

**ALASKA STATE LEGISLATURE  
JOINT MEETING  
SENATE JUDICIARY STANDING COMMITTEE  
HOUSE JUDICIARY STANDING COMMITTEE**

December 8, 2015

10:37 a.m.

**MEMBERS PRESENT**

SENATE JUDICIARY

Senator Lesil McGuire, Chair  
Senator John Coghill, Vice Chair  
Senator Mia Costello  
Senator Peter Micciche  
Senator Bill Wielechowski

HOUSE JUDICIARY

Representative Gabrielle LeDoux, Chair  
Representative Wes Keller, Vice Chair  
Representative Bob Lynn  
Representative Charisse Millett - on teleconference  
Representative Matt Claman  
Representative Max Gruenberg

**MEMBERS ABSENT**

SENATE JUDICIARY

All members Present

HOUSE JUDICIARY

Representative Neal Foster  
Representative Kurt Olson

**OTHER LEGISLATORS PRESENT**

Representative Bryce Edgmon

**COMMITTEE CALENDAR**

LEGISLATIVE PRESENTATION: OVERVIEW OF THE DEPARTMENT OF  
CORRECTIONS ADMINISTRATIVE REVIEW

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

DEAN WILLIAMS, "Special Assistant  
Office of the Governor  
Anchorage, Alaska

**POSITION STATEMENT:** Stated that several months ago the governor asked him to be involved in the Department of Corrections (DOC) policy review.

JOE HANLON, retired FBI Agent  
Office of the Governor)  
Anchorage, Alaska

**POSITION STATEMENT:** Said he became involved in the DOC policy review when Mr. Williams asked him to be part of it.

KHANESIA MOSLEY  
No address stated

**POSITION STATEMENT:** Mr. Mosley's mother who said she wanted Davon's truth to be told. She appreciated the work they had done and what the governor is doing.

VERNESIA GORDON  
No address stated

**POSITION STATEMENT:** Mr. Mosely's girlfriend who thanked god for justice.

ACTING COMMISSIONER MONEGAN  
Department of Corrections  
Anchorage, Alaska

**POSITION STATEMENT:** Commented on changing DOC policy and prison culture.

LAURA BROOKS  
Health Care Administrator  
Department of Corrections  
Anchorage, Alaska

**POSITION STATEMENT:** Commented on health care issues in the DOC.

**ACTION NARRATIVE**

[10:37:57 AM](#)

**CHAIR LESIL MCGUIRE** called the joint meeting of the Senate and House Judiciary Standing Committees to order at 10:37 a.m. Present at the call to order were Senators Micciche, Costello, Coghill, Wielechowski, and Chair McGuire.

**CHAIR GARIELLE LEDOUX** announced that Representatives Keller, Claman, Millett (teleconference), and Lynn were present.

**Legislative Presentation: Overview of the Department of  
Corrections Administrative Review**

[10:38:54 AM](#)

CHAIR MCGUIRE said the Department of Corrections (DOC) report is lengthy and was synthesized for today's presentation. The number of deaths in Alaska's prison system, even though Alaska doesn't have a death penalty, is what launched concerns: one being that Alaskans are often imprisoned before trial and haven't had their day in court. Today they would hear from Dean Williams and Joe Hanlon who Governor Walker tasked with an investigation of the DOC over the last few months. The report is a summary of their work and it is a matter of public record on the Judiciary website.

She said there had been many attempts to partner with the department and she is grateful to the administration for its cooperation. It is an example of how government can work for the people. Everyone's intentions are good, but Davon Mosley's death means that something needs to be done quickly, and in a non-partisan way.

[10:41:44 AM](#)

She said this is not just about inmate safety, but access to training and safety behind bars for the men and women who chose to dedicate their lives serving as corrections officers, parole officers, and health staff inside these facilities, as well. She hoped the wrongs that came out of this report could be rectified.

CHAIR LEDOUX announced Representative Gruenberg's presence and thanked the governor, Mr. Hanlon and Mr. Williams for doing this investigation. She stated that legislators want to figure out what is wrong with the prison culture and fix it without blaming anyone.

[10:45:10 AM](#)

DEAN WILLIAMS, "Special Assistant, Office of the Governor, Anchorage, Alaska, introduced himself and stated that several months ago the governor asked him to be involved in this review.

JOE HANLON, retired FBI Agent, Office of the Governor), Anchorage, Alaska, introduced himself and said he became involved in this review when Mr. Williams asked him to be part of it. He was assured that the review was going to be based on facts and circumstances and that they would have unfettered access to whatever was needed.

[10:47:36 AM](#)

MR. WILLIAMS said the truth is a good place to start and nothing will deter them from doing that to the best extent possible. Finding troubling facts tests one's resolve. However, the bottom line is that they are here, because the governor believes in the truth. He has not flinched from this resolve. The facts are important so that change can happen. Today they will present their findings and pictures of four disturbing deaths in the Alaska corrections system.

He also announced that after today's hearing the governor will release two video sequences involving the deaths of Davon Mosley and Gilbert Joseph. It was the governor's intention all along to release certain videos to the media once the families had been fully briefed. Two will be released today and the other two after the families are debriefed. When he started this journey, a close friend told him he was doing work referenced in Micah 6:8, which says: "Seek Justice, love mercy and walk humbly with God."

