

SENATE FINANCE COMMITTEE  
INTERIM  
September 15, 2015  
10:03 a.m.

[Note: The meeting was held in Anchorage, Alaska at the Anchorage Legislative Information Office]

[10:03:14 AM](#)

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 10:03 a.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair  
Senator Pete Kelly, Co-Chair  
Senator Peter Micciche, Vice-Chair (via teleconference)  
Senator Click Bishop (via teleconference)  
Senator Mike Dunleavy  
Senator Lyman Hoffman

MEMBERS ABSENT

Senator Donny Olson

ALSO PRESENT

Terry Schuster, Senior Associate, Pew Charitable Trust, Public Safety Performance Project; Chief Justice Alex Bryner, Chair, Alaska Criminal Justice Commission.

SUMMARY

PRESENTATION: ALASKA PRISON GROWN DRIVERS AND COSTS

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TERRY SCHUSTER, SENIOR ASSOCIATE, PEW CHARITABLE TRUST, PUBLIC SAFETY PERFORMANCE PROJECT, introduced himself.

Co-Chair MacKinnon queried any opening remarks for the committee to consider.

CHIEF JUSTICE ALEX BRYNER, CHAIR, ALASKA CRIMINAL JUSTICE COMMISSION, highlighted some background information regarding the Criminal Justice Commission. He stated that the commission was created as a bipartisan organization under SB 64 in the previous year's legislature. The commission was modeled under efforts in a number of other states. He stated that SB 64 created a commission that widely represented all types of individuals from around the state who were involved in criminal justice. The commission included a retired or active member of the Alaska Supreme Court. He stated that he had been selected to fill that position. He was retired from the Supreme Court since 2007, and had served previously as Chief Justice for one term. He stated that he have served for 17 years as Chief Judge of the Alaska Court of Appeals. He had previously served on the State District Court, which was the trial court from another jurisdiction. He felt that he had considerable background in criminal law. He furthered that there were two other appointees from the superior court. He stated that legislators were also on the commission.

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Mr. Bryner explained that the commission's duty was to formulate recommendations to improve criminal justice and sentencing practices, including rehabilitation and restitution by considering a list of various topics as outlined in SB 64. He looked at Section 646 of SB 64, and noted that the commission was required to solicit and consider information from a variety of constituencies from across the state, and base its recommendations on the seriousness of the offense; the offender's prior criminal history; the need to rehabilitate offenders; the need for confinement to prevent future harm to victim, public safety, and order; the deterrent effect of sentencing of offenders and others; the effect of sentencing as an expression of community condemnation; and the need to eliminate unjustified sentencing disparity.

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Mr. Bryner explained that there were various groups within the commission, which examined various alternatives to imprisonment and simple incarceration. He shared that there were some groups to study the current state of affairs in the rural areas of the state. There was also a group that

focused on barriers to reentry. He shared that Alaska law held administrative rules and statutes that were full of numerous provisions that limited, restricted, or guided the rights of those who were convicted of a crime. He felt that many of those laws unnecessarily restricted the ability of an offender to become a productive member of the community. He stated that there was a group to examine the data, with the focus on developing evidence based conclusions.

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Co-Chair MacKinnon shared that Alaska had invested \$327 million in Department of Corrections (DOC). She announced that the state was facing a \$4 billion revenue shortfall. Alaska was housing prisoners at a cost of approximately \$142 per day. She stated that in ten years the population in the state had grown 10 percent, while incarceration rates were up 20 percent. She stated that the committee had invested in a study to attempt to manage the DOC budget.

Co-Chair Kelly echoed Co-Chair MacKinnon remarks. He expressed interest in more information about the criminal justice system. He wondered if the group could create a new idea for corrections or were the ideas based on what already exists. He also queried the system in which a person would be indicted. He felt that the prosecutor may only be enhancing their own resume, by incarcerating people that may not need to be in prison.

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Mr. Bryner felt that the examination of the history of criminal justice was accurate. He stated that the prison system in primitive times was much different than the present day. The system had evolved and become more sophisticated.

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Senator Dunleavy wondered if there was an examination of those who were in jail for marijuana offenses would be

released, with their record expunged. He queried the legalization of marijuana on the criminal justice system. Mr. Bryner replied that the commission had not specifically focused on marijuana, because it was an issue that was in progress.

Co-Chair Kelly remarked that there was a myth about the number of individuals who were incarcerated for marijuana-related offenses. He recalled that there were exactly zero in prison at the time of the marijuana legislation discussion.

Senator Dunleavy felt that the outcomes of the marijuana discussions could have an impact on the front of the system. He felt that legalization may alleviate the burden of the court and enforcement systems. Mr. Bryner replied that the details were pre and post-trial procedures, which were layers of how marijuana legalization impacted the system.

