

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

January 26, 2011

1:32 p.m.

Senator Hollis French, Chair  
Senator Bill Wielechowski, Vice Chair  
Senator Joe Paskvan  
Senator Lesil McGuire  
Senator John Coghill

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

OVERVIEW: DEPARTMENT OF CORRECTIONS

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to report

**WITNESS REGISTER**

JOE SCHMIDT, Commissioner  
Department of Corrections (DOC)  
Anchorage, AK

**POSITION STATEMENT:** Presented an overview of the Department of Corrections.

CARMEN GUTIERREZ, Deputy Commissioner  
Prisoner Rehabilitation and Re-entry  
Department of Corrections (DOC)  
Anchorage, AK

**POSITION STATEMENT:** Provided information about cost-effective justice measures within the Department of Corrections.

**ACTION NARRATIVE**

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**CHAIR HOLLIS FRENCH** called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Senators Coghill,

Paskvan, McGuire, and French were present at the call to order. Senator Wielechowski arrived during the course of the hearing.

**OVERVIEW: DEPARTMENT OF CORRECTIONS**

CHAIR FRENCH announced that the business before the committee would be to hear an overview from the Department of Corrections focusing on cost effective justice.

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JOE SCHMIDT, Commissioner, Department of Corrections (DOC), said his overview of the department would briefly cover the size of the department and the budget, prisoner trends, the population management strategy, the program strategy, the PACE program, the implementation plan and philosophy for Goose Creek, and the five-year plan. He introduced Ms. Gutierrez, Leslie Houston, and Shalon Harrington.

COMMISSIONER SCHMIDT provided the following information about the Department of Corrections:

- 1,500 staff are employed.
- 12 facilities statewide have a total of 3,778 beds.
- 1,000 prisoners are incarcerated in Hudson, Colorado under an out-of-state contract with the GEO Group.
- 13 field probation offices to supervise 6,000 parolees or probationers.
- 15 contract jails statewide have 159 beds.
- 730 halfway-house beds are currently used.
- 290 offenders are on electronic monitoring.
- 38,000 people are booked in and out of DOC very year, which is significant in a state with a population of 700,000.
- 1 in 36 adults in the state are under the supervision of DOC, according to the PEW study.

COMMISSIONER SCHMIDT said the DOC population management strategy is to utilize halfway houses - but only for people who are qualified and determined to be safe in these locations, and to employ electronic monitoring. He clarified that there is no study that shows that these reduce recidivism, but a prisoner in a halfway house is able to get a job. With employment there is opportunity to find housing and sober support before being entirely released from custody. These things have been shown to reduce recidivism and the halfway house makes it possible.

Electronic monitoring is the most cost-effective supervision available. In the past 4 years 94 or 95 percent of the people

that start the program finish it without committing a violation or a new crime.

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CHAIR FRENCH questioned what keeps DOC from putting more people on electronic monitoring.

COMMISSIONER SCHMIDT offered to provide the list of criteria, but certain people like sex offenders are not eligible for electronic monitoring. He added that he prefers to err on the side of caution when making these decisions because he doesn't want the program to be compromised.

CHAIR FRENCH asked if he personally approves every electronic monitoring application.

COMMISSIONER SCHMIDT said no; if the officers who make the determinations find some type of public concern that is unrelated to the crime he said he's quick to warn against putting that inmate into the electronic monitoring program.

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SENATOR PASKVAN asked if the sentencing statutes need to be modified or if certain low-risk categories of crime should more frequently be considered for electronic monitoring.

COMMISSIONER SCHMIDT thanked him for asking the question and said they could look at making the EM program larger, but the limiting factor would be the need for increased staff resources. He offered to do some work before coming back to further discussing expanding the program. It would be a good thing to do because it's been so successful.

CHAIR FRENCH agreed that would be a great an opportunity for a future hearing to focus solely on electronic monitoring because it seems to have promise.

SENATOR PASKVAN added that he's concerned about the disproportionate number of the indigenous population behind bars and that there might be inequities. Electronic monitoring seems to be one of the easiest ways to potentially address the issue, he said.

COMMISSIONER SCHMIDT replied there are several reasons he believes that's true. In 2008 the prison population dropped by 250 prisoners after halfway houses and electronic monitoring were first employed. In that same year the percentage of Alaska

Natives in prison dropped from 36 percent to between 34.5 percent and 35 percent. Looking into it further, he saw that Alaska Natives are 1 year younger than the average age of an offender and 55 percent get out in the next 6 months so they would be tend to be those that would qualify for the electronic monitoring program. He said he looks forward to reviewing this in the public process.