[10:50:25 AM](#)

MR. WILLIAMS said the review lasted 12 weeks, a heavy lift, and they are still getting feedback from correctional officers, staff and inmates. The process has been started and he hears from them every day.

[10:51:23 AM](#)

MR. HANLON said the department has over 200 public policies and 23 more restricted policies for security and safety, but surprisingly some of them had not been revisited since the 1980s. Prison reform is a nationwide issue and policies should be reviewed every year or two for current best practices in prison operations and new case law that is being established in cases all over the country.

MR. WILLIAMS said one of the policies of concern is suicide prevention, which is 20 years old. It is a problem in running any large organization. Their report talked about facility structure, one of his areas of expertise, as he had run ran McLaughlin and a Nome facility. The command structure is also important and he advised taking a healthy look at it. Right now superintendents oversee their managers, their admin staff, including correction officers, their cooks, their maintenance people, but do not directly supervise most of their medical or mental health staff - kind of a bi-furcated system. Those staff report directly to the DOC state office.

He explained that from his own experience, he would find it difficult to supervise unless he had complete control: authority and supervision of everyone in his building. Some of the accumulated problems have are blurred lines of responsibility that sometimes cause a problem when things are going well, too. Many superintendents have made the divided command structure work, because in smaller communities, it's less of a problem. To be fair, he said, everyone in corrections wants to cooperate and get along. It is not an attitude problem, it's just that the structure of divided command has issues.

[10:54:59 AM](#)

MR. WILLIAMS said that many reform efforts around the country, including the federal prisons, have worked very hard to reduce solitary confinement or as DOC refers to it, segregation. He had a high level of concern when he found that four juveniles who had been in solitary for 11 months. These four had escaped from the Kenai youth facility and had not seriously assaulted a staff. Solitary confinement for 11 months is problematic even for adults. So, he has challenged DOC is to start getting in line with other states and federal prisons that are reducing solitary confinement. Colorado has reduced solitary confinement to almost zero. It should be "absolutely the last resort" and clearly articulated for safety and security reasons at the highest level.

MR. WILLIAMS said that internal investigation is another big issue: you can't fix anything unless it can be investigated to find out what is wrong. This is one of the most profound areas that needs addressing. They have plans: a short term plan for the next six months and a long term plan that he would oversee from the governor's office of a standup agency to see that all law enforcement entities in the state do internal investigations. He emphasized that the ability to fact-find is

critical, especially for agencies that have such high authority and control over the people in a closed prison system.

Two of their reviewed cases are about two individuals who died in on Title 47 protective custody; they hadn't even been charged with a crime! They actually died during the course of his and Mr. Hanlon doing the review, which actually helped the review because they were able to investigate how things happened and what the outflow of the bad events were.

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His point is that right now intoxicated individuals who have not been charged with a crime are ending up in jail in protective custody. Even in that case, there has been confusion in the department about what Title 47 says. It has become a minimum 12 hours when it's really supposed to be a maximum. The minute someone sobers up or a family member comes by to get you, you're supposed to be released. Even under current statute there seems to be confusion about what it says. He encouraged them to work on this, because it's a win/win all the way around. It is the bane of liability for all the prisons. He pointed out that this statute was changed in the juvenile arena about 15 years ago.

MR. WILLIAMS said in Fairbanks the average of 510 people for returning under Title 47 protective custody is 3.5 times in one year. One case came back 73 times. However, numbers have dropped dramatically in some places like Bethel, where progress is being made with detox centers. His whole point is that they are putting high risk, medically-unstable people in prison cells that have other medically unstable people, and things go wrong in these places.

[11:01:46 AM](#)

SENATOR MICCICHE asked if his figures were per annum.

MR. WILLIAM answered yes. In 2014, if you were one of the 510 that came into the Fairbanks facility, you would return 3.5 times on average in one year.

MR. HANLON pointed out in the Gilbert case, it was his 8th visit in one month on a Title 47 hold.

[11:02:48 AM](#)

REPRESENTATIVE CLAMAN asked of the 510 individuals who came into Fairbanks correctional facility if any came in on protective custody.

MR. WILLIAMS answered that 510 individuals came back in on protective custody for a total of 1743 times in one year.

REPRESENTATIVE CLAMAN remarked that Anchorage has more than three times the population of Fairbanks but has fewer Title 47 individuals.

[11:04:26 AM](#)

CHAIR LEDOUX asked if the Fairbanks numbers are skewed because one or two people were returning more frequently.

MR. WILLIAMS answered yes.

CHAIR MCGUIRE remarked that the figures show where some of the cost drivers are.

[11:05:16 AM](#)

REPRESENTATIVE GRUENBERG asked the modal average number that most people return.

MR. WILLIAMS said he didn't know that answer. He went on to other policy issues: one being that the cost of the phone call system just went up, actually causing what looked like a riot at Lemon Creek. Information he has indicates that the cost burden has increased on inmates, although it saves the DOC money.

[11:07:19 AM](#)

MR. HANLON said another surprising issue is that not all correction officers could initially attend the training basic academy, which doesn't run continually. One correctional officer said it took him 10 months to get to the Academy. This results in doing things the academy way or the field way. The time they are brought on board initially should be much shorter and they should be assigned to a field training officer.

It was equally confusing that no uniform system is set up to either annually or at some fixed time make performance evaluations to ensure that people understand their jobs and are performing them correctly. One officer told him he hadn't had an evaluation for eight years.

