

SENATE FINANCE COMMITTEE
March 29, 2016
9:08 a.m.

9:08:00 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:08 a.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Peter Micciche, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Jordan Shilling, Staff, Senator Coghill; Jeff Jessee, Chief Executive Officer, Alaska Mental Health Trust Authority; Stacy Toner, Deputy Director, Division of Behavioral Health, Department of Health and Social Services; Brenda Stanfill, Victims Right Advocate, Alaska Criminal Justice Commission.

PRESENT VIA TELECONFERENCE

Dean Williams, Commissioner, Department of Corrections.

SUMMARY

SB 91 OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

SB 91 was HEARD and HELD in committee for further consideration.

#sb91

SENATE BILL NO. 91

"An Act relating to protective orders; relating to conditions of release; relating to community work service; relating to credit toward a sentence of imprisonment for certain persons under electronic monitoring; relating to the restoration under certain circumstances of an administratively revoked driver's license, privilege to drive, or privilege to obtain a license; allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for persons convicted of driving under the influence; relating to termination of a revocation of a driver's license; relating to restoration of a driver's license; relating to credits toward a sentence of imprisonment, to good time deductions, and to providing for earned good time deductions for prisoners; relating to the disqualification of persons convicted of certain felony drug offenses from participation in the food stamp and temporary assistance programs; relating to probation; relating to mitigating factors; relating to treatment programs for prisoners; relating to the duties of the commissioner of corrections; amending Rules 32 and 35(b), Alaska Rules of Criminal Procedure; and providing for an effective date."

[9:08:38 AM](#)

Co-Chair MacKinnon explained that because of the size of the legislation, it would be discussed by topic followed by a high level sectional analysis.

JORDAN SHILLING, STAFF, SENATOR COGHILL, introduced the presentation, "SB 91 - Reinvestment" (copy on file).

[9:09:55 AM](#)

Mr. Shilling displayed the slide, "Prison Population Up 27% Over Last Decade," which contained a line graph that illustrated that the prison population had increased from 4,133 in 2005, to 5,267 in 2014. He shared that the prison population had grown 3 time faster than the state's resident population. He noted that the state had built the Goose Creek Correctional Facility at a cost of \$240 million, in order to accommodate the growth.

[9:10:11 AM](#)

Mr. Shilling turned to the slide, "Absent Reform, Prison Population Projected to Grow by Additional 27% over Next Decade, Costing at Least \$169 Million." The slide contained a line graph that detailed the historical and projected prison growth from 2004 to 2024, as related to the current bed supply.

[9:10:32 AM](#)

Mr. Shilling addressed the slide, "Prison Population is Half Sentenced Offenders, Half Supervision Violators and Pretrial Defendants," which showed a pie chart illustrating the prison population, by status, on July 1, 2014.

[9:11:00 AM](#)

Senator Dunleavy asked whether the assumptions used in the presentation were based upon the idea that Alaska would house all criminals in-state.

Mr. Shilling replied that the projections were based on \$95 per day for the adverted cost; the balance between keeping prisoners in-state and sending them out-of-state.

[9:11:29 AM](#)

Mr. Shilling returned to Slide 4, relaying that the Alaska Criminal Justice Commission had looked at data and research over a 7 month period, and had identified the largest cost drivers in the system. The pretrial population had grown 81 percent in the last decade, the sentenced population had also grown - length of stay in prison had increased across all classification of felonies. Alaska had many probation violators in its prisons - one-fifth of the prison population consisted of those who had not committed a new crime but had committed a technical violation of probation. He lamented that the state had a two-thirds recidivism rate.

[9:12:33 AM](#)

Co-Chair MacKinnon asked whether non-technical probation violations had been included in the assumptions.

Mr. Shilling explained that a technical violation was defined as something that was not a new crime. He said that there was a range of technical violations from rule violations for missing an appointment, to drinking in violation of a condition. He added that the commission had considered the more serious violations, such as not completing sex offender treatment, and recommended that they not be included in the legislation. He furthered that things like not completing batterers intervention programming would not be considered a new crime, but for the purposes of the bill it was not treated as a technical violation; the intent had been to accommodate for the understanding that some technical violations were worse than others.

[9:13:59 AM](#)

Vice-Chair Micciche asked how much the state invested in a reminder system for those required to complete programs. He wondered whether a reminder system could help reduce technical violations. He believed that it did not make sense to imprison people on technicalities.