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COMMISSIONER SCHMIDT explained that when he started as commissioner, the only program that was available to prisoners was the residential substance abuse treatment (RSAT) program. It had a 1-year waiting list but not many prisoners would qualify since the average sentence in Alaska is 160 days. To address this issue they worked on a program plan that had shorter, less intensive programs for a greater number of offenders. In 2008 and 2009 they put together 90-120 day programs and with a 25 bed capacity can run 4 sessions per year. The long program was cut to 6 months and moved to the Colorado facility.

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COMMISSIONER SCHMIDT informed the committee that Deputy Director Brandenburg had expressed an interest in writing an evidence-based program plan in 2007 and his idea was given momentum and credibility at the 2008 crime summit. There he met Steve Aos who had data on which programs would reduce recidivism and what that means to an economy. This resulted in the Legislature and the Alaska Mental Health Trust funding an ISER study to develop a list of effective Alaska programs based on Mr. Aos' work. He noted that with few exceptions, these programs were very similar to what Mr. Brandenburg had expressed interest in initially.

In 2008 and 2009 DOC received funding from the Legislature to start putting these programs in place. They've been in long enough that the first inmates have been released from custody for one year. The data reflects 40 percent recidivism after one year compared to 66 percent recidivism after three years without the evidence-based program plan. Ultimately they expect a 50 percent recidivism rate, which is in line with other similar programs.

COMMISSIONER SCHMIDT said 1,000 inmates can go through the program every year and he isn't asking to do any more than that right now. In another year they expect to have a realistic idea about which inmates can get into this program at the beginning of their sentence because there are other impediments.

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COMMISSIONER SCHMIDT said that when he saw that probation and parole revocations returned 190 offenders to jail every month he asked the director to look at what they might be doing wrong. Subsequent research showed that 50 percent of those coming back had committed new crimes and 25 percent of the total had committed the new crime while they were waiting to go to court. When he told Ms Gutierrez about the numbers, she suggested they look into developing a probation enforcement program like the one in Hawaii. That was done and the Alaska program is called "PACE" for probation accountability certain enforcement. The premise is that if someone in the program messes up, they go to jail that day; within 48 hours they're in front of a judge. This gets their attention.

The first PACE program had 32 probationers who were high-risk for failure. Within the first couple of weeks 17 were back in jail and then 4 weeks went by without a hearing. This month 70 offenders will be on the program and while it hasn't been going long enough for conclusive results, it looks like this is working. The numbers are exactly tracking the Hawaii results and the model exactly mirrors the Hawaii program.

CHAIR FRENCH asked if the program is only in Anchorage.

COMMISSIONER SCHMIDT answered yes and this budget cycle they're looking whether they have the resources to start a program for misdemeanor domestic violence offenders in Fairbanks.

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COMMISSIONER SCHMIDT said that Goose Creek will be ready for occupancy in March 2012. The plan is to put about 30 minimum-custody prisoners there with a small staff compliment to check each unit and all the systems. Next session DOC will bring a ramp-up plan for FY 13.

SENATOR COGHILL asked if there are any plans to upgrade aging halfway houses.

COMMISSIONER SCHMIDT replied he isn't aware of any plans for renovations but a contractor would do upgrades. He offered to look into it further.

SENATOR MCGUIRE mentioned SB 220 that she and Senator Wielechowski introduced and asked if DOC has considered applying for any of the energy efficiency loans that AHFC administers.

COMMISSIONER SCHMIDT replied they did some work on efficiency work and he agrees that there is an economic impact to improving energy efficiency.

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CARMEN GUTIERREZ, Deputy Commissioner, Prisoner Rehabilitation and Re-entry, Department of Corrections (DOC), said her presentation would cover: DOC growth; collaborative efforts DOC and stakeholders have engaged in to address the issue of prisoner reentry; the cost-effective approach to justice; and DOC's next steps.

MS. GUTIERREZ stated that DOC is committed to provide secure confinement, rehabilitative programming, and supervised community reentry. Its overarching mission is to improve public safety while being a good steward of public resources. Research by the federal Bureau of Justice and the PEW Center on the States "One in 100" project indicates that the Alaska prison population is the 11th fastest growing in the United States. From 2000-2007 the Alaska prison population increased by 106 prisoners per 1,000 residents as opposed to the national rate of 26. This is a faster growth rate than all but West Virginia and Kentucky. While 12 states decreased their prison populations, the growth of the Alaska prison population far exceeded the state population growth. Bookings increased by more than 3,000 from 2004-2009 and the daily average number of prisoners increased by about 1,000 from 2004-2010. When the Goose Creek Correctional Center opens it will have 1,536 beds and an ISER study speaks to what that translates to if the current growth rate continues.

