial are typically misdemeanors. Moderate and high scores also both result in discretionary release, with the distinction being whether a judge needs to make findings under a clear and convincing standard. Both come with the full range of supervision options.

Commissioner Case asked whether, in addition to bed reductions, the Commission would also be looking at the pre-trial re-offense rate. Ms. DiPietro said yes, that would be remand data, which staff have worked with in the past. Teri Carns also noted that everyone released pretrial will be subject to supervision or monitoring—pretrial will have a different landscape than it was in the past.

Ms. Fox said she would be happy to do longer presentation on pretrial implementation for the Commission. Things in her office are changing every day—she and her staff are poring over details. There will be a training on this at the judges' conference in October, and she is working with prosecutors to set up a similar training.

Ms. Fox noted that pre-trial supervision will be differentiated according to risk level. They are using the release decision grid to think about their approach. General conditions will apply to everyone: defendants will need to stay in contact with their attorney, and keep their contact information updated. There will also be offense-specific conditions; for example a DUI charge would warrant alcohol monitoring. There could also be special conditions a judge imposes as argued by counsel. Electronic monitoring (EM) would be used more as the risk level goes up—however, they don't want to overdo EM as that can have negative results.

Commissioner Stanfill asked whether the judge will see the more detailed score (e.g. moderate-high) in addition to the simplified score (e.g. moderate). Ms. Fox said they would see both. The judge will see the final scores for both NCA and FTA on page one; detailed scoring will be available on page 2. They are working on a sample report, and will share it soon. She will send it to the Commission when done, and is happy to do a presentation to walk through details. Chair Razo agreed with this idea and said Commission staff will work with DOC to set up a presentation. He added this is a dynamic process, and nothing will be perfect the first time—the Commission will evaluate and monitor this.

Chair Razo asked whether there was a motion to approve the proposal from the ad-hoc group. Commissioner Lindemuth so moved, and Judge Rhoades seconded the motion. Chair Razo called for a vote and none were opposed.

Meeting summaries

Chair Razo noted the Commission had not yet approved the summaries of the two previous meetings. He called for a motion on the June 15 meeting summary. Commissioner Stanfill moved to approve the summary and Commissioner Lindemuth seconded the motion. Chair Razo called for a vote and there were none opposed.

Chair Razo called for a motion on the July 5 meeting summary. Commissioner Lindemuth moved to approve the summary and Commissioner Steve Williams seconded the motion though he noted the summary had the wrong header. Chair Razo called for a vote to approve the summary with the header amended; none were opposed.

Intoxicated Persons Subject to OR Release

Barbara Dunham explained that Commissioner Case and Commissioner Dean Williams had expressed interest in finding a solution for the problem of persons who are arrested or cited for a misdemeanor who would be subject to release on their own recognizance (OR), but are so intoxicated that they pose a danger to themselves or others if they are released onto the street. Often law enforcement officers bring these individuals to emergency rooms, and hospitals are concerned about violent patients and overcrowding facilities. Commissioners Case, Williams, and Monegan met with a representatives from hospitals and the Alaska State Hospitals and Nursing Home Association (ASHNHA) to discuss potential solutions. One potential solution discussed was to create a more robust or secure sobering center.

Chair Razo asked Commissioner Case to elaborate. Commissioner Case explained that the previous bail schedule in Anchorage had a "hold until sober" provision, and arrestees who were intoxicated were held in DOC custody until sober. That provision was removed from the bail schedule, and the problem is that an offender who was arrested for minor conduct (e.g. disorderly conduct) might not be safe to release, but there is no ability to put them anywhere. Those people who are cited and released are then in danger of becoming a victim or victimizing others. They need a cooling off period to keep them safe and keep the public safe.

Commissioner Monegan further explained that the group was looking into a pilot project in Anchorage that would enhance the safety center model—something that was cheaper than jail, and better than cutting people loose. The idea would be that a hospital could place a PA there to assist with medical issues, and Commissioner Williams had offered a CO. It would be a half-step toward a more secure center. This is preliminary idea; the details would need to be worked out. It would likely be cheaper than any other alternatives, as cutting people loose might be more expensive—this option would be for people who are likely to harm themselves or others. The PA may also be able to do a medical clearance instead of the ER.

Judge Rhoades asked why this would not be included under Title 47? Commissioner Case explained that law enforcement is wary about diagnosing Title 47 holds. This is for those who are in a grey area. Judge Rhoades said this is what Title 47 is for. This is a behavioral health problem. Before jump off to divert people, she would want to figure out which ones are covered by existing behavioral health statutes. She understood that DOC used to babysit these folks. She thought the Commission should be careful about distinguishing the actual unintended consequences of justice reform, and statutes that are simply not being used. She though the Commission needed to articulate why this target population doesn't need Title 47. She didn't disagree about the motive, but wanted to collect the right data to determine the correct intervention.

Commissioner Stanfill said that she thought that disorderly conduct carried a period of incarceration. She noted that regulations in departments have changed, and there are opportunities that aren't being used. Why can't law enforcement take these people in? Commissioner Case said that to get people held they need to take them to a magistrate, per the bail schedule. This is a practical problem that compounds on itself on certain days of the week.

Judge Stephens said that he recalled discussing this all in great detail two years ago. He recalled that the solution was to call a magistrate or use Title 47. Ms. DiPietro reminded the group that the 24-hour hold was never included in SB 91.

Judge Stephens explained that the current bail schedule reflects the fact that the presiding judges could not reach consensus on whether the state could hold anyone legally just for being intoxicated [if they would otherwise be released OR]. But the presiding judges concluded that if there was legitimate bail reason to hold someone (i.e., they will go back out and cause trouble, invoking the appearance and performance provisions of the statute) the officer could call a magistrate. They are trying to inform the magistrates that they can hold them.

Judge Rhoades said the magistrates are aware of this in Anchorage, but they are not getting calls. She added that she understands that the hospitals are overwhelmed—but that is where people to go to detox.

Chair Razo said that in the interest of moving on, he will appoint a work group to deal with this specific issue. The Commissioners on this workgroup will be Commissioner Monegan, Commissioner Steiner, Justice Bolger, Judge Rhoades, Commissioner Steve Williams, Commissioner Dean Williams, and a representative from the Department of Law. Commissioner Case will chair the workgroup.

Review of Savings from SB 91 (to be included in the annual report)

Staff had circulated a draft report which included a summary of savings and reinvestment recommendations.