[11:10:46 AM](#)

CHAIR MCGUIRE said a big concern of a current corrections officer (CO) and one retired one is that they had started out with very specific approaches to training with updates throughout the year. That had gotten reduced down to one of the officers getting just two hours of training and even that had a

backlog. This needs to be highlighted as cultures and best practices change.

11:11:08 AM

MR. WILLIAMS moved on to viewing slides starting with the oldest, the Davon Mosley case, mostly because it was is concerning. On March 20 the video showed Mr. Mosley who was taken into segregation for challenging a CO to a fight. It doesn't appear that he did that, and he voluntarily handcuffed up on this day. He was in custody for 20-some days. He was sprayed with human pepper spray that first day, a common tool for law enforcement that is permitted in jail settings under strict policies. In this case, it occurred inside the cell.

He explained that the pepper spray is at an approved level for humans. Later on the same day, Mr. Mosley again got a very large blast of the spray. The video showed Mr. Mosley at the cell door uncuffing, because he had to be cuffed when he was out of the cell. When he returned to the cell, the door closed and he has his cuffs on behind him; he goes back to the door so the cuffs could be removed. In the scene he appears to fall down with one cuff on and he walks back with one cuff on. He shouldn't have one cuff on; both should be removed. The cell door is closed; he is walking back to the bunk with no mattress. He is then sprayed with a full blast, a much larger dose from a much larger canister, after he sits down on the bunk with the cell door closed.

11:15:04 AM

SENATOR COSTELLO asked the physical result of getting pepper sprayed.

MR. HANLON said it is very irritating and uncomfortable, especially if it gets into your eyes or mouth, or if you are sweating. In law enforcement it is used to get compliance. After it's used the standard protocol is to rinse the individual off.

SENATOR COSTELLO asked if physical ramifications are more serious from an inappropriate level of pepper spray and if Mr. Mosley was rinsed off both times.

MR. WILLIAMS explained that higher concentrations of the irritating agent is what is used for a bear; it is reduced for humans. "It's very uncomfortable. It shuts you right down." In that particular case, Mr. Mosley used water in the sink and toilet water to rinse himself.

CHAIR LEDOUX asked what possible justification there could be for spraying somebody once they are already back in their cell.

MR. WILLIAMS answered that he found no justification. On March 25, Mr. Mosely was picked up on warrant out of California and brought to the Anchorage jail. On this day, agents from California showed up to take him back. As a result, according to DOC documents, when they saw him in this condition, they did not want to assume custody, and didn't. He was subject to release this day after the paperwork was processed. The paperwork was apparently lost at the Anchorage jail and he was held in custody until the day he died. By all legal standards, he should have been released either on this day or very shortly thereafter.

11:19:18 AM

SENATOR MICCICHE asked the reason for the original warrant from California.

MR. HANLON answered taht it was a parole violation warrant.

CHAIR MCGUIRE asked about Mr. Mosley's mental health condition.

SENATOR MICCICHE asked if California officials did not think the offense was serious enough to risk moving Mr. Mosley, were they provided with any possible reason he remained in custody for another week from March 27 until April 4.

MR. WILLIAMS answered they couldn't find a reason in the record.

SENATOR MICCICHE wondered if this was a widespread problem, because of the \$80-120/day cost for individuals to DOC.

CHAIR MCGUIRE remarked that the PEW Report mentioned how many people are in pretrial status and in on probation violation, as opposed to having gone through the actual conviction process.

11:22:12 AM

REPRESENTATIVE GRUENBERG asked if Alaska law requires DOC to notify the court if the charges are dropped against a person and if he has a right to a hearing. Does anything in the law protect the prisoner?

MR. WILLIAMS said that was getting away from his area of expertise, but he couldn't deduce anything from the facts that caused the system to retain Mr. Mosley from March 27-on.

REPRESENTATIVE GRUENBERG said he wasn't aware of any crime under Alaska law for mistreating a prisoner.

MR. WILLIAMS said that was correct.

CHAIR LEDOUX asked how long it usually takes between when charges are dropped and the person leaves the system when things go correctly.

MR. WILLIAMS said it can take a few hours, but the same day or overnight, not the multiple days in this case.

[11:24:19 AM](#)

CHAIR MCGUIRE said that may be a policy Acting Commissioner Monegan could focus on in his wrap-up.

SENATOR MICCICHE said if he were a state with a problem individual that Alaska had now chosen to care for, he might leave them in Alaska, too. In the future, they should consider either committing to extradite the individual or dropping the warrant, period. If the crime is not serious enough, Alaska shouldn't be volunteering for care taker status to solve other criminal justice problems.

CHAIR MCGUIRE asked about Mr. Mosley's diagnosis and how he came into protective custody in the first place.

MR. WILLIAMS replied that he was on a warrant, not protective custody.

CHAIR MCGUIRE asked what precipitated his arrest.

MR. WILLIAMS said concerned extended family members initiated a welfare check, because Mr. Mosley is bi-polar and has had mental health problems in the past. He did better on meds. The autopsy report said he still had some residual meds in his system. It looks like he had them initially, but not for the extended part of his stay. He showed pictures of Mr. Mosley in the state of declining health.

CHAIR MCGUIRE said they should look at the prison population as a whole and the policy protocols for handling of welfare checks, because such a high percentage have underlying mental health issues. Family said they tried to bring mental health drugs to him, but were declined.