Mr. Shilling explained that research had indicated that a reminder system for court hearings would be effective; the commission had recommended that the court system begin notifying individuals in an effort to increase appearance rates. He said that the commission had not contemplated reminders for probation meetings, but he believed reminders of this type could be beneficial.

[9:15:22 AM](#)

Co-Chair MacKinnon asked whether missing anger management education would be considered a technical violation.

Mr. Shilling said that for the purposes of the pie chart, individuals not completing programming and in violation of their probation would be included, but for the purposes of SB 91 the policies that addressed technical violations did not include missing anger management classes.

[9:15:56 AM](#)

Mr. Shilling explained Slide 5, "Reinvestment Directive to the Commission":

"In this budget climate, investments that expand treatment and services only become possible with a reform package that results in substantial, real net savings to the state."

- Letter to Alaska Criminal Justice Commission from Finance co-Chairs, Senate President, and Speaker of the House

Mr. Shilling recounted that in August of 2015, the presiding officers of both legislative bodies, including the co-chairs of finance, sent a letter to the commission and requested that they research the issue and offer recommendations that would address fundamental changes to the criminal justice system.

[9:16:26 AM](#)

Mr. Shilling turned to Slide 6, "Commission Recommendations":

- Implement evidence-based pretrial practices;
- Focus prison beds on serious and violent offenders;
- Strengthen supervision and interventions to reduce recidivism; and
- Ensure oversight and accountability.

Mr. Shilling detailed that the commission poured over data for months; they looked at the latest research and identified 21 evidence based practices to address the three growth drivers in the system.

[9:16:38 AM](#)

Vice-Chair Micciche referred to Slide 5. He expressed that Alaskans were concerned that, as a result of cuts due to the current fiscal crisis, potentially dangerous criminals could be released into communities. He asked for assurances that the legislation would not put communities in danger.

Mr. Shilling related that the state had been concerned about criminal justice reform since long before the current budgetary predicament. He relayed that the commission held public safety at the forefront of its collective thinking. He asserted that the main goal of the bill was not firstly to reduce cost, but to invest in strategies that had been

proven to work to reduce spending on futile practices, and to reinvest in programs that reduced crime. He furthered that substance abuse treatment programs would be needed, and pre-trial supervision programs; currently the state had no pre-trial supervision, pre-trial supervision had been shown to improve appearance rates and lessen pre-trial crime. He said that many community supervision recommendations made by the commission had focused on implementing swift and certain punishments to reduce recidivism, and to decrease caseloads for probation officers. He expounded that the policies in the bill were rooted in research and the states that had passed the reforms had experienced a drop in crime. He contended that the intent of the legislation was for the state to get higher quality public safety results for its investment.

[9:19:41 AM](#)

Mr. Shilling showed Slide 7, "Prison Growth with Commission Recommendations." The slide showed a graph illustrating a combination of averted future costs, plus savings in marginal offender costs. He said that the package of recommendations were projected to reduce the states average daily prison population by 21 percent over the next ten years.

[9:20:10 AM](#)

Senator Dunleavy asked whether the departments and divisions associated with public safety in Alaska had reviewed the legislation.

Mr. Shilling stated that the commission was comprised of stakeholders from all areas of public safety, such as members of the court and the police. He listed a retired Alaska Supreme Court Justice, an active superior court judge, and an active district court judge as having been involved in the recommendations. He understood that the changes were supported by the courts and law enforcement groups. He shared that the bill had evolved in reaction to concerns voiced by the stakeholders.

[9:21:43 AM](#)

Senator Dunleavy inquired what the opinions were from victims' rights organizations. He queried the equitability of the participation of different victims' rights groups.

Mr. Shilling stated that there had been victims' rights representation on the commission. He added that all of the commission meetings had been open to the public and that the Office of Victims' Rights had been formally invited. He felt that the sponsor had been responsive to their concerns.

[9:22:38 AM](#)

Senator Olson understood that the bill had been originally grounded in evidenced-based data. He expressed fear that as the bill had moved through the legislature, it had been amended to add ideas that were not evidence based.

Mr. Shilling agreed that some of the changes to the bill had not gone through the rigorous evidence based, data-driven process that the commission had gone through to create the recommendations. He countered that some of the changes in the bill had been made in response to feedback that had been received from the Office of Victims' Rights. He contended that the state had been making criminal justice policy in a similar way for decades; a knee-jerk reaction to sensational events had inspired legislation. He stressed that that was the reason that the state had entered into the Justice Reinvestment Initiative; to take a better approach that was rooted in data and research. He lamented that the amendments to the bill had not been rigorously vetted.