Co-Chair MacKinnon shared that there were some people online and in the audience that would contribute to the presentation.

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Mr. Schuster discussed the presentation, "The Pew Charitable Trusts; Alaska Prison Growth Drivers and Costs" (copy on file). He stated that the presentation would focus on the driver of the growth in Alaska's prison population.

Mr. Schuster looked at slide 1, "Prison Population Up 27 percent in Last Decade." He noted the prison population had grown three times as fast as the resident population of the state.

Mr. Schuster highlighted slide 2, "Prison Population is Half Sentenced Offenders, Half Supervision Violators and Pretrial Defendants":

Supervision Violator: 22 percent  
Pretrial: 28 percent  
Sentenced: 50 percent

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Mr. Schuster addressed slide 3, "Largest Growth Among Pretrial Inmates." He stated that there was growth among all three inmate types. He noted that the sentenced offenders increased by 14 percent from July 1, 2005 to 2014. The pretrial offenders increased by 81 percent. The supervision violator had grown 15 percent during that time. He stated that commission was attempting to understand the cause of the prisoner population growth, so the legislature may be able to identify the policies that may be necessary to avoid future growth.

Senator Hoffman wondered if there was data related to the separate areas of the state. Mr. Schuster replied that he had some raw data, but agreed to provide that information.

Co-Chair MacKinnon agreed that the data about the separate areas of the state would be helpful to the committee.

Mr. Schuster highlighted slide 4, "Pretrial Defendants Make Up 28 percent of Alaska's Prison Population." He restated that the pretrial population had grown 81 percent.

Mr. Schuster looked at slide 5, "Number of Pretrial Defendants Up 81 percent in Last Decade." He remarked that most of the growth in the pretrial population had occurred over the previous five years. He stressed that more people may be getting arrested or people may be staying for longer periods of time before release or hearings.

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Mr. Schuster addressed slide 6, "Pretrial Admissions Down 13 percent, But Still High Numbers of Nonviolent Misdemeanor Admissions." The bar on the left represented 2005 and the right represented 2014. He explained the colors of the graph.

Mr. Schuster displayed slide 7, "Average Pretrial Length of Stay Up." He explained the colors of the bar graph. He noted that people were staying much longer pretrial than ten years prior.

Co-Chair Kelly queried the impact on outcomes after the allowance for more days in jail. Mr. Schuster replied that there was some recent research regarding outcomes for similar defendants who stayed for longer and shorter periods of time. He announced that, across the board, the

longer people stay detained pretrial, the worse the outcome. He stated that the act of being detained itself, was disruptive to peoples' lives, therefore the individual becomes less and less stable in society.

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Senator Dunleavy wondered if there was a link between those with a higher income and those with a higher income. Mr. Schuster responded that the link was not tied to their success rate, but it was tied to their ability to pay bail.

Senator Dunleavy wondered if there was evidence supporting the idea that individuals had a better chance of receiving a lower bail, if they prove to have a steady job. Mr. Schuster responded that the bulk of the research was related to assessing risk. He stated that the best predictor of risk were related to previous crime, or not showing up to court in the past. He stated that employment and stable residence were only somewhat predictive, but were weighted less than the static factors.

Co-Chair MacKinnon felt that the prison population may become resentful to those that were to be released, so they would initiate an altercation to prevent the person from being released. Mr. Schuster responded that the issue may be related to the living situations within the facilities. He shared that the focus of the study was not related to the operations.

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Co-Chair MacKinnon surmised that the review did not include the length of stay by the last thirty days of incarceration to determine a spike in number. Mr. Schuster replied that the data was not related to the disciplinary records.

Co-Chair MacKinnon wanted to contact DOC regarding that assertion.

Mr. Schuster discussed slide 8, "Sentenced Offenders Make Up 50 Percent of Alaska's Prison Population." He remarked that the number of sentenced inmates had also increased remarkably over the decade.

Mr. Schuster looked at slide 9, "Number of Sentenced Inmates UP 14 Percent in Last Decade." He stated that the

analysis of growth examined the number of people entering the system as sentenced offenders, and the length of stay on their sentences. He noted that fewer people came into prison the previous year than ten years prior. He stressed that the growth was not caused by more people coming into prison. The growth was caused by people staying for longer periods of time.

Mr. Schuster addressed slide 10, "Despite Declines, 82 Percent of Prison Admission Are Misdemeanants." He shared that over 6500 people came into prison on a nonviolent misdemeanor offense. He shared that 82 percent of all prison admissions in 2014 were for non-felony offenses.

Senator Dunleavy wondered if these numbers included all of the offenses for one person. Mr. Schuster replied that people often were incarcerated for various charges, but the chart represented the most serious offense.