MR. HANLON added that this was an extradition case and those are handled differently than the typical criminal case. It starts with a warrant and then the person is placed in custody. There may be provisions that allow them to bail out, but commonly there are no bail provisions. There is, however, a 10-day hold and the person is entitled to council. It makes no sense that this person was on a 10-day extradition hold. They are usually brought back in court on the 10th day. If the state still wants him the process continues, but if they don't, he is usually released. In this instance the answer was they didn't want him, in which case the warrant goes away.

MR. WILLIAMS and MR. HANLON both said they could find to no explanation for keeping Mr. Mosley.

[11:29:33 AM](#)

MR. WILLIAMS continued showing the pictures; one showed that Mr. Mosley had no mattress and only one blanket in his cell. He explained that people who are locked up in solitary confinement find something to do to occupy their time or they get into trouble. That is the reason why employment inside prisons and all the things they used to do in terms of prison industries were good things. Solitary-confined people, unless they absolutely have to be there, become problematic and trouble-makers. Some are not good people to begin with. It looks like a viable option, but people need outlets or they devolve. This is why other states have made very substantial progress in reducing its use.

[11:33:13 AM](#)

CHAIR LEDOUX referred to a picture and asked if Mr. Mosley was totally naked and asked if that is how prisoners are left in solitary confinement.

MR. WILLIAMS answered that is how Mr. Mosley was left for this period of days. They had heard other stories of prisoners going without clothes for shorter periods of time, but hadn't identified other cases where someone was left without clothes for extended periods of time. Mr. Mosley's case is the most egregious. Being nude is unacceptable in prison, he said, and this was multiple days on end.

CHAIR LEDOUX asked if Mr. Mosley took his clothes off or was he not even given clothes.

MR. WILLIAMS answered that at this point, Mr. Mosley wasn't given clothes. They paint the picture that he tore some of his

clothes and his mattress up earlier; the dynamic is, well, you destroyed the clothes you had earlier, so you don't get clothes now. DOC has forms that sort of approve this standard of care and some are signed off at supervisory levels.

MR. WILLIAMS continued displaying pictures from March 31 showing that a sandwich and an apple had been thrown in from a slot in the cell door. On April 4, a picture at 11:18 a.m. showed Mr. Mosley gasping for air (agonal breathing), releasing his bladder and probably dying. He was found at 1:10 p.m. and staff entered his cell at 1:16 p.m.

CHAIR LEDOUX asked how he died and if an autopsy was performed.

MR. WILLIAMS replied that he had 12 duodenum ulcers and died of internal bleeding.

REPRESENTATIVE GRUENBERG asked if that is a typical result of a beating.

MR. WILLIAMS said he saw nothing in the videos indicating that beatings occurred.

REPRESENTATIVE GRUENBERG asked if anyone knew why he had duodenum ulcers.

MR. WILLIAMS replied that his close physician friend told him that stress induces ulcers, but they didn't know that was the reason Mr. Mosley died.

11:38:10 AM

REPRESENTATIVE GRUENBERG asked if there is any gap in the tape.

MR. WILLIAMS answered that there are 20 days-worth of videos and he didn't look through all of them. People who saw the videos didn't see anything like that, but there was a three-hour period when he was gone out of any camera shot, presumably to shower, and no bruising was found in the autopsy.

CHAIR MCGUIRE said there was some question of his being pulled out of cell for a few hours.

MR. WILLIAMS clarified that he didn't look at every hour of all the videos. According to the family and their lawyer, there was a period of three hours when he was not in the video.

CHAIR LEDOUX asked his physical state of health before entering the facility.

MR. WILLIAMS said he looks healthy when he comes in: walking, talking, and cooperating everyone.

CHAIR LEDOUX asked his age.

MR. WILLIAMS said he forgot, but over the course of the videos he has trouble walking and by April 4th he's not functioning well. He staggers around and sits down a lot. His condition was highly troubling.

11:41:01 AM

SENATOR WIELECHOWSKI asked if any employees had been disciplined for any actions related to this case and if the procedures followed by the officers were the corrections' policies.

MR. WILLIAMS answered the only employees that were disciplined were the two on shift of the last day in Mr. Mosley's life, because they were supposed to be doing security checks every 30 minutes and one of them claimed he saw Mr. Mosley alive at about noon, when he had already passed at 11:18 a.m.

SENATOR WIELECHOWSKI asked if the corrections officers were following policies that were in place at the time.

MR. WILLIAMS answered that staff felt they were doing what they were supposed to be doing. He explained that clear policies provide for adequate food and medical care. There are policies for administrators, as well, on walking through and making sure they are aware of the conditions of people that are on segregation. If these policies had been followed, this death should have been prevented. A culture seemed to have been created around segregation, so he and Mr. Hanlon spent many hours together looking at these places and talking about the culture and the environment. Mr. Mosely's case is probably the most profound and most extreme in terms of the concept of culture.

Their report talks about how on certain days in solitary confinement no one wanted to shower or didn't want to make a phone call. To him that seems highly irregular. Other facilities' log books are filled out to the "T," because that superintendent "rides roughshod over them." They all get their showers; you know which ones are out. It looks real.

11:44:39 AM

SENATOR COGHILL said it is very disturbing and that a regular person could not do well under these circumstances. Putting youth in confinement is troubling and he vowed to take their recommendations seriously.