Ms. Dunham began by explaining that there were different methods of calculating bed reductions at DOC; the four methods were all included in the report. Commissioner Stanfill asked whether the Commission needed to pick one. Ms. Dunham said she didn't think that was necessary. Ms. DiPietro concurred and also noted that methods 1 and 3 come out with almost exactly the same number, which indicates there is not a lot of fluctuation in the various methods. Commissioner Stanfill noted that four methods every year might be a bit much.

Commissioner Dean Williams said he was less concerned about methodology than the assumptions behind the bed reductions. Right now DOC is $20 million in the hole—that was starting this July. Practically, he is not able to close another prison. He thought there needed to be someone who is in charge of the "bucket of money." No one is in charge of reinvestment spending. His main concern was the assumption that there are savings to be had from 2017.

Judge Rhoades asked why bed reductions were label savings if there weren't any savings. Ms. DiPietro said that was the tricky part. She tried to articulate Commissioner Williams' concerns by explaining in next section that legislature already took these savings from DOC. She thought it might be prudent to change the terms and just talk about bed reductions rather than savings.

Commissioner Dean Williams said it was also important to distinguish between the sentenced and pretrial populations. There has been no reduction in the pretrial population, and in fact DOC is meeting or exceeding capacity for all pretrial beds. They just had a riot in the Fairbanks Correctional Center, where they are substantially over capacity. A lot of the focus on cost savings for him is waiting for the pre-trial services unit to open. He just doesn't want to tell the legislature that DOC will see cost savings for FY18—he is not seeing it. He is seeing some reductions in the sentenced population, but if SB 54 passes, that will reverse.

Commissioner Stanfill asked if the new sober center in in Fairbanks will help. Commissioner Williams said that Fairbanks has the highest number of Title 47 holds, and those go into the pretrial population. When it is open, it may affect his numbers some.

Commissioner Lindemuth said she thought it was important to capture this reality in the report. The report to capture bed reduction because that was expected, but it needs to be clear about the reality of DOC budgets.

Commissioner Dean Williams added that one assumption previously made in the fiscal note was that pretrial would start to accrue savings this year—but DOC won't begin to see any effect from that until after the program begins operation in January.

Judge Stephens asked if there were any bed reductions stemming from geriatric parole. Commissioner Dean Williams said that many lifers are not eligible for geriatric parole, so there is very little impact from that provision. Judge Rhoades asked if there was any cost savings from Medicaid expansion. Commissioner Williams said that Medicaid was only an option for those in halfway houses, not custody. But any savings there has also already been accounted for by the reductions in DOC's budget. He would like a redraft of this section of the report that more accurately reflects this reality.

Commissioner Claman said that in terms of methods of counting bed reductions, method four was way too complicated. But he did think should the report should distinguish between sentenced beds and pretrial beds.

Commissioner Stanfill thought there should be a way to reflect that DOC's budget was cut in anticipation of savings. Commissioner Williams noted that political considerations make the budget, but actual costs are a product of how many people are in prison. Ms. DiPietro noted that the anticipated bed reduction at the marginal rate was nowhere near the cuts to DOC's budget.

Chair Razo noted that this was still a draft. He encouraged Commissioner Dean Williams to work with staff, and maybe Commissioner Claman, on how to explain these details in the report. Commissioner Williams said he would like his budget director to be involved in those conversations.

Judge Rhoades asked whether it would be fruitful to see if other justice reinvestment states have had a lag time between implementation and when savings are realized.

Commissioner Monegan said he thought it was important to include other context too—such as the opioid epidemic. He noted that opioids were not only fueling minor crimes such as petty theft but also major crimes such as homicides.

Commissioner Lindemuth noted that she needed to leave the meeting at that point but proposed that Commissioners submit written comments and edits to the report and then continue this discussion. She designated Rob Henderson as her proxy for the remainder of the meeting.

Ms. Dunham noted that there was a table in the draft report that summarized ostensible savings—she asked whether that should be removed. The Commission agreed that it should.

Recommendations for Reinvestment (to be included in the annual report)

Ms. DiPietro explained that the reinvestment portion of the report expanded on the mid-year report from staff that the Commission discussed in Juneau in February. This summarizes the reinvestment made so far, but she would like to flesh this out in more detail. As for future reinvestment, she started with the assumption that we don't want to wait around for additional savings—as Judge Rhoades alluded to earlier, justice reinvestment states do not often realize savings immediately; the more successful states frontload reinvestment.

Ms. DiPietro explained that rather than recommend specific programs, the report outlines six recommended principles for reinvestment, incorporating the discussion of the Results First analysis discussed at the June 15 meeting. These principles are:

1. **Most reinvestment should be directed towards programs in the evidence base.**
2. **Reinvestment should be directed towards evidence-based programs that have been shown to reduce repeat offending, thereby decreasing future crime.**
3. **Whenever possible, reinvestment should be directed towards programs that generate tangible monetary benefits and positive return on investment.**
4. **Prioritize funding for programs that target high risk (and medium risk) offender groups.**
5. **Reinvestment should be targeted at all areas of the state, including rural Alaska.**
6. **Maintain and expand funding for victim's services and violence prevention.**

Ms. DiPietro explained that for principle 3, the idea was not to discourage successful programs that aren't breaking even, nor to discourage innovation. Both may be necessary, especially in underserved areas of the state. For principle 4, Teri Carns noted that high risk offenders are not necessarily the offenders that commit the most serious crimes; rather they are the offenders with the highest risk of recidivism. For principle 6, Ms. DiPietro noted that the CDVSA recently issued a victims' roundtable report, and she will incorporate those suggestions.

Chair Razo commented that he liked the list of principles. He agreed that programs in rural Alaska will be expensive, but that was no reason not to fund them.

Commissioner Dean Williams said that this is a difficult conversation in some ways for department heads. It puts DOC and DHSS on the spot. The current reinvestment scheme puts money for the reentry coalitions in DHSS's budget. That can unintentionally work at cross purposes with DOC; for example in Nome, there is a reentry coalition but the halfway house there is closing. He said he disagreed with reentry coalitions as priority, and thought other things might work better, such as smaller reentry facilities that reimagine the halfway house model—things like Freedom House in Soldotna, and Haven House in Juneau. He noted there is a promising program out of the Kenai facility—a work release fish processing program. The employer there is even looking at building housing. So there are opportunities that are opening up. He would like a different model, with the capacity to be nimble enough to support smaller peer-based reentry programs that have been developing more organically. He didn't think reentry coalitions were doing this kind of work, though he recognized that not all reentry coalitions the same. He would like a whole-cloth review of how the state is spending its reinvestment money.