Senator Dunleavy asked if the data would not be include in the property category. Mr. Schuster replied that people were only counted once.

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Senator Dunleavy queried the reason length of stay increase. He wondered if it was related to sentencing discretion or legislation to increase sentencing. Mr. Schuster responded that it was probably a combination. He remarked that there were sentencing changes over the recent ten years.

Senator Hoffman queried some examples of nonviolent offenses, and wondered if there was an examination of "dry villages" versus "wet villages." He specifically wondered if the nonviolent offenses were in rural or urban Alaska. Mr. Schuster replied with slide 11, and stated that the chart only captured felony alcohol offenses. He furthered that he had not conducted a study based on region.

Mr. Schuster highlighted slide 11, "Felony Length of Stay Up Across Nonviolent Offense Categories." He noted that felony alcohol offenses were mostly driving under the influence (DUI).

Mr. Schuster discussed slide 12, "Felony Length of Stay up 17 Percent for Person Offenders; 86 Percent for Sex

Offenders." He noted significant changes in sentencing for the types of offenses over the decade. He stated that the slide showed conservative estimates for average length of stay, but did not include individuals who received sentences that were so long that they had not yet been released. He restated that the average length of stay only included those that were released. He stated that the average lengths of stay would increase, if the longer sentences were included. He restated that sentenced inmates made up one-half of the Alaska prison population, and had increased substantially over time. The vast majority of individuals who came to prison as sentenced offenders were sentenced for non-felony behavior. He stressed that lengths of stay for nonviolent and violent behaviors had all increased over time.

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Mr. Schuster looked at slide 13, "Supervision Violators make Up 22 Percent of Alaska's Prison Population." He stated that almost one quarter of the current prison population were supervision violators.

Mr. Schuster displayed slide 14, "Number of Supervision Violators Up 15 Percent in Last Decade." He stated that the slide showed a snapshot of the prison numbers of supervision violators on July 1, 2005 and July 1, 2014.

Mr. Schuster addressed slide 15, "Nearly Half of Revocations Staying More Than One Month; 29 Percent More Than Three Months." The chart showed a study of a count of the number of people who came into prison on a probation or parole revocation, and was broken down by the length of prison revocation.

Co-Chair MacKinnon wondered how Alaska's probation system may differ from other states. She remarked that other states may also have graduated systems for relocations. Mr. Schuster replied that there were various supervision strategies to reduce recidivism.

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Co-Chair Kelly wondered if there was a correlation between the number of sentenced people and the length of sentence. Mr. Schuster attempted to respond.

Co-Chair Kelly asked if there was a correlation between the number of incarcerated individuals and the Choose Respect Campaign. Mr. Schuster deferred to Mr. Bryner.

Co-Chair Kelly noted the increase in 2010. He wondered if there was a correlation between that increase and the Choose Respect Campaign. He remarked that there was approximately \$17 million allocated for that campaign. Mr. Bryner replied that he did not have a recollection of anyone drawing that correlation.

Senator Dunleavy wondered if juveniles were included in the data. Mr. Schuster replied that juveniles were only included if they were charged and convicted as adults.

Senator Dunleavy queried the number of those individuals. Mr. Schuster replied that it was a very small number; in the single digits.

Mr. Schuster discussed slide 16, "Almost Two-Thirds of Offenders Released Return to Prison Within Three Years." He noted that in 2002, there was a 71 percent recidivism rate. He pointed out that only 63 percent of people released in 2011 returned to prison by or before FY 14. He noted that recidivism had reduced since 2005. He stated that there was substantial research on what works to reduce recidivism among offenders. He noted that there were different types of supervision strategies and intervention into peoples' lives. He remarked that Alaska had taken many steps to incorporate the strategies into their current practices. He furthered that 63 percent was still a high number, so the commission would consider additional policy changes that could go further to change offending behavior.

Co-Chair Kelly wondered how much of recidivism was probation violations. He asked if recidivism was a probation violation or another crime. Mr. Schuster replied that this definition of recidivism was a broad definition, and included any return to prison.

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Co-Chair Kelly asked if the recidivism rate was higher than other states. He also asked if the probation officers were doing a proper job, and whether they needed further training. Mr. Schuster replied that it was difficult to

compare Alaska to other states, because other states had counties.

Co-Chair Kelly wondered what the high number of recidivism could be compared against. Mr. Schuster responded that, objectively, 63 percent was a high number. He stated that it was difficult to compare it to national rates or other states' rates. He remarked that in the last three years, there was a two-third recidivism rate.

Co-Chair Kelly agreed that it was a high number.

Mr. Schuster looked at slide 17, "Spending on Corrections Up 60 Percent Over Past 2 Decades." He stated that the graph looked at the operating expenses. He remarked that DOC was not solely responsible for the population. He remarked that there was a 60 percent increase over two decades in the operating budget for DOC.