CHAIR MCGUIRE asked Mr. Mosley's weight when he entered the facility.

MR. HANLON said he didn't remember, but the pictures show that he lost weight.

SENATOR MICCICHE asked what had been done procedurally immediately to get in the way of this occurring again until they can find solutions system-wide.

MR. WILLIAMS answered that these things have to come out as a recommendation of Internal Affairs. In this case if there had been a proper Internal Affairs investigation they probably would have made ground, because it would have all been out in front. In the short term, the governor assigned him and Mr. Hanlon to look at all future deaths. Commissioner Monegan is on board and will assign his hand-picked team. The remedy is to be as transparent and honest as possible if anything occurs like this.

Their report is a first step, but he wants to develop a stand-up agency that operates outside of the commissioner's pressure and influence. The facts need to come out clean and those will drive the solutions. The biggest problem is that they haven't had the facts in front of them. But the governor is not letting off this particular case.

CHAIR MCGUIRE said they look forward to partnering with the executive branch to address action on these issues.

11:49:24 AM

SENATOR MICCICHE said he has a small background in investigation and there are certain levels of risk that require immediate solutions and he hoped this investigation rises to that level.

SENATOR COSTELLO asked what assurance Alaskans have that if they have a loved who is sent to a state corrections facility in the immediate future that they haven't been sent somewhere to die.

MR. WILLIAMS answered that everything that came out of their recommendations is a good start and the internal investigation

piece is so important because it changes behavior inside facilities. However, the public trust issue isn't a quick fix.

REPRESENTATIVE LYNN asked if there is any evidence that Mr. Mosley or his family was aware of his medical condition and at any time during this period did he ask to see a doctor. And did he get ulcers before or after incarceration?

MR. WILLIAMS answered that nothing in his medical file indicated he had ulcers when he came in and it's hard to figure out from the file that he asked for medical care. One time he asked to speak to a mental health technician and there was no log entry saying he met with anyone. Records weren't kept well, and in that kind of environment one learns whether asking for something has any real chance of getting a response.

[11:53:43 AM](#)

CHAIR LEDOUX asked if serious bodily injuries while in jail would be investigated.

MR. WILLIAMS answered that Commissioner Monegan is fully aware of the huge problem in reporting bad things that have occurred inside the facilities and his new leadership means they will tell the truth.

[11:55:48 AM](#)

CHAIR MCGUIRE invited the Mosely family forward and said she was sorry for their loss and appreciated their bravery in coming forward.

KHANESIA MOSLEY, Mr. Mosley's mother, thanked the committee for the opportunity to speak; she wanted Davon's truth to be told. She appreciated the work they had done and what the governor is doing.

VERNESIA GORDON, Mr. Mosely's fiancé and the mother of his three children, thanked god for justice.

MS. MOSLEY said Davon was healthy when he entered the facility. He called his fiancé up every day until the 23rd; he asked for medical attention every day and never received it.

[12:00:17 PM](#)

CHAIR MCGUIRE asked if she was made aware on March 25 that California authorities decided to quash the warrant for his parole violation.

MS. MOSLEY said they weren't contacted the day Davon died until 8 p.m. She went to the jail that day at 1:40 p.m. and they told her that he was fine and to come back later. Later they called his brother and told him he was gone.

CHAIR LEDOUX apologized on behalf of the State of Alaska for this travesty.

MS. MOSLEY thanked her and said she didn't want anyone else to have to go through this emotional pain. That is why she wants this to be known as Davon's Law.

12:02:02 PM

CHAIR MCGUIRE said the value of life is very important to all of them and they have tried to keep this as unpolitical as possible. She thanked them for coming forward and looked forward to getting something in place this session, so hopefully his children can say he made a difference.

CHAIR MCGUIRE invited Mr. Williams and Mr. Hanlon to come back to transition to the next case.

12:03:25 PM

MR. WILLIAMS described the Kobuk Case and how policy was interpreted then. This issue started over a struggle to remove civilian clothing and replace it with institution clothing. Mr. Kobuk was admitted to the Anchorage jail in January 28; he was charged with stealing a car. The Anchorage Police Department (APD) officers were asked to take two sweatshirts off of Mr. Kobuk for evidence. DOC policy was interpreted differently by staff; some thought it meant that once a person was in custody, if APD wanted any clothes for evidentiary value, they had to get a warrant. The way it was interpreted by other officers was that APD was asking for it and they wanted to help them out.

He said removing civilian clothing and replacing it with institutional clothing has a good rationale - for safety. In their assessment, this became a fight over clothing that could have either been delayed or reviewed when everyone had calmed down. He wasn't releasing the video at this point, because the family had not had time to weigh in.

MR. WILLIAMS said when Mr. Kobuk came in, he told the nurse that he had cardio-myopathy (a bad heart). But during the course of the restraint, he was placed on his stomach and the sweatshirts were essentially cut off of him. The report states that he articulated to the AP officer and a corrections officer that he

couldn't breathe several times and he can be heard saying it on one of audios. At 23:45 the correctional officers leave the cell. At one time an officer actually looks at Mr. Kobuk, because he recognizes that he is not looking right. At 23:48 they realize that he is not moving. Just 30 seconds or so after that they take him outside and start lifesaving measures, but then Mr. Kobuk passed.