Judge Rhoades said that over the last few months she has felt there has been no strategic plan for deploying reinvestment money. Alaska has yet to realize savings. Reinvestment thus far has not achieved these principles. There is not enough treatment on the ground; Medicaid expansion won't help with building capacity, and Medicaid might be cut. She agreed there should be a wholesale review of reinvestment, a strategic approach that can be nimble. She wanted to know how much of the reinvestment money that had been allocated has been spent.

Ms. DiPietro said that of the programs reinvested so far, reentry coalitions are not necessarily evidence-based (though the programming the coalitions offer may be).

Commissioner Claman said that regarding the challenge identified by Commissioner Dean Williams, it was a hard sell to ask legislators to trust an agency with unrestricted funding. When people come to legislature with their budgets, legislature wants to know what specific programs to fund. Commissioner Williams was talking about a paradigm shift in the flexibility of funding.

Commissioner Dean Williams said that part of the problem was also bureaucracy—there needed to be a way to open the door to allow this funding. He understood that state agencies should still be accountable for their spending, but he thought there was nothing to lose here. Alaska has a terrible recidivism rate, which is higher for Alaska natives. It's about housing—having a place for reentrants to go and having a job when they get there. He saw a need for nimbleness to streamline the procurement rules—maybe a strategic subcommittee.

Chair Razo noted that the Commission had spent a lot of time talking about mechanics of reform, but not the details of reinvestment. He added that this report is the Commission's opportunity to recommend a comprehensive scheme- maybe a committee to direct it.

Commissioner Stanfill noted that on the victims' services side, they have been struggling with a lack of infrastructure to reentry work—there are for-profits competing with non-profits, which has been challenging. There was a need to ensure that the right people are doing the work.

The Commission agreed to plan a meeting devoted to the reinvestment section of the report to take place before the October 12 meeting. Commissioners will have three weeks to get

their comments to staff—they will be due September 13. Ms. DiPietro said that in the meantime she was happy to meet with Commissioners individually or take written comments.

Commissioner Stanfill asked if the Commission could agree there are no real savings to spend, and there should be a comprehensive plan for reinvestment. Judge Rhoades thought the focus should be on bed reductions, not savings. Reinvestment needed to be put in the context of the entire state being in the hole. There should be a substantial discussion on reinvestment.

Public Comment

John Woodard explained that he was incarcerated for a long time, and now worked as a training coordinator for the ironworkers union. Regarding reinvestment, the evidence is that vocational and college training for prisoners reduces recidivism. DOC hasn't done much to make college available to prisoners. He put himself through college while serving his sentence and it really helped with his reentry. Vocational programs coupled with release programs could be really helpful. Regarding rethinking halfway houses, he noted that there is an apprentice with the ironworkers union who is currently at a halfway house. It is difficult to cut through the red tape for travel and monitoring to get him to various work sites. Each employer has to deal with the red tape separately.

Don Habeger, director of the Juneau reentry coalition, offered a counterpoint to the contention that the reentry coalition work was not evidence-based. The coalitions partner with DOC, DHSS, and the Mental Health Trust to ensure that reentrants receive evidence-based reentry services. Several coalitions are still in draft formation period, but the whole basis of the coalitions is to provide evidence-based case management to reentering citizens. Case managers are using the LSI-R to address criminogenic needs, and help find housing and jobs. He said the pieces are still being put together, and some parts were not fully implemented which he recognized may be frustrating.

Mike Albertson from Fairbanks explained that he has a relative in custody at the Fairbanks Correctional Center. He noted that DOC's policy against visitors bringing items in to facilities worked against Alaska businesses. Relatives have to order things online because someone smuggled drugs in a book once. But drugs are coming in other ways. He would be happy to have officers search any gifts such as books. He also said the seats in the FCC are metal and uncomfortable, and not arranged well for privacy during visitation. Some privacy would lend to the inmates' dignity. Regarding visiting the women are basically locked down, and relatives can only visit at certain times—they are not allowed in if they don't arrive precisely on the nose. He noted the female prisoners are not allowed to work in the prison. His relative is an excellent cook and could improve food service. He also noted that the police never stop at the stop sign on the lane used for FCC transports into prison. He has called the governor's office about this.

Kara Nelson, director of Haven House in Juneau thanked Mr. Albertson for speaking and said it was important for inmates to have family supports. Regarding the Juneau reentry coalition, she wanted the Commission to know it has been doing good work. She understood wanting to have flexibility in running facilities and reentry homes, and supporting peer support programs. Her heart is in the reentry coalitions—they work. They have a very dedicated stakeholder group in Juneau, and she would really like to show the community and the state the work they're doing—

they are making real changes in people's lives. She would encourage the Commission to very intentionally take a look at this. She agreed with the need to be more flexible, but she fully supported the coalitions too.

Chair Razo commented that this was a public process—it is the Commission's job to take the input it gets from the public and to listen and take account of it. The Commission definitely wants to hear ideas from the public.

Talia Eames, director of the Second Chance reentry program in Juneau, addressed the Commission. She explained that the pilot program to address low-level theft offenders was just about to begin, and she thanked the Commisison for advocating for the funds for that program. The posting for the caseworker position was set to close that day. They hope is that the caseworker will start to take referrals to the program in the first week of October. Regarding Commissioner Williams' comments, she said she supported idea of smaller transitional housing. She challenged the Commission to work with the tribes more closely for transitional housing for Alaska natives.

Annual Report- Rough draft

Ms. Dunham explained that aside from the reinvestment and savings sections, the rest of the rough draft of the annual report was fairly straightforward. Some content will depend on whether the Commission approves any additional recommendations. There will also be some preliminary data. One section staff needs guidance on is the "plans and priorities" section. Ms. Dunham encouraged Commissioners to forward her their thoughts on this. She also noted that new Commissioners would need to provide short bios for the appendix.

Chair Razo set the same deadline of September 13 for Commissioners to follow up with any comments on the report. He reminded the Commission that the report is due on November 1.

Sex Offenses

Ms. Dunham summarized the workgroup's activities so far. The group has been looking into revising the sex trafficking statutes, and compiling research for the report due to the legislature. The hope is to get the report in before the 2019 legislative session, although there is no deadline. The group has heard about sex offender management programming from DOC and from offenders in a reentry group. The group would like to expand its membership to include more rural and Alaska Native representatives. Chair Razo noted that the Wellness Warriors program from the SouthCentral Foundation may be interested in joining.