[9:24:32 AM](#)

Senator Olson wondered whether the sponsor would be willing to rescind the amendments that had been added to the legislation.

Mr. Shilling responded that he could not speak for the sponsor on the issue of the amendments. He pointed out that the bill was before the committee and the committee had the opportunity to further its evolution. He encouraged the committee to engage the sponsor in discussions about substantive changes.

[9:25:18 AM](#)

Mr. Shilling discussed Slide 8, "Prison Reductions and Savings Under SB 91":

SB 91 is projected to reduce the prison population by 18.8% percent over the next 10 years and save the state an estimated 148.7 million in marginal prison costs over the next five years.

Mr. Shilling disclosed that estimated savings had decreased from what was reflected on the slide. He explained that the amount that the legislation would save, and the amount that the committee could reinvest, had decreased as the bill had gone through the committee process.

[9:26:06 AM](#)

Senator Hoffman referred to Slide 7. He asked whether the slide reflected numbers that had changed after the adoption of the amendments mentioned by Senator Olson.

Mr. Shilling replied that the chart had been pulled from the Alaska Criminal Justice Commission's report, and reflected the recommendations of the commission.

Senator Hoffman asked what the chart would look like after it was changed to reflect the amended legislation.

Mr. Shilling said he could provide the information to the committee.

[9:26:55 AM](#)

Mr. Shilling turned to Slide 9, "'Justice Reinvestment' concept":

Free up funds by focusing prison beds on serious violent offenders, and reinvest a portion of the savings into the services needed to reduce recidivism and protect the public.

Mr. Shilling elaborated that more than 30 states had undertaken justice reinvestment projects. He defined justice reinvestment as the data driven approach to improved public safety, analyze criminal justice spending, manage and allocate offender populations in a more cost effective manner, and reinvest savings and the strategies that hold offenders accountable and decrease crime. He said that justice reinvestment could be described in a 5 step process:

1. Establish a working group
2. Analyze the drivers
3. Develop policy recommendations to address problems
4. Codify policy changes
5. Reinvest savings in strategies that work

Mr. Shilling argued that rather than spending money on programs that had not worked, funds should be redirected to strategies that had proven effective. He reiterated that substance abuse treatment, pre-trial supervision, community based treatment, and reentry support services had been proven to have positive effects on the prison population of the state.

[9:28:22 AM](#)

Mr. Shilling presented Slide 10, "Reinvestment Priorities":

- Pretrial supervision;
- Violence prevention and victims' services;
- Community-based treatment; and
- Reentry and support services.

Mr. Shilling relayed that by following those priorities, other states had seen reductions in prison populations, and also in crime rates. He reminded the committee of their opportunity to reinvest any savings that the bill would produce.

[9:28:49 AM](#)

Co-Chair MacKinnon requested that Mr. Shilling update his presentation to reflect the author and date.

Mr. Shilling agreed to update the presentation.

[9:29:36 AM](#)

Vice-Chair Micciche asked whether Mr. Shilling thought that the amended version of the bill contained positive changes.

Mr. Shilling related that the commission had relied on research that had been outcome focused. He said that there was no research that showed whether a punishment was harsh enough, or if the right level of justice had been served. He felt that retribution did not have an objective standard that research could identify. He reiterated that the

amendments had not gone through as thorough a process as the data considered by the commission.

[9:31:21 AM](#)

Vice-Chair Micciche thought that cash savings was one consideration, and that the end result was another, and that the challenge lie in striking the balance.

[9:31:47 AM](#)

Senator Dunleavy expressed concerned that some of the burden of the bill, or any future initiatives related to criminal justice, would be shifted to public education. He warned the future discussions about the allocation of resources to bear the burden would be imminent. He opined that public education was being viewed as, "a place, a kind of collection point for children, as well as how to deal with all societal ills."

Senator Dunleavy asked whether Mr. Shilling could provide the committee with data from other states regarding criminal justice reform.

Mr. Shilling agreed to provide the information.

[9:33:06 AM](#)

Co-Chair MacKinnon discussed housekeeping involving the trajectory of the legislation in committee.