12:08:48 PM

The next case is about Joseph Murphy, a protective custody case in Lemon Creek. This death occurred during their review. He did not release the video, because the family had not weighed in. Officers left the cell 23:45 and at 23:48 Mr. Murphy was not moving. Thirty seconds later, life saving measures were started and then he died.

12:09:33 PM

MR. WILLIAMS explained that Mr. Murphy was brought in on protective custody at 0700 and not charged with any crime. His blood alcohol level was .16 or .18.

CHAIR LEDOUX remarked that his blood alcohol level was not that high and asked why someone is brought in for protective custody when they have just a .16.

MR. WILLIAMS agreed that it wasn't a high blood alcohol level. Mr. Murphy could walk and talk and didn't look bad. But at 5:52 a.m. he started complaining of chest pains; at 5:56 a.m. another staff member shows up and he complains of chest pains. At 6:02 DOC documents say staff 4 overhears staff 3 say to Mr. Murphy: "I don't care. You could die now. I don't care." At 6:05 a.m. Mr. Murhpy is walking around patting his chest and periodically pounding on the door. At 6:09 a.m. he is down on hands and knees banging on the door; at 6:14 a.m. he's patting his chest again. At 6:19 a.m. he has what appears to be a heart attack. At 6:32 a.m. staff start to inquire because he doesn't look right. At 6:34 a.m. they go into his cell and lifesaving are started at 6:37 a.m.. Shortly thereafter Emergency Medical Services (EMS) arrives and continues with lifesaving measures for 45 minutes, but then Mr. Murphy passes.

12:14:30 PM

MR. WILLIAMS said Gilbert Joseph was brought in for protective custody. His background is that he drinks hand sanitizer and had a blood alcohol level at the autopsy of .5, way beyond functioning, but yet he was cleared from the hospital.

SENATOR COSTELLO asked what "cleared from the hospital" means.

MR. WILLIAMS replied that "clearing" is a subjective term that has no standard meaning; it means a hundred different things to a hundred different people.

CHAIR LEDOUX asked if hospitals don't want intoxicated individuals because they cost money.

MR. WILLIAMS answered that in his opinion it is a resource issue: they take up bed space and many times they are uncooperative. Statute says prison is supposed to be the last stop, but it has turned into something else. The remedy will cause a lot of questions. The hospitals don't want them to stay, but the reality is they are putting people like Mr. Joseph who was at a highly toxic level in a prison.

[12:18:27 PM](#)

CHAIR MCGUIRE said alcoholism is a disease that is an epidemic in Alaska. People are being put in protective custody with lower blood alcohol levels because they are maybe not liked for some reason. On the other end, some have a medical condition and a high blood alcohol level. Is jail the appropriate place?

She explained that for example, Bethel has this exact problem and they have a new facility that is designed intoxicated individuals into protective custody, but it is a medical-like facility that administers withdrawal drugs and does monitoring. The goal is to release them into a planned rehabilitation program. She didn't know what the costs are but the diversion ability has been tremendous in that community.

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MR. WILLIAMS said there is a lot of discretion in this area and different communities are handling it in different ways. Ketchikan also has very low numbers and it has have a very successful sleep-off center. The superintendent talks glowingly about how the community has dealt with the issue, but it doesn't work well in all communities.

CHAIR LEDOUX said it would seem that someone with a .4 or a .5 blood alcohol level belongs in a hospital and asked if there are statistics on income levels and races of these individuals.

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MR. WILLIAMS answered the law gives the police officer a lot of discretion when no-one else can take care of an intoxicated or at-risk individual.

REPRESENTATIVE CLAMAN mentioned the resource challenge that is placed on the police departments and hospitals.

SENATOR MICCICHE said it likely took decades to get into this situation of "a major management problem in our prisons." He asked where the Department of Law was during all of this.

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MR. WILLIAMS replied that the Department of Law had been notified of concerns on all these cases. In this case, the trooper was wrong in reporting that nothing happened in the cell when the man had been assaulted numerous times. He and Mr. Hanlon considered whether this was incompetence or purposeful, but they couldn't answer that exactly. The facts point to a combination of reasons of how the DOC got there. Some things have been changed since then, just by the fact that they are investigating. He remarked that the Department of Law was trying to make sure the state didn't get sued for doing bad, and it is worthy of them to guard the state's resources. However, that became the way the problem was approached and he hoped that started changing today.

CHAIR LEDOUX commented that in a private situation an attorney might advise a client to dispose of private documents, but it would not be appropriate for the Department of Law to advise that; it wants to see bad things in the light of day.

CHAIR MCGUIRE agreed that the report mentions a culture that is protective and part of their job is to change that.

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MR. WILLIAMS said at 12:20 a.m. Mr. Joseph is hit by his cellmate; at 12:22 a.m. he is punched in the head. When he first got this report, it gave the impression that Mr. Joseph died in his sleep but that was not the case. At first, Mr. Williams explained that they originally received the camera angle on the left that didn't show anything. However, after he went back and visited the facility he was provided the second camera view that was not provided to the DOC investigation team, the trooper or to him. This raised alarms about what was going on. This is why internal investigations matter so much.