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CHAIR FRENCH asked the cost to keep a prisoner in prison for a year.

MS. GUTIERREZ replied it's now up to \$48,000 per prisoner per year.

CHAIR FRENCH said he'd been working with \$44,000, but at the new rate it's easy to see that the ongoing cost of increasing the prison population by 1,000 prisoners every year is \$48 million per year.

MS. GUTIERREZ clarified that the most recent number is actually \$49,800, which translates to a daily rate of \$136.

CHAIR FRENCH asked if there are ways to slow the prison growth.

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MS. GUTIERREZ replied the impetus for DOC's change in direction was the cost of incarceration and the Alaska recidivism rate. Two of three prisoners return to prison within the first three years of release. The majority return within a year and the vast majority return within the first six months. Based on the results of the UAA Institute of Social and Economic Research (ISER) study, the commissioner asked if the state was getting good value for the dollars it was spending and what it could do to improve the outcomes.

MS. GUTIERREZ provided the following Alaska DOC statistics:

- Ninety-five percent of the people who are convicted and sentenced to prison eventually gain release.
- Length of sentence, on average:
  - 160 days per offender;
  - 298 days for felons; and
  - 97 days for convicted misdemeanants.
- In 2008 about 289 convicted felons were released into Alaska communities every month.
- In 2009 about 295 convicted felons were released into Alaska communities every month.
- As the number of prisoners increases, so does the number of prisoners released.
  - In 2000 about 2,427 prisoners were admitted into a correctional facility and about 2,600 were released.
  - In 2008 over 3,600 prisoners were admitted and over 3,700 prisoners released.

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SENATOR PASKVAN mentioned the approximately \$6,000 increase in the cost of incarceration and asked if DOC has identified a component, such as utilities or wages, or if they see a trend that might help address ways to stem the cost of incarceration.

MS. GUTIERREZ said Leslie Houston, director of administration, would follow up and provide the information.

CHAIR FRENCH said he'd look for that information in the budget subcommittee process.

MS. GUTIERREZ confirmed that they would address the issue in that presentation.

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MS. GUTIERREZ continued her presentation with the following statistics:

- 1982 - 1 in 90 Alaskans were under the jurisdiction of DOC.
- 2007 - 1 in 38 Alaskans were under the jurisdiction of DOC.
- 2009 - 1 in 36 Alaskans were under the jurisdiction of DOC.

SENATOR PASKVAN asked if it's a particular type of crime that's driving the increase.

MS. GUTIERREZ conceded that the department's data collection isn't good enough to make it easy to hone in on the issue. However, DPS, DOC, and DOL are working with the Criminal Justice Working Group to update the 2007 recidivism study and they hope that the data that they've collected will shed light on some of the factors that are driving recidivism. We don't want to give anecdotal evidence, she stated.

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SENATOR MCGUIRE said she's very interested in knowing what crimes are being committed because she has no objection whatsoever with returning someone to prison if they've committed new types of crimes like cyber crimes or predation on young children. She said she'd like to know the following about incoming prisoners:

- Education. At what point did the prisoner's formal education begin, when did they start to read, and at what level did they leave formal education.
- Abuse. Was the prisoner sexually or physically abused, at what age did it start, and when did it stop.
- Substance abuse. At what point were they exposed to alcohol and drugs, when did these become part of their life, were their parents or people close to them substance abusers.
- Job training. Have they ever learned a skill that would help in getting a job.
- Mental health disorders. Have they been diagnosed with a mental health disorder, do they feel like they have one.
- Sex offenders. At what point did they begin having thoughts about predation on young people and when did they start acting on those thoughts.

SENATOR MCGUIRE further stated she doesn't want another survey, she wants to understand why we are at this point; what can we do to grow what we are doing inside our prison populations in order to truly rehabilitate. If 95 percent of the people who go in are

going to come back and live in our communities, we would like them to come back as better people.

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MS. GUTIERREZ responded that she would follow up and report on the issues that were highlighted. When she first met Commissioner Schmidt, he told her she would be successful the day she no longer had a job; she knew then she wanted to work for him. She said she knows that Alaska has the ability to solve this problem, and she wants to be part of the solution. She emphasized that she does not want to be a part of growing the prison system; of course there needs to be a place for dangerous individuals, but what about the substance abuser, or the individual who has serious mental health disorders who has received no treatment.