Sentencing- Three-judge panel

Chair Razo asked Commissioner Steiner to update the Commission on the Sentencing Workgroup. Commissioner Steiner deferred to Assistant Public Defender and Supervising Trial Attorney Mike Schwaiger, who worked with Judge Stephens and the Department of Law on a proposal to modify the three-judge panel statutes. (A draft proposal had been circulated.)

Mr. Schwaiger explained that the proposal addresses issues that have been raised by the three-judge panel. It enacts two non-statutory mitigators that the Court of Appeals has already

recognized: extraordinary potential for rehabilitation and exemplary post-offense behavior. Cases where these mitigators apply would no longer need to go to the three-judge panel, so this would expedite the process. The consensus was that these mitigators are used often enough that they should be statutory. The proposal also widens the scope of the panel's ability to take up a case, adding provisions for mandatory consecutive sentencing and discretionary parole eligibility.

Mr. Schwaiger further explained that another provision addressed the situation where the panel rejects a case. Currently, if the panel determines it should not sentence the defendant according to the three-judge panel statutes (because the criteria are not met), the panel must remand the case to the original sentencing judge for sentencing in accordance with the normal procedures. This proposal would allow the panel to impose sentence as a sentencing court, rather than remanding it to the original sentencing judge; this will help with the delay caused by a remand.

Finally, Mr. Schwaiger explained that the proposal clarifies that victims do not testify before the panel, rather they address the panel (and do not need to be sworn in or subject to cross-examination).

Justice Bolger asked whether the proposal repealed the limitation on the sentence that can be given for extraordinary potential for rehabilitation. Mr. Schwaiger confirmed that it did.

Commissioner Stanfill asked when the parties would agree to "regular" sentencing by the panel if the panel rejects the case. Mr. Schwaiger explained it would happen once the panel rejects the case. Judge Stephens clarified that both parties would have to agree to sentencing; there are situations where either party would want to refuse this measure and go back to the original sentencing judge. But there are significant delays in relaying a case back to the original sentencing judge, sometimes a matter of months. In practice he has referred three or four cases to the panel, and in those cases he has offered to attend the panel hearing and then sentence the defendant right there if the panel rejects the case.

Justice Bolger asked if Judge Stephens supported this measure. Judge Stephens said yes. The panel has a transcript of the trial, the pre-sentence report, the sentencing memoranda, and sometimes hears evidence. There is no reason the panel cannot sentence the defendant as a normal sentencing court would.

Judge Rhoades wondered if people wound up being over time served while waiting for sentencing by the panel or waiting for a remand. Judge Stephens said that was typically not the case; the cases that are sent to the panel tend to carry long sentences, such as SAM or sex assault cases.

Chair Razo said that he appreciated the work that went into this proposal and asked for a motion. Commissioner Steiner moved to adopt the proposal as a Commission recommendation. Judge Stephens seconded the motion. Chair Razo called for a vote and there was no opposition, so the motion passed.

Sentencing- Vehicular homicide

Ms. Dunham explained that the Sentencing workgroup was also looking into creating a separate vehicular homicide statute to address some disparities in sentencing. Law had circulated

a proposal to the workgroup. Commissioner Steiner said that he had reviewed the proposal and it seemed to achieve what the group intended. He did notice one minor confusing point and would discuss it with Law.

Chair Razo asked that this proposal be put on the agenda for the next meeting.

Barriers to Reentry – Ban the Box

Ms. Dunham explained that the Barriers to Reentry Workgroup had forwarded a proposal to enact a pilot "Ban the Box" program in one state agency. (A draft had been circulated.) The idea is that the agency selected by the Department of Administration would amend its hiring policies to delay inquiry into an applicant's criminal record until after the applicant has been interviewed.

Rob Henderson noted that he had just read a new article from Pew that said that Ban the Box policies may have an adverse effect on minority groups. Staff explained that the workgroup had looked into this and found that the referenced studies were preliminary and tended to be inconclusive. The problem seemed to be that employers tended to associate some names with different racial groups and used the names on applications as a proxy for criminal history. The workgroup had discussed this and concluded that there was no reason to believe the same effect would happen in Alaska, which has different demographics. The pilot would also be conducted within a state agency which would have rigorous anti-discrimination policies, and would be less likely to use names as a proxy.

Mr. Henderson asked if staff knew whether there would be a more rigorous study in the future, and whether it made sense to wait until evidence was available? Judge Rhoades said the beauty of doing a pilot is that it only operates in one place and can be evaluated. As long as it has an evaluation component it would be worth doing. Hiring is already discriminatory, and she would want to know if it gets worse for anyone.

Commissioner Monegan noted the proposal may increase costs in terms of background checks.

Commissioner Claman said he thought this proposal was a waste of time. In his life as a private lawyer he often gets calls to evaluate job applications, and the questions are about arrests and whether charges were filed. The state can't control private industry on this issue, and the pilot program would barely scratch the surface of people affected. It is an interesting idea with little effect. He would rather have the money go to other places.

Ms. DiPietro said she didn't necessarily disagree with this, though the reason the workgroup started talking about this idea was that members of the public kept asking about how to mitigate the effects of old convictions. This has been a consistent comment—though perhaps expungement would address these concerns.

Judge Rhoades explained that she was part of a hiring committee to hire a PO for the ASAP program. Hiring in state employment has been a challenge—they are competing with the private sector. One candidate was thought to be a great candidate, but was never forwarded by HR because the candidate had a record, which turned out to be a successfully set aside SIS. She was concerned that good candidates for public service were being passed over. She didn't disagree

with Commissioner Claman's general point. But there should be way to address the draconian collateral consequences of having a criminal record.

Commissioner Claman agreed and suggested the way to deal with the consequences was expungement.

Commissioner Steiner said that even if there were expungement laws in place, there are larger sets of cases than expungement would reach. This isn't about hiding a record, it's about getting an interview. He was concerned about bias but reluctant to kill an idea based on ambiguous research.

Justice Bolger wondered if the recommendation could deal with the bias problem by bringing it up in the introduction to the recommendation so the agency will be aware of it and factor it in.

Commissioner Dean Williams said that as he thought about his priorities, he was more interested in expungement.

Chair Razo asked if there was a motion on the proposal with additional language as suggested by Justice Bolger. Judge Rhoades suggested discussing expungement first. Chair Razo agreed to postpone consideration of this recommendation.