He explained that the second camera was clearer and it showed the cell door. At 12:33 a.m. a staff member knew he had been assaulted at least once. He was watching this camera in a control room; he called the Sergeant and other staff and told them Mr. Joseph just got punched. They went down and checked it out. Nine minutes after the staff leaves, the cellmate (one of three protective custody individuals in the cell) punches Mr. Joseph again. A few minutes later he is hit again open-handed across his chest. Mr. Joseph does not move during the entire time of the assault. At 12:45 a.m., Mr. Joseph is completely incapacitated and unconscious. He was drug into his cell and does not move on his own at any time.

One camera shows the cellmate putting his hands over Mr. Joseph's mouth for two seconds while the other correction officer is standing there, because Mr. Joseph is snoring very loudly. At 12:49 a.m. the cellmate rolls Mr. Joseph on his stomach and he got even worse. He is facing straight down on the mat. So, if he had problems with breathing before, it's worse now. At 1:18 a.m. the other cellmate moves closer to him after being against the wall. This did not look right. At 1:30 a.m. - the video footage wasn't very clear - the cellmate put his hand underneath Mr. Joseph's face for 15 or 20 seconds. It's clear that at 1:32 a.m. Mr. Joseph starts agonal respiration (a medical term for high carbon dioxide in brain stem, basically a last struggle to live). At 1:33 a.m., the cellmate hits Mr. Joseph on the back really hard. The last time a breath was noted was at 1:34 a.m. At 2:01 a.m. a security check is given. Mr. Williams said he surmised that Mr. Joseph had passed right after the agonal breathing. At 3:04 a.m. staff finally realizes something is wrong and he is taken out of the cell.

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When he is taken out of the cell another camera caught the imprint of his nose and mouth straight down on the mat. At 3:13 a.m. the EMS arrives.

MR. WILLIAMS stated that the governor is committed to doing something about this in a non-political way. It will take real thought and strategy. Mr. Hanlon is on contract for the next six months to investigate in case something else similar occurs.

CHAIR MCGUIRE thanked him and vowed to work with him during the upcoming session. She commended the governor's statement that leadership is not turning your back on problems in your state because they are ugly or can make your administration look bad. Finally, she said corrections is reflective of our civilization.

All people have their struggles, particularly with drugs and alcohol and cutting mental health programs reflects on this.

MR. HANLON echoed Mr. Williams' comments in that the report pointed out some clear areas that need to be addressed. Going to jail seemed to be automatic as opposed to a measure of last resort and there is no established criteria for "clearing" a person.

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To people who have relatives in the system, Mr. Hanlon said these cases are gross anomalies to the normal care and attention that is given to inmates in the prisons.

CHAIR LEDOUX asked if the DOC gave them unfettered access to its records.

MR. HANLON answered that they were given complete freedom to whatever records they needed, written and recorded, but earlier in the review they got some feedback from staff that their superiors wanted to know what questions were asked.

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SENATOR MICCICHE commented that prison should not be "cushy," but it should be safe. He is disturbed by what he has heard, particularly in protective custody cases. He asked if the one inmate charged with assault could have had something to do with the demise in the last case.

MR. WILLIAMS answered the inmate had not been charged with anything yet, but he knew it had been referred to the District Attorney's (DA) Office, because he personally called the DA about it. The DA hadn't even heard of the case before that.

CHAIR MCGUIRE said the Judiciary site would have link to the report and the power point from today. She asked how families of incarcerated individuals could contact him.

MR. WILLIAMS responded that right now he is getting emails and letters through constituent relations in the governor's office. He is comfortable with them coming to his office, the commissioner's office or the governor's office. His email is dean.williams@ak.gov.

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CHAIR MCGUIRE asked if he is reviewing all internal policies to ensure they have been updated and are comprehended by staff and

are steps being taken right now where there are known problems (solitary confinement, suicide and training) with an eye to a more comprehensive policy later.

MR. WILLIAMS answered that Commissioner Monegan had already started the policy review. Some policies have been updated, but at a grindingly slow pace. So, the expectation is of making progress.

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CHAIR LEDOUX said people are confused about protective custody under Title 47 and the maximum amount of time and asked if the statute itself is confusing or have people just not read it.

MR. WILLIAMS answered that the statute clearly says the 12-hours is a maximum unless other things occur, like someone wants to pick you up. The practice is the issue.

CHAIR LEDOUX asked how protective custody had been changed for juveniles and if it could simply be that way for everybody.

MR. WILLIAMS answered that it could. What applies to adults right now used to be applied to juveniles. The only thing that changed is that the statute says: "no longer applies to juveniles." The only reason that happened is because Alaska was going to lose some federal grant money in the juvenile system if it didn't comply with new legislation around this issue. That law changed, but the system adapted. It's one of the reasons the juvenile counts in the system are down.

SENATOR COGHILL said solitary confinement for youth is the most detrimental thing to do, but they were sometimes put into segregation for protection from other individuals.

MR. WILLIAMS said the reason that is done in adult facilities is that they are already concerned about their liability issues with a youth in a jail setting. But research has validated that damage is done in solitary to juveniles.

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SENATOR COGHILL said it should be a facilities management issue as well as a people management issue. Pre-trial is one of the biggest issues.

MR. WILLIAMS agreed and added that the importance of the PEW work cannot be overstated. Driving down prison populations and providing "white margins" in a prison system is critical to

reform for a whole host of reasons. The fewer prisoners in the system the better off the commissioner will be at quickening the reform efforts that need to be done. It is absolutely the right work at the right time in profound ways.

CHAIR MCGUIRE said the most important work this session is to pull these pieces together.