[9:34:08 AM](#)

JEFF JESSEE, CHIEF EXECUTIVE OFFICER, ALASKA MENTAL HEALTH TRUST AUTHORITY, stated that he had been a member of the commission and had worked on the recommendations. He assured the committee that the changes proposed in the legislation would not "reinvent the wheel" but were based on scientific evidence and data, as well as the successes other jurisdictions had experienced upon implementing similar strategies. He said that some of the evidence surrounding various practices could get confusing because some of it was counterintuitive. He lamented that some strategies that were currently being used in an attempt to reduce criminal behavior had turned out to be not only ineffective, but in some cases had increased crime. He spoke of the program "Scared Straight" where adolescent

offenders were taken into prison settings in order to show them what incarceration looked like from the inside. He lamented that the program had not been effective, and had actually increased criminality. He asserted that the reason was speculative, but it was believed that it was partly because the program demystified the criminal environment in prison, causing adolescents to relate to criminals. He spoke of the DARE Program, where police officers were brought into elementary school classrooms to talk about drug abuse and the associated consequences. He revealed that DARE was not an effective program overall, but that bringing recovering adolescent addicts into the classroom had been impactful. He opined that school administrators did not appreciate bringing recovering addicts into the classroom. He shared that the approach of the commission was to research the strategies that did, and did not work. He urged the committee to question the cost associated with each of the amendments that had been drafted into the legislation.

[9:38:00 AM](#)

Mr. Jessee stated that generally society incarcerated people either out of fear or anger. He felt that the committee needed to make the decision, when looking at the amended bill, of whether they were scared enough, or mad enough, to spend the extra money to approach the situation differently. He shared that methamphetamine addicts that cycled through the system could end up with up to a 2 year sentence, which would cost the state \$280,000. He argued that helping people to recover from addiction and get their lives on track would be the best return on investment.

Mr. Jessee informed the committee that much of the increase in the prison population was in pre-trial. He said that evidence had shown that keeping people in jail, pre-trial, when they did not pose a significant risk to the community, was a poor use of resources and had been shown to increase criminality. He stated that assessment tools used to assess the risk to communities when someone was released pre-trial had advanced substantially. He relayed that by investing in pre-trial services the state could receive quality assessments of risk and conditions that would be necessary upon release to keep the public safe.

[9:40:39 AM](#)

Mr. Jessee said that looking at other ways to implement evidence based practices that would reduce criminality over the long-run was a major goal of the commission's recommendations. He stressed that every act of recidivism created another victim. Reducing recidivism by providing support and services to get people out of the pattern of criminal behavior focused not solely on the offender, but on preventing future victims. He noted that this had been an issue raised by victims' rights organizations; if the state did not reduce crime, then it also would not be reducing victimization. He relayed that the Bring the Kids Home Initiative was an example of things rarely working exactly as designed, no matter how well planned. He believed that it was critical that the effort at reform was data driven and that the results reflected the science. He thought that quality control of data could be maintained by creating a Criminal Justice Information Center. He concluded that the work of the committee was to locate the "sweet spot" where savings to the state were maximized, while still investing in strategies that would provide positive results.

[9:43:28 AM](#)

Senator Bishop referred to the \$280,000 cost of incarcerating a drug offender for 2 years. He asked whether the commission had looked into what King County, in Washington State, had done in regard to drug addicts.

Mr. Jessee was familiar with some practices in King County but that he did not know what Senator Bishop was speaking to, specifically.

Senator Bishop said that instead of incarcerating first-time offenders, they took them directly to rehabilitation centers.

Mr. Jessee said he was familiar with the program but had not seen any data on the long-term impacts of the program.

[9:44:37 AM](#)

Senator Olson wondered whether the commission had considered the legalization of marijuana when making its recommendations.

Mr. Jessee stated that the commission had not focused a specific process on marijuana, but it had looked into what would be necessary to reduce drug and alcohol related offences in the future. He thought many of the recommendations of the commission were applicable in the marijuana environment. He thought the commercialization of marijuana would impact communities, but pointed out that the issue had been voted on by the people of Alaska.

[9:46:06 AM](#)

Senator Dunleavy asked about the \$280,000 cost for a two-year prison sentence. He assumed that drugs were not available in prison and wondered how an individual could still be addicted to drugs after being in prison for 2 years.

Mr. Jessee clarified that addiction included more than immediate withdrawal symptoms and cravings. He said that even those in forced sober environments suffered from addiction. He stated that addicts would go back to the drug once it became available. He said that a person could get over their physical addiction to drugs and still retain an addictive personality disorder. He warned that stopping the use was only one part of treatment and that addiction was a complicated disease.