Barriers to Reentry – Clemency

Ms. Dunham explained that Alaska's clemency program had been dormant pending revisions to the process. The Parole Board Administrator has submitted suggested revisions to the Governor's office. The Barriers Workgroup forwarded a proposal that the Governor's office and the Parole Board resume accepting clemency applications using the revised procedure.

Judge Rhoades asked why the clemency process had been put on hold. Jeff Edwards, director of the parole board, explained that the process has been dormant since 2009. The last governor to use the clemency power was Governor Murkowski, and there was some political fallout from that—other governors may have wanted to avoid the same.

Judge Rhoades recalled that in that case a pardon was granted but outstanding restitution was never collected. She was concerned about restitution but she assumed the parole board knew what it was doing.

Commissioner Stanfill moved to adopt the proposal as a recommendation and Justice Bolger seconded the motion. Chair Razo called for discussion.

Commissioner Dean Williams said this was a tough one for the executive branch. Pardoning is a hot potato that puts a lot of pressure on the governor. He thought it should be more of an administrative process, and would rather focus on expungement.

Commissioner Steiner said there were reasons to make this recommendation—for one thing, the work has already been done. It was appropriate for the governor's office to have the ability to grant relief in cases that don't fit expungement. This is a practice that is consistent with other states.

Judge Stephens noted that the Commission would not be asking the governor to grant clemency; the recommendation was just to restart the process. But he hadn't seen the proposed revisions from the Parole Board Administrator. Ms. Dunham explained that she had a copy of the revisions and could forward them to the group- she had intended to do so but did not. Chair Razo tabled discussion on this recommendation so that the Commissioners could review the revisions.

Barriers to Reentry – Sealing

Ms. Dunham explained that the Barriers Workgroup had been asked to consider revising the sealing statute, which applies to charges that are based on mistaken identity or false accusation. The problem was that seal requests must be signed by a law enforcement officer who will state that a charge was based on mistaken identity or false accusation beyond a reasonable doubt, and law enforcement officers are reluctant to do so. The Workgroup wanted to know whether this was a widespread issue.

Kathy Monfreda, Chief of the Criminal Records & Identification Bureau at the Department of Public Safety, said that DPS gets several requests per year. They are often declined because the arresting agency and prosecution did not sign off. If DPS sealed one record in a year, that would be a lot. Sealed records are available to the person to whom the record pertains and to law enforcement for employment purposes. The record is taken off of APSIN and she keeps a paper file on the record.

Commissioner Monegan recalled that when he worked for the city he had two requests to seal information, one for a young adult who wanted to go to the military academy. But he reasoned that the military has reasons for wanting to know that information. He didn't grant either request.

Barriers to Reentry – Expungement

The Barriers Workgroup has also forwarded a recommendation to enact expungement for a few low-level offenses. Mr. Henderson explained that the definition of expungement for the purposes of the recommendation is that an expunged case would be made confidential for the court system, would be taken off of CourtView, and would be sealed but still available to law enforcement for law enforcement purposes. He asked Ms. Monfreda if that was something DPS could do.

Ms. Monfreda explained that for DPS purposes, the record can be excluded from the "any criminal history" category of information that would be provided in a background check. But the record would still be available nationally for FBI checks. Also DHSS does a lot of background checks and they are a criminal justice agency for statute purposes, so any proposal would need to account for that.

Commissioner Stanfill explained that the idea behind the proposal was to make a small recommendation; the workgroup wanted something achievable. She was not sure how the FBI part would tie in. She thought this was something the Commission could talk about to work out the details.

Nancy Meade, general counsel for the court system, said she had no position on policy calls but there were some things that the court system can't do. They can change suffix for some offenses [one of the proposals was to change the suffix for crimes that have been reduced to violations], but they can't do Driving With License Suspended (DWLS) retroactively—there are around 16,000 DWLS cases, and in some cases the court can't distinguish the reason the defendant's license was suspended. [DWLS was reduced to a violation except for where the license suspension was based on a DUI or Refusal conviction.] The court system can change the suffix for the other four crimes that were reduced to violation, but that was a total of 11 cases.

Ms. Meade went on to explain that they can take cases off CourtView, but it would be more work to make the cases confidential. It would mean pulling files off shelves for the paper files, and then there are cases that are imaged. It would require staff time and hence would be expensive.

For simple possession of marijuana, Ms. Meade explained that expunging cases will be complex because there are many different subsections of the former statutes, and it would require going through files by hand. For Minor Consuming Alcohol (MCA) it would be easier, if the MCA charge was the only charge in the case. Making the file confidential would go further than what the legislature did with SB 165 last year.

For cases that result in a successful Suspended Imposition of Sentence (SIS) where the case is "set aside," Ms. Meade said the court system can make those cases confidential prospectively, though retroactively it would be difficult for the same reasons previously mentioned. First-time DUI and Refusal cases would be similarly difficult to expunge. These would not be automated processes. Ms. Monfreda added that it would also be difficult to find out whether the offender had an intervening conviction in another state after the Alaska conviction.

Ms. Meade also explained that the court system has an internal CourtView which is not visible to the public, a public CourtView. Confidential cases are not put on CourtView and not available to the public. There are also "not published" cases which are not on CourtView but are available to the public on kiosks in the courthouses—they are not confidential.

Judge Rhoades noted municipal crimes are not addressed in this proposal, and there are many of those.

Commissioner Stanfill said that this Workgroup had worked very hard over the last three years to get to the nuts and bolts of an expungement proposal. She noted that the Commission put off discussing Ban the Box to talk about this. She knew that some of the proposals would cost money, but this is an issue that is holding some people back from getting jobs and housing. For SIS cases in particular, people were told from the bench that the record would disappear. There is a cost, but it is the right thing to do. She asked the Commission to step out of the box even if there was a cost associated.

Judge Rhoades said that it was not that she didn't recognize there was a problem. She suggested that perhaps the subcommittee had been too broad. She knew that other states do this and didn't think they do offer expungement by making the case confidential. Folks will still be on the hook for answering the question about criminal history in job applications. What they really want is a way to answer no to that question. She did think CourtView hurts people. She wanted to

know what the mechanics of expungement in other states are. If there is money involved in implementing expungement, that may be an appropriate recommendation for reinvestment.

Mr. Henderson said that this same issue came up in the workgroup. The true removal or destruction of a record would warrant a court hearing, which would be very expensive. Judge Rhoades thought this would be expensive too. She thought there might be a need for a fiscal analysis to find out which is more expensive.