SENATOR MICCICHE asked why Fairbanks is such an "outlier." If the one individual is pulled out, it still has people returning at an average of 3.28 times. Without Fairbanks' numbers, the mean is 1.4. He asked why so many people are being brought in under Title 47 protective custody.

MR. WILLIAMS answered that he has a 50 percent confidence factor on his opinion about this. One is the amount of resources the community has to deal with Title 47 protective custody: how many sleep-off beds they have inside the facility. It's also really driven by the sense of understanding of policy among the law enforcement. Fairbanks is a community that has a lot of people from outlying villages who live on the street, who are in and out of halfway houses and in and out of detox places.

SENATOR MICCICHE said in some cases, Title 47 is likely to be a lifesaver in terms of fatalities of the homeless who are likely intoxicated and die from exposure.

MR. WILLIAMS agreed and added that dying on the streets is not an option.

SENATOR COGHILL added that Fairbanks put together a community service patrol because people were dying in doorways. That is one of the reasons for Fairbanks having "frequent fliers" who will either be in jail 73 times or have gone through the hospital 73 times. The idea behind the community service center was to get them to a sleep-off center, the hospital if need be, or the jail as the last resort. Unfortunately, because of the service problem, the jail has been more often the place where they have ended up.

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CHAIR LEDOUX asked if there is usually more than one juvenile in a facility at a time.

MR. WILLIAMS answered yes. In this particular case, there were four in one facility.

CHAIR LEDOUX asked if jails could have a wing for the juveniles as opposed to the hole.

MR. WILLIAMS said that at one time there was a program at Spring Creek that dealt with youthful offenders, but that program was almost entirely eliminated. Other states have gotten solutions through policy efforts, not just money efforts.

CHAIR MCGUIRE thanked staff for putting this meeting together in such short order and invited Acting Commissioner Monegan to testify.

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ACTING COMMISSIONER MONEGAN, Department of Corrections, Anchorage, Alaska, introduced himself. He said he is glad these issues came to light, because it is the only way they will be corrected. His team believes no one has to die in corrections and that everyone should be treated with respect no matter who they are. The vast majority of incarcerated people are good individuals who have made poor choices. A leader like the state's governor who can feel compassion and outrage for Alaskans behind bars can create trust in the system, but it will take time.

LAURA BROOKS, Health Care Administrator, Department of Corrections, Anchorage, Alaska, introduced herself.

CHAIR MCGUIRE asked for closing remarks about what they had seen today.

ACTING COMMISSIONER MONEGAN said he is sorry this happened, but he is glad it was brought to the surface. If there are issues that need to be addressed, the best way to handle them is out in public. He appreciated the work the governor, Mr. Williams and Mr. Hanlon had been doing. Good things can come out of it, he said, that will forestall any future similar kind of events. The governor can feel compassion and outrage for Alaskans behind bars and that is a great statement about the philosophical view of this administration. It will take time, but once trust is rebuilt, it will go far.

REPRESENTATIVE CLAMAN thanked the commissioner and said the legislature would support him in any way it could.

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SENATOR COGHILL said one of the issues in corrections that is becoming more painfully apparent is the mental health component.

One of the report's recommendations is to get the facilities under a singular direction and asked what he has to move around to line that up.

ACTING COMMISSIONER MONEGAN answered that a lot of consolidation is needed at the Anchorage facilities, but the mental health individual percentages are high. Ultimately, it would be easier to consolidate a spot for them, but that would deny the families, especially if they live outside of Anchorage, the ability to provide the support and constant contact to their family member. He hopes with declining populations in facilities all over the state that some facilities could be repurposed for more intensive mental health treatment, maybe even a portion for Title 47 if it is still going to be in DOC. He said the afflicted need that family support close by.

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SENATOR COGHILL said with the youthful offenders, because of segregation and behavioral health, facilities management becomes a huge problem and the pre-trial movement of people keeps the population pretty dynamic. Today he heard about the barrier at the CO level between needing meds and getting them. They are probably less sensitive to that.

ACTING COMMISSIONER MONEGAN recalled the incident in Mr. Williams' report where one individual reportedly not getting his meds. If he was there for 20 days, the autopsy showed that some medication was still in him, which tells him that he must have been receiving some medication during the 20-day period. But the details could be tracked a lot better, absolutely.

MS. BROOKS explained that the nursing staff is usually the first line to determine if someone needs medication or if someone comes in with that history, but some facilities don't have 24-hour nursing. What happens then is that those officers take the history, make a basic determination, but then the next time a nurse comes on shift, it's up to the medical staff to actually make that determination. It's also up to the nursing staff and the other medical staff to make sure that those individuals get their medications, and if they are not, to figure out why.

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**ADJOURNMENT**

CHAIR MCGUIRE thanked them for coming today. She said throughout the investigation, those who are addicted to drugs and alcohol were one problem area along with co-occurring mental health

disorders, and in way the DOC needs hospital-like competency. She looked forward to continuing that conversation.

MS. BROOKS commented that Title 47 holds are not just for alcoholics; some Title 47 holds are non-criminal holds because of mental health issues. The one individual with a .6 blood alcohol level was a suicide hold. Not only are individual coming into custody who have not committed crimes, but they are mentally ill.

CHAIR MCGUIRE adjourned the Joint House and Senate Judiciary Standing Committee meeting at 1:17 p.m.