[9:47:38 AM](#)

Senator Dunleavy surmised that incarceration could take care of the physical addiction, but not the psychological addiction. He asked whether most people that went to prison for drugs in Alaska had access to programs that dealt with the psychological aspects of addiction.

Mr. Jessee stated that the department was trying to rebuild its treatment capacity. He recounted that a past policy shift had dismantled all of the treatment programs in the department. He relayed that some of the reinvestment proposed in the bill would further expand the available treatment options. He said that a number of people did receive treatment while they were incarcerated, which could be beneficial upon release; however, that treatment usually required community follow-up once the offender was released. He concluded that some people did receive treatment in corrections, but many that needed it did not.

9:49:17 AM

Vice-Chair Micciche felt that it was important to acknowledge that addicts could procure drugs in prison. He understood that drugs were available inside of prisons where inmates learned how to better conceal their habit; additionally, they often made contacts for drug connection upon release. He challenged the idea that prisons were drug-free zones.

Mr. Jessee agreed. He said that despite the best efforts of any correctional system, it was unlikely that substances could be kept out of prisons 100 percent.

9:50:40 AM

Co-Chair MacKinnon noted the experts who were still slated to testify. She welcomed Co-Chair Kelly to the table.

9:51:12 AM

DEAN WILLIAMS, COMMISSIONER, DEPARTMENT OF CORRECTIONS (via teleconference), echoed the statements of the previous testifiers. He understood the angst generated by asking for a reinvestment piece in the legislation. He expressed that research and data had supported the importance of the reinvestment aspect in the bill in order to lower crime rates. He said that it also made sense anecdotally; prison for adults or juveniles should be reserved for the hardest core criminals, taking low-level criminals into the system led to the advancement of criminality in those individuals and not rehabilitation. He felt that keeping the right people in jail helped to reduce crime by not advancing criminal thinking and criminal behavior inside prisons. He furthered that the reinvestment piece of the bill was important for filtering out people who should not be incarcerated. He understood that this approach could sound counterintuitive, but that the data supported the plan. He assured the committee that he would be looking for savings at every step. He reiterated that putting people in prison who did not absolutely need to be there would advance the population and would result in higher costs. He admitted that the fiscal note attached to the plan was daunting, but reiterated that putting people in jail who did not need to be there would exacerbate the problem.

9:55:09 AM

Commissioner Williams discussed the issue of drugs in prison. He pointed out to the committee that when many addicts were incarcerated, the demand for illegal substances increased. He summarized that the reinvestment piece was an important part in finding savings and truly reducing the recidivism and crime rate.

[9:56:50 AM](#)

Co-Chair MacKinnon requested the cost of low-level, medium, and high-level incarceration per inmate, per day.

Commissioner Williams conveyed that the department was using \$141 per day as an average across the spectrum. He said he did not know it that number had been divided out over different facilities for different levels of supervision. He said he could get back to the committee with more specific numbers.

[9:58:11 AM](#)

Senator Hoffman asked about the commissioner's position on random drug testing of inmates and correctional officers.

Commissioner Williams stated that there was a robust inmate drug testing program in place currently, if there was reason to believe that an inmate was using then officers would investigate. He stated that there was currently no random drug testing of staff. He furthered that random drug testing of employees did occur in other states, and that the department was looking into the practice.

[10:00:49 AM](#)

Senator Dunleavy asked whether there was mental illness screening for those in prison on drug-related offenses, and whether those screening results were taken into consideration when deciding how to proceed with those offenders.

Commissioner Williams stated that the issue the state currently faced, particularly heroin and opioid addiction was front and center for the department. He relayed that he had started meeting with grass roots organizations in an attempt to recognize the role addiction played in the problem. He noted that that part of the pre-trial services effort was to identify addicts with mental health issues.

He voiced that addicts who were detoxing in prison were medically fragile and cited the recent death of an inmate from drug withdrawal. He asserted inmates were screened for mental health and substance abuse issues inside the prison system, but the resources available to address those issues was limited. He said that the job of the department was to run a prison system and not a psychiatric hospital, but that the reality was that many of the inmates in the prison system had significant psychiatric issues. He believed that the reinvestment piece, and the bill overall, would be beneficial to the system.