Commissioner Steiner said he agreed with Commissioner Stanfill. He thought the idea was a good one and a lot of people support it one way or another. There will not be a fiscal analysis without a recommendation—that is the legislature's role. He didn't think the Commission should hold back from making a recommendation. His only concern was that it was not broad enough. He thought there should be opportunities for people to make their case that they have been rehabilitated. He thought this should go forward in some form.

Commissioner Dean Williams said that he sent out a link to an organization that compares expungement in all 50 states. He would like something to go forward, and thought the process needed to start somewhere. He gets approached on this issue a lot. Unless the Commission is in fundamental disagreement that there is no value to this proposal, it should go forward. It recognizes there are people who made a mistake.

Commissioner Claman said that he broadly agreed with the last few comments, and was not sure where this recommendation would end up in legislature. But you can't get legislation without a recommendation. He suggested forwarding one or two things. Just restricting what is viewable on CourtView might get halfway to what the Commission is trying to accomplish.

Commissioner Monegan wasn't part of the Workgroup but what was logical to him was to have the individual bring their case forward—the onus would be on individual to invest in their future.

Judge Stephens said he did not support the proposals to reclassify the minor offenses or to expunge old MCA and possession of marijuana cases. The former did not seem feasible. He was much more in favor of expungements for set aside SIS cases philosophically. He was not sure the DUI/Refusal proposal was ready for primetime—the Commission needed to figure out whether to count intervening crimes. He agreed with looking at what other states were doing. He also agreed with the definition proposed—he didn't want the record gone entirely. He agreed it should come off CourtView. He also thought that if a long-term DV order was denied, the DV case with the short-term order should come off CourtView. He gets requests about that a lot. For the SIS proposal, he had no preference on whether it should be automatic or by administrative request. There is an administrative rule wherein a presiding judge can order a record taken off of CourtView.

Commissioner Dean Williams asked what the argument was against MCA. MCA serves no safety purpose, but the record is a restriction that affects a lot of people. Judge Stephens said it was because the offender couldn't honestly answer question no when asked if they had a conviction. Commissioner Stanfill noted that in other states, the statute provides that the offender may deny the conviction if it is expunged. Commissioner Dean Williams said he got his juvenile record expunged in Ohio from when he was 14 and he was legally able to deny the record.

Judge Rhoades agreed that the SIS cases were the most sympathetic—people who were offered SIS before the appellate decision were told the conviction would go away were misled. The problem is that taking the offense off CourtView is not what people need. The individual offense statutes themselves should be amended to allow a defendant to deny a conviction.

Commissioner Claman said it sounded like there might not be a consensus on this Ms. DiPietro asked if anyone was uncomfortable with a statute allowing people to say they have been not convicted if certain criteria are met. Justice Bolger said he was. Mr. Henderson said he was unsure of Law's position.

Judge Stephens suggested finding points of consensus. He was sympathetic the workgroup and the thought of doing the work to craft the proposal and getting shot down.

Commissioner Stanfill said that she noticed that the Commission keeps looking for things that are free. She thought of these proposals as more like housekeeping; she wanted to go back and look at exactly what other states do and propose something that looks like expungement. Mr. Henderson said that, money aside, there might be more support for that. Chair Razo said he preferred expungement in individualized cases.

Judge Rhoades noted that in SIS cases, the defendant can move to withdraw the plea and the prosecution would dismiss the case, leaving no record of conviction. Process is important. Expunging felony activity might cause more heartburn.

Judge Stephens said he saw two issues. First, whether the merits of the case warrant expungement, and second, what things are made public for hiring, housing, etc. This may require two approaches.

Commissioner Claman said that he was hearing that people don't want automatic expungement. There could be a simple application process to make things less accessible to the public. Individuals with convictions listed on the proposal could fill out a form. Judge Stephens said that was something he can theoretically do already, it just has to be in a rule. Nancy Meade said that such a process would not be quite that easy. The court system gets administrative requests every week to take things off CourtView, though the statute only applies to dismissed cases. The applications are mostly pro se, and badly filled out. 90% are wrong. Expanding this category would warrant a more substantial fiscal note—the court system would need to hire someone. Automatic dismissal is just a few hours of staff time.

Justice Bolger said he agreed that there are minor offenses that should maybe come off CourtView. Other kinds of cases should require individual determination. He thought there was a uniform expungement act.

Commissioner Stanfill said the Commission has heard a lot of testimony from people with felony SIS cases that were set aside. They can't get jobs, or into law school. This is an issue that goes to more than just accessibility on CourtView. People have to be able to answer that they were not convicted. Mr. Henderson said he thought it was more important to get findings from judge if the person would be allowed to say they were not convicted. Commissioner Stanfill did not disagree but thought that for SIS cases it should be automatic—there has already been a finding by a judge.

Ms. Meade asked Ms. Monfreda about removing cases from APSIN. Ms. Monfreda said that you can have a record on APSIN or not. If a record is in APSIN, there is a way to keep it off of background checks but there is no absolute guarantee. Ms. Meade said the court system data showed there were about 15,000 SIS cases that resulted in set asides. Ms. Monfreda said she wasn't sure about what her data said about SIS cases though she knew there were many that were not marked as set aside.

Chair Razo asked whether staff should work up alternate proposals that would include an application process, or if the issue should be sent back to the workgroup. Commissioner Stanfill said she saw the provisions regarding minor offenses, MCA, marijuana, and SIS were all just matters of housekeeping, but she thought the workgroup should address the bigger picture of expungement with an application process for those who have meaningfully changed their lives.

Commissioner Claman said that the uniform laws are a good way of finding points of national consensus—Alaska shouldn't necessarily be the first to adopt a practice, but nor should it be the last.

Judicial Council Staff Attorney Susie Dosik reminded the Commission that the composition of the Commission has changed over time. The workgroup has gone over extensive research on uniform acts, and what has been done in other states. In the past, there was a feeling that Alaska wasn't ready. She said she would be happy to go through that research with a comprehensive presentation for the Commissioners again if the Commission thought the time was now ripe. She noted the uniform law was fairly broad.

Chair Razo said the issue would be sent back to the workgroup to rework the proposal, and it would go back on the agenda of the next full Commission meeting.

Commissioner Stanfill asked if there was any agreement on the proposal on the table. Judge Rhoades said she thought that changing CourtView is insufficient to meet the goal, and that people needed to be able to deny the conviction.