Co-Chair MacKinnon noted that the slide was adjusted for inflation, and did not include capital expenditures. Mr. Schuster clarified that only the percentage increase was adjusted for inflation.

Co-Chair MacKinnon surmised that the slide only represented operating expenditures. Mr. Schuster agreed.

Mr. Schuster highlighted slide 18, "Absent Further Reform, Prison Population Projected to Grow 27 Percent, Costing At Least \$169 Million." He remarked that the slide looked back ten years and looked forward ten years, at the average daily population in Alaska's prisons. He noted that there was an anticipated growth of over 1400 prison beds in the upcoming ten years. The dotted line represented the current bed capacity. He stressed that the projected prison growth would exceed the capacity.

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Senator Hoffman queried what the cost per bed for instate and out of state. Mr. Schuster replied that the cost was \$100 per day for an out of state bed, compared to \$142 per day for instate beds. He furthered that there were substantial transportation costs for out of state prisoners.

Co-Chair MacKinnon remarked that she would like more information on the data for the reason behind the region that may be driving the growth. Mr. Schuster replied that the cost of a prison that would accommodate 1400 additional beds may be close to the cost of the Goose Creek facility.

Mr. Schuster addressed slide 19, "Next Steps":

Alaska Criminal Justice Commission policy development meetings

- Sept. 9-10
- Oct. 14-15
- Nov. 18-19

Report and recommendations from the Commission

- Dec. 10

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Senator Hoffman looked at the projected growth. He wondered if there were any numbers on the Alaska Natives.

Mr. Bryner replied that there were a number of circumstances between the rural areas of Alaska and urban centers of Alaska. He felt that there were some economic factors and conditions that went into the growing prison populations.

Senator Hoffman wondered if the growth rate assumed that one-third of the population in 2024 would continue to be Alaska Natives. Mr. Schuster replied that he did not have a demographic breakdown.

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Senator Hoffman asked for a calculation related to the Alaska Natives in the prison system. Mr. Schuster agreed to provide that information.

Senator Dunleavy queried the link between juvenile offense and the current data. Mr. Schuster replied that he did not have that data. It was difficult to receive juvenile adjudication history. He stated that it was known that past behavior was a good predictor of future behavior.

Senator Dunleavy asked how to receive the juvenile data. He hoped to develop possible early intervention. Mr. Schuster replied that there would need to be new request for criminal history.

Senator Bishop felt that alcohol and drug rehabilitation should be a focus of the legislature. He noted that the state should focus on job training to the reduce prison population. Mr. Schuster responded that the commission had conversations regarding how money was spent.

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Co-Chair Kelly encouraged the commission to study Fetal Alcohol Spectrum Disorder (FASD), and its prevalence in the criminal justice system. He wondered if there was an effort to ensure that people exiting prison had a general education diploma (GED) or high school diploma. He queried the cost of the implementation of a GED program in the prison, and the tutors necessary to educate the prisoners. He understood that the state may need to absorb the cost. Mr. Bryner replied that the commission was aware of the issue of FASD, but it was difficult to track those individuals. He felt that the issue could be related to mental health treatment, which may be beyond scope of the commission. He furthered that reducing recidivism through education was very important. He stressed that there must be investment in a workable system, but understood that the state did not have the financial resources to make immediate reinvestment. The state must be resourceful, and he felt that a GED program would provide tremendous assistance. He felt that the communities may be able to provide the funding for a GED program.

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Co-Chair Kelly shared that a group was recently created to eradicate FASD, and the group would be return to the Institute of Circumpolar Health in October 2015. That group had a network of scientists to address the issue. He stated that he had an employee that could assist in studying the impact of FASD within the justice system. Mr. Bryner appreciated that information. He announced that the commission was entirely based on public process. All the data and project information was available to the public.

The commission welcomed comments and information regarding any developments that would reveal studies to reflect.

Mr. Schuster shared that the commission had conducted outreach to different stakeholder groups in the state to involve the communities across the state as the policies develop. He explained that there were some policies related to reducing the prison lengths of stay or other policies about incentives.

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Senator Hoffman echoed Senator Bishop's remarked regarding the rural Alaska, and the issue of alcohol. He felt that the laws in the dry communities were not properly enforced, because alcohol was still in those communities.

Senator Dunleavy remarked that substance abuse often lead to criminal behavior. He wanted to focus on juvenile behavior, because he felt that it would save money at a later date. He encouraged data related to substance abuse and juvenile activity.

Co-Chair MacKinnon thanked the committee and the presenters.

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ADJOURNMENT

[11:54:35 AM](#)

The meeting was adjourned at 11:54 a.m.