MS. GUTIERREZ mentioned the idea of identifying those entering the system that don't pose a threat to the community and said we believe in consequences and public safety, but perhaps we're punishing people because we're mad, not because they are a threat. If there is a way to impose a sanction and reinforce societal norms that doesn't cost \$130 dollars plus per day, we might want to consider that.

She also noted that the DOC has been involved for a period of time with the Criminal Justice Work Group, and they have a committee that is focusing on prevention and recidivism. She explained that prisoner entry requires that society address the issues of housing, employment, substance abuse, and appropriate mental health supports in communities. DOC does not have the mandate for all of that, so there needs to be collaboration, she said. The Alaska Re-entry Task Force was formed by the Criminal Justice Working Group in February of 2010, and with the support of the Alaska Judicial Council and DOC the task force hired a consultant and prepared the Alaska Five-Year Strategic Prisoner Reentry plan. Ms. Gutierrez stated that the goal of the document was two-fold. Part 1 is a resource document - it has numbers and outlines what community organizations are doing to address the issues of housing, employment, substance abuse and mental health treatment in the community. Part 2 is a specific plan that outlines what it would take to turn the curve of recidivism.

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MS. GUTIERREZ explained that the state barrier is a patchwork of laws, regulations, and policies that make it very difficult for convicted felons to find employment in this state. She suggested doing an inventory to see if these laws serve a legitimate

purpose, or if of them are thwarting the attempt to reintegrate people into society.

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CHAIR FRENCH asked when the report would be released.

MS. GUTIERREZ replied she hopes it will be released within a month and the Alaska Judicial Council will have the document professionally edited and published.

MS. GUTIERREZ then stated she would like to focus on collaboration. In the summer 2010, DOC received a letter from the National Governor's Association inviting states to put together a team to participate in a cross-governmental conference on sentencing and corrections. With approval of the Governor's office, DOC prepared the proposal; a condition of participation was that all three branches of government needed to be represented at the conference. For the Executive Branch it was Deputy Attorney General Rick Svobodny, and Commissioner Schmidt; for the Judicial Branch it was Court of Appeals Judge Bolger and District Court Judge Stephanie Rhodes; from the Legislature it was Representative Mike Kelly and Senator Dennis Egan. At the conference, they learned that DOC is already doing many things that were recommended. As a result of contacts made at the conference, Alaska Common Ground and Partners for Progress were able to put together a justice summit last summer. The NGA agreed to provide technical assistance for the summit, and they brought to Alaska Representative Madden from Texas, as well as Judge Warren, who is the emeritus president for the National Council on State Courts.

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MS. GUTIERREZ again brought up the success of the Probationer Accountability with Certain Enforcement (PACE) program; without the ability to collaborate, she said, that program would never have gotten off the ground.

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CHAIR FRENCH noted that by focusing on the worst offenders, you get a great cause and effect relationship.

MS. GUTIERREZ explained that certain enforcement of consequences is needed for people who lack the ability to think long-term. The program started with 30 probationers, and has now grown to 70 probationers. She said she believes that there is great promise for this model in Alaska. A controlled study of this

model was done in Honolulu, where the drug of choice is methamphetamine; this model reduced drug use by 50 percent.

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Ms. Gutierrez pointed out that Texas followed recommendations that are basically outlined in the ISER report and flattened the growth of its prison population and is not projected to need another prison bed until 2013. This, she said, is cost-effective justice. In terms of next steps, Alaska needs to put together a work group of people who can identify what is driving prison growth, figure out the best practice methods and employ them in a true to the model fashion to see if we can level off our prison growth in the next four years.

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CHAIR FRENCH stated that the committee will work with her.

SENATOR COGHILL asked if there is communication and collaboration with the Juvenile Justice System on some of these issues.

MS. GUTIERREZ responded that Barb Henjum, Director of Juvenile Justice, was on the Criminal Justice Working Group, and DOC is learning about some of the positive outcomes in Juvenile Justice, particularly the sex offender treatment program. The program that Mr. Aos listed as being most effective over time in reducing recidivism was the family nurse practitioner partnership program.

CHAIR FRENCH said he looks forward to receiving the report when it's released.

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There being no further business to come before the committee, Chair French adjourned the Senate Judiciary Standing Committee hearing at 2:39 p.m.