Ms. DiPietro asked how the Commission felt about background checks. Depending on the level of background check, some inquiries only return convictions, while others return all criminal justice information—even in cases where the defendant withdraws a plea and the prosecution dismisses the case. Judge Rhoades said that there should be a statutory change within the offense statutes that should be both retroactive and prospective.

Behavioral Health- Update from DHSS

DHSS Deputy Commissioner Karen Forrest introduced members of the behavioral health team at the meeting with her: Gennifer Moreau- Johnson, Behavioral Health Policy Advisor; Alysa Wooden, program coordinator for community reentry; Ron Hill, new CEO of API; and Lauree Morton, legislative contact, was on the phone from Juneau. She also noted Commissioner Steve Williams from the Mental Health Trust was there.

Ms. Forrest relayed that Commissioner Davidson appreciated the opportunity for DHSS input at this meeting; she was in the middle of negotiation with Alaska's tribes to provide child

welfare services. It is an exciting opportunity for Alaska Native children to be served in their home communities.

Ms. Forrest provided the Commission with a fiscal update from DHSS as well as an update on the progress of Medicaid reform efforts. She noted that since 2015, DHSS's budget has been reduced by $210 million, nearly 17% of the budget. Behavioral Health has been reduced by 25%. They are working hard to reform Medicaid and save Unrestricted General Fund (UGF) money through Medicaid reimbursement. Tribal entities now can claim 100% federal reimbursement; the legislature has reduced the DHSS budget accordingly.

There are 188,000 Alaskans enrolled in Medicaid (or one quarter of Alaskans), half of them children. Eight out of ten recipients are from working households. Since Medicaid expansion, they have enrolled over 35,000 people, with $548 million brought into the state. They have noted substantial numbers of new enrollments from the non-expansion population in the last couple of years; they believe this may be due to the recession. More and more people need services even as budgets are being cut.

Federal discussions over "Repeal and Replace" do affect the state. They have analyzed both the ACA and BRCA, which go beyond repeal and replace— both contemplate really significant changes to Medicaid. There has been talk about a per capita cap on Medicaid, which would be very detrimental to Alaska. Enticements that have been proposed would not salvage it. They are attempting to provide input and analysis to contractors.

DHSS is continuing with Medicaid reform efforts. One area of SB 74 focused on telehealth, and DHSS has a workgroup devoted to this topic which will have a report out soon. DHSS' annual report of Medicaid reform will be coming out on November 15. SB 74 had sixteen key focus areas working to reform the behavioral health system, including trying to expand the continuum of care and increasing access to health care for people on the front end of things so they don't need costlier care later. One example of this is that there is a need for mental health crisis stabilization services, whether 23-hour or 10-day services.

One approach to reform is through the Medicaid 1115 demonstration waiver. These have been around for a very long time and seem to be safe in proposed federal legislation. The waiver will allow Alaska to cover services that have not been covered before. Other states have been doing this for years.

Ms. Moreau-Johnson explained more about the demonstration waiver. The projected cost savings in SB 74 come from the waiver. It means Alaska can waive traditional Medicaid rules, and can get creative with funding. DHSS is looking to target acute care populations in children and adults. One such target population includes those with criminal justice-related Adverse Childehood Experiences (ACES) which can lead to high rates of incarceration later in life. The draft waiver creates a continuum of care for at-risk children and families to change that trajectory. Indicators tied to ACES have been linked to diagnostic codes for services. Another target population is adults aged 18 to 64 with diagnosed mental health disorders, or a co-occurring or separate diagnosis of substance use disorder.

The list of services proposed includes prevention and engagement services, outpatient including Vivitrol, home-based treatment, partial mental health hospitalization, crisis stabilization, and mobile crisis response. All are designed to diagnose needs before they become acute or more acute.

Ms. Forrest added that with the waiver, agencies do not need to be grantees in order to be Medicaid providers, so more substance abuse providers will be able to access Medicaid billing. It also allows them to expand substance use disorder services to remove the limitation on 16 or more beds per facility; this waiver will allow Medicaid coverage to go to larger agencies.

Chair Razo asked what the timeline was for the waiver. Ms. Forrest said they were working as fast as they can, and are involving contactor teams, as well as 90 people in the community. They hope to have it submitted by January and rolled out by September. They are already in discussion with their federal counterparts. They will also need to demonstrate budget neutrality.

Judge Rhoades said that she had been hearing that non-grantee qualification is an arduous process. Ms. Forrest said that would depend on the provider, whether it was an agency or an individual; qualifying an agency is easier. That is something they are looking at with the waiver, but are still analyzing.

Judge Rhoades asked about crisis stabilization, noting that the Commission had just had a discussion on intoxication—would this service cover that? Would it be a way to keep some people out of DOC? Ms. Moreau-Johnson said that was complicated because it would be tied to a person's eligibility for Medicaid. Judge Rhoades suggested a partnership to serve everyone, involving Medicaid and reinvestment money. The SB 91 fallout is the nuisance offender who has no place to go, and she encouraged DHSS to connect those dots. The Commission can make recommendations about reinvestment along those lines. Ms. Forrest noted that of the $6 million appropriated for substance use disorder services, some of that money went to a new sobering center in Fairbanks.

Regarding SB91/SB74 integration, Ms. Forrest noted that stakeholders attend the liaison workgroup, and all of the Commissioners were welcome to attend. They are currently getting into the weeds of technical interfacing and eligibility for Medicaid – if an inmate is in the hospital for over 24 hours, they can bill Medicaid, and DOC doesn't have to foot the bill. This has already applied to a lot of people. They have set up a workaround for offenders living in CRCs; they can now access full Medicaid coverage. They are looking at tapping into Medicaid coordinated care initiative for justice-involved individuals.

Chair Razo asked how they were enrolling prisoners. Ms. Moreau-Johnson said that prisoners have to use paper applications, which puts them on the slow track for processing. It is also very difficult to get the offender's date of release. Ms. Forrest said they have been doing a lot of work with the reentry coalitions to identify people and get them covered. Ms. Moreau-Johnson added that DPA was looking at a backlog of 23,000 applications. Any ambiguity in your application gets you in the backlog. They are also looking at way to bypass appeal process.

Ms. Forrest said they are getting more resources for this coordination efforts through the recidivism reduction fund. The Trust also came forward with $1 million for one-time finding for eligibility workers at DPA—but at exactly the same time, the legislature reduced the DPA budget

by 1.3 million. Since they are running at a deficit, they have fewer workers able to take on a greater volume of applications.

