

Supplemental Remarks by Gregory Razo, Chair Alaska Criminal Justice Commission,
for the House Finance Committee, dated April 19, 2016

Thank you for the opportunity to speak to you today. You asked me to provide additional remarks identifying items in the current amended version of SB91 which are inconsistent with Commission recommendations.

Though most of the Commission's recommendations are still intact, certain carve-outs and rollbacks included in the most current version ("V") of the bill have reduced its associated impacts. Fewer savings significantly limits our ability to reinvest into desperately needed community-based treatment and victims' services. If we want maximum impact, we need to get this bill as close as possible to the original, consensus recommendations.

1. For example, since the recommendations first landed in the legislature, many carve-outs have been made to the misdemeanor policies identified in Commission Recommendation 5. Non-DV assault 4's were carved out from the misdemeanor A policy, and the vast majority of misdemeanor B's were kept misdemeanor crimes (as opposed to violations).
 - a. First some brief background on misdemeanants in Alaska: when the Commission first looked at misdemeanor offenders, a couple key trends rose to the surface. We saw that misdemeanor offenders comprised the vast majority of people admitted to prison each year, and, when we looked at the research, we saw that prison is often not the best option for lower-level misdemeanants and, in many circumstances, can make offenders *more* likely to commit a crime upon release.
 - b. So, to that end, we recommended drawing down prison time for these offenders across the board. And while we looked at long lists of misdemeanor crimes, and debated whether we should treat some differently than others, we ultimately decided that the research base was clear: jail is not an effective sanction for lower-level offenders. And that research base was strong enough to justify approaches that turn the dial back for all misdemeanor crimes, not just those crimes that are politically palatable. I strongly encourage you all to do the same.
2. Additionally, while the Commission recommended raising the felony theft threshold for all property crimes to \$2,000, the legislature reduced this recommendation down to \$1000.
 - a. The Commission recommended that Alaska's felony theft threshold be raised from \$750 to \$2000, based on the research demonstrating that increases in this threshold do not lead to higher property crime rates. In fact, between 2001 and 2011, 23 states raised their felony theft thresholds, and none saw a corresponding increase in property crime.
 - b. Additionally, the Commission was motivated to raise the felony theft threshold from a basic fairness perspective: if Alaska's original felony theft threshold, set at \$500 in 1978, was simply adjusted for inflation to today's dollars, it would be valued at over \$1800 dollars today. With all the research we have to prove that prison for low-level property offenders is not effective, there is simply no justification for having harsher penalties today than we had 30 years ago.

3. And finally, the legislature added into this version an increase in the mandatory minimums for Murder I, based on testimony claiming that Murder I offenders are currently sentenced to less time than Sex Assault I offenders. However, the sentences for murder I are already far more severe than the sentences for sexual assault I.
 - a. A first-time sexual assault offender faces a sentence within a presumptive range 20 to 30 years, meaning that the judge will likely sentence the offender within that range, and also has some ability to sentence below that range if a mitigating factor is found. A first-time murder offender, on the other hand, faces a mandatory-minimum sentence of 20 years, which cannot be reduced under any circumstances, and can be sentenced up to 99 years.
 - b. This is borne out in the data. In 2013, the average sentence length for a Murder I offender was 90 years, while the average sentence length for a Sex Assault I offender was 38 years. As such, such an increase in the mandatory minimum is unnecessary.

Additionally, the Legislature has considered numerous amendments throughout the legislative process that are not currently in this bill, but continue to be under discussion for House Finance. I urge you to consider how such changes would further reduce the impact and effectiveness of the bill.

1. One such amendment that was brought forward in Senate Judiciary lowered the threshold differentiating high-level from low-level commercial heroin drug offenses from 2.5gs to 1g.
 - a. It's clear that Alaska, like the rest of the country, is experiencing a destructive heroin epidemic, and I understand that that leads some to want to treat heroin offenses more harshly. However, the research shows that long prison sentences are one of the least effective ways to respond to drug crime. The likelihood of a typical street drug transaction being caught by law enforcement is roughly 1 in 15,000, providing a very low deterrent.
 - b. Instead of investing further in long prison sentences, I urge you to follow the Commission's recommendations in keeping the threshold at 2.5g for heroin, and use the additional funds freed up from the additional months and years in prison to invest in the response to drug crime that we know *does* work: in-prison and community-based treatment.
2. Another amendment that passed in Senate Judiciary removed certain classes of offenders from eligibility for geriatric parole – specifically sex and unclassified offenders.
 - a. In discussing the geriatric parole provision, the Commission first looked at how Alaska's population has aged over the past decade. The oldest population of offenders in prison in Alaska – those 51 and older – has nearly doubled over the past 10 years. The Commission also saw that this oldest population of offenders is also the group least likely to recidivate.
 - b. And I want to be clear: it's no secret that many of these older offenders committed awful crimes. And I believe that many of them committed such serious crimes that they should languish in prison. However, what Commission wanted was a way for these offenders to have a chance to present their case before the parole board, no matter their underlying crime. Therefore, if an offender over 60 had already served a decade in prison, and could demonstrate that he was no longer a threat to public safety, he could at least have a chance to return to his community.

3. Another amendment considered but then – appropriately – withdrawn was to allow courts to impose up to 90 days of jail time (in addition to a sentence of probation) for *first-time* class C felons. Some imagine that such jail terms might have a beneficial ('shock') effect on all first-time offenders, but that assumption is not supported by the research. While 'boot camps' and other 'shock incarceration' programs once had popular support, their effectiveness in reducing recidivism over the decades was not evident. There is no credible evidence that individuals are deterred from future misconduct by the experience of incarceration. In contrast, there is a growing body of evidence which shows that effective community supervision provided by probation officers is associated with meaningful reductions in offender recidivism.
4. Finally, another idea was eliminating earned time credit for completion of sex offender treatment.
 - a. Alaska has a staggering sexual abuse rate, and this epidemic hits our Alaska Native communities hardest. However, Alaska already tried responding to this crisis with longer and longer sentence lengths, and it hasn't worked. Ten years ago we greatly increased minimum and maximum sentences for sex offenders, and took away good-time credit. And while we have many more people in prison as a result, our sexual assault and victimization rates remain sky high.
 - b. With the policy recommended by the Commission, sex offenders would be incentivized to complete needed treatment programs with a modest earned time credit of 1/3rd off their sentence. Right now, while other serious felony offenders are eligible for parole and other earned time credits, sex offenders serve their sentences day-for-day, meaning that there is little inducement to leave their bunk, let alone participate in a rigorous two-year sex offender treatment program. We need to ensure that the sex offenders leaving our prisons and returning to our communities are not leaving worse than when we sent them in.

Sincerely yours,

A handwritten signature in black ink, reading "Gregory P. Kazy". The signature is fluid and cursive, with a long horizontal stroke at the end.