Behavioral Health - UNLV report

DHSS had prepared a section-by-section analysis of the recommendations contained in the report on Alaska's mental health statutes prepared by the University of Las Vegas, Nevada (the UNLV report). DHSS's analysis offered the department's position on each recommendation with comments where applicable.

Karen Forrest called the Commission's attention to the recommendation on page 2 for forensic examiners. DHSS would like to move forward with the recommendation that only one forensic examiner be required as opposed to two. Commissioner Steve Williams added that this section was also looking at the qualification for forensic examiners. Currently, the bar is set too high, and accordingly no one in the state qualifies as a forensic examiner.

Commissioner Steve Williams explained that the Behavioral Health Standing Committee went through parts of the UNLV report in June, and the forensic examiner part jumped out as a point of agreement. On other recommendations, the workgroup got into the weeds— possibly the product of too much turnover in the committee, as not everyone had been part of the previous UNLV discussion. He was looking at getting everyone back up to speed, and updating the report post-SB 91. To get the forensic examiner piece ready, that plan was that the Standing Committee would meet again before the next full Commission meeting.

Judge Rhoades noted that she had been part of the discussions on the UNLV report from the beginning; she opined that this has been raked over repeatedly. The UNLV report was a comprehensive review of the mental health statutes. She suggested making a commitment at the highest levels of each agency to working to adapt the report, or discarding it entirely. She was not interested in just one change. The point of creating the Behavioral Health Standing Committee was so that the same people at the policy level could go to every meeting.

Commissioner Steve Williams said that the study also looked at national best practices— for example, recommending forensic evaluations be performed by a neutral evaluator. This would be limited by Alaska's small workforce devoted to forensic examination. These recommendations were more observational, and left it up to the state to try to get to those standards. He has also lived this report intimately for several years, and he agreed that there should be some serious thought about what the Commission would want to do about it. He did think there could be some elements done in isolation, and the forensic examiner piece is one of those. Enacting this recommendation would not be a sea change, but it would help people going through the various systems.

Chair Razo agreed this deserved some serious thought, more than just half an hour in a full Commission meeting. He thought there could be a larger focus on just this topic in a future meeting.

Commissioner Steve Williams noted that there could be larger chunks of the UNLV report to break off—for example the recommendations for amending the juvenile statutes. That would address some "upstream" issues for the criminal justice system. He asked whether the

Commission would prefer to do the forensic examiner piece first, or look at the full set of recommendations. The Standing Committee needed some direction.

Chair Razo suggested starting with the sections that have green arrows in DHSS's analysis [i.e. points where DHSS supports the recommendation]. Judge Rhoades suggested reviewing the arrows to see if any large chunks might be broken off. Justice Bolger agreed with the idea of moving forward with the recommendations in areas of consensus. It sounded to him like the forensic examiners piece and the juvenile justice piece were uncontroversial, and he thought the Commission should go forward on those.

Commissioner Claman wondered whether, if DHSS though some of the recommendations would work, a recommendation was still necessary—could DHSS just go forward with them? Ms. Forrest replied that the department could do so, but a recommendation from the Commission would be very helpful.

Judge Stephens said he agreed with moving forward on the points of agreement. Regarding the forensic evaluator piece, it is a real problem that the statute requires two evaluators. If that recommendation has consensus, that can address an immediate problem right now. If is scientifically valid to use only one evaluator, the Commission might as well move forward on that.

Judge Rhoades thought there needed to be more context for these proposals.

Chair Razo asked for the will of the Commission. Should the Commission go through the DHSS analysis section by section now? Commissioner Stanfill said this was the reason the Commission has workgroups. She wanted the Behavioral Health Standing Committee to come together with a full recommendation. Chair Razo agreed and asked the Standing Committee to continue to work on this.

Commissioner Stanfill asked for a clarification—is juvenile justice within the Commission's purview? Ms. DiPietro noted that the enabling statute was silent on the matter—there could be arguments made either way. Commissioner Steiner noted that the juvenile system affects adult system- juvenile offenders often become adult offenders. Chair Razo said he thought the Commission could review the juvenile statutes.

Justice Bolger asked whether the Commission intended to address the civil commitment recommendations. Judge Rhoades noted that structure was also interrelated with criminal justice; for example, people who are not competent and not restorable are referred to the civil system but they still pose public safety risks, and have been involved in the criminal justice system. Justice Bolger explained that this was something the Supreme Court was looking at. The Commission encouraged the Supreme Court to look into civil commitment if they are interested.

Commission Process

Ms. DiPietro asked the Commission to think about process, as it seemed like the current model wasn't working for the group. Could there be a better model? Perhaps one proposal or agenda item per workgroup per meeting? Each item could be accompanied by a deep dive presentation from staff or workgroup representatives explaining the proposal in detail so everyone can be on same page. It seemed to her like the full commission needed more time

devoted to gain more expertise on the subjects within a given meeting rather than relying on Commissioners studying up before meetings.

Judge Rhoades said she would like experts to present and be available for a given proposal.

Mr. Skidmore said focusing makes a lot more sense. The Department of Law has extensive meetings on all submitted proposals, and goes through everything thoroughly.

Ms. DiPietro suggested setting a hard deadline of one week before each meeting for staff to send materials to the Commissioners.

Ms. Stanfill noted that many of the same people at the Commission meetings sit in on the workgroups. Sometimes a proposal passes through the workgroup and not at the Commission level. Mr. Skidmore noted that not everyone at each workgroup is able to comment for their department at the time of the meeting.

Judge Rhoades noted that in the past, staff would ask commissioners for their thoughts on any lightening rod issues coming up in the meetings. Ms. DiPietro said staff does that occasionally and can do more.

Commissioner Claman said that justice reform is a multi-year process. He was thinking of a two-step process for proposals. At the first Commission meeting, the workgroup can give a presentation to the Commission which can then give direction to the workgroup; then the workgroup could hash out a recommendation and then bring it back to the next full Commission meeting. He said not to worry too much about the November deadline – obviously the legislature has not jumped on all of the previous recommendations already submitted. A two-step process may be slower but may be more efficient.

Future Meeting Dates & Tasks

Sept 13: comments on annual report and reinvestment.

Early October: Staff will send out a Doodle poll to schedule a discussion on reinvestment.

Next Commission meeting: October 12

Sex Offenses Workgroup: November 9

December Commission Meeting: Staff will send out a Doodle poll.

The meeting adjourned at 3:54.