[10:04:07 AM](#)

Senator Dunleavy asked whether the bill contemplated an enhanced screening process and plan for treatment of inmates who had been identified as mentally ill.

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Co-Chair MacKinnon thought that the upcoming testifier could better address Senator Dunleavy's questions.

[10:05:07 AM](#)

STACY TONER, DEPUTY DIRECTOR, DIVISION OF BEHAVIORAL HEALTH, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, testified in support of the legislation, specifically the reinvestment priorities. He said that the division believed that the reinvestment priorities in the bill were aligned with their mission to foster strong individuals and build safer communities. She stated that her division would be tasked with providing community based treatment. She relayed that the division was crafting a proposal that would expand substance abuse and mental health services for individuals half in community residential centers (CRC) in order to support their successful transition into communities.

[10:07:35 AM](#)

Ms. Toner relayed that access to services was important. She said that addressing the addiction needs of inmates while they were in prison was imperative in order to stave off relapse once the inmates were released. She believed that attaching services at the halfway house, while offenders were reintegrating into the community, would

provide natural supports toward recovery, employment, and reintegration into their families. She spoke to the Alcohol Safety Action Program (ASAP), which she expected would be a strong point of the reinvestment strategy.

[10:08:33 AM](#)

Co-Chair MacKinnon asked whether there was a diversion process, or anything in the bill that would treat certain inmates differently based on their mental health.

Ms. Toner understood that there would be assessments to identify mental health or substance abuse issues and that appropriate services would be provided to meet the needs of the inmate.

[10:09:24 AM](#)

Senator Dunleavy asked whether there was language in the bill that spoke directly to the issue, and whether changes were expected to be made in the assessments.

Ms. Toner replied that she had not seen language in the bill that spoke specifically to changes in the assessment process once the inmate was placed in a CRC. She noted that at that point the inmate would receive an assessment and a referral for services for treatment.

[10:10:12 AM](#)

Ms. Toner mentioned that states in the Lower 48 had been using medication assisted treatment inside facilities, she believed that the idea was one for the state to consider.

[10:10:37 AM](#)

Co-Chair MacKinnon queried whether the division would be conducting an assessment as to the consequences of the legalization of marijuana for the state. She wondered whether it would generate revenue for the state or contribute to societal ills.

Ms. Toner stated that the division had begun to explore the issue, but that the division was currently focused on more pressing issues.

[10:11:37 AM](#)

BRENDA STANFILL, VICTIMS RIGHT ADVOCATE, ALASKA CRIMINAL JUSTICE COMMISSION, noted that in addition to working with the commission, she served as executive director of the Interior Alaska Center for Non-Violent Living [Fairbanks], and was a member of the Network on Domestic Violence and Sexual Assault [Juneau].

Co-Chair MacKinnon asked whether there were other victim agencies represented on the commission.

Ms. Stanfill replied that she had been chosen to represent victim agencies on the commission. She thought the commission process had been interactive and inclusive; victim advocacy groups and victims provided information during roundtable discussions, and developed a report for the commission that represented the voices of victims and victim advocacy.

[10:13:41 AM](#)

Ms. Stanfill conveyed that the 13 member commission had worked in subgroups, which had also included non-commission public entities. She stated that the commission had agreed to give high-level recommendations for the legislation, while acknowledging that further detail work would need to be done. She noted that the semantics and nuanced language of crime classification had been a particular area of study for the commission. She asserted that many of the amendments that had been incorporated into the legislation had been the result of those conversations. She said that victim advocacy groups had focused their ideas for reform on non-violent crimes. She appreciated that a lot of clean-up had been done to the bill at the legislative level. She lamented that some violations had been added back in to the bill as crimes, such as failure to appear, which she believed should be revisited. She stated that victim advocacy groups did not support drug testing of individuals who were convicted of drug crimes and applying for public assistance.

[10:18:00 AM](#)

Ms. Stanfill shared that working on the commission was a difficult process. She spoke to the traditional idea that if someone did something bad they went to jail. She revealed that after working in the criminal justice field for 25 years she had concluded that society could not

criminalize its way out of social issues. She said that she had experienced things in her extensive career that had led her to her current mindset. She relayed a story from 2015, in which a young man in Fairbanks had been killed by police. She recalled him as a toddler in a shelter she had overseen, which led her to realize that the state did not have any services for children. She said that they had all been cut. She said that in 2010, 12 women out of 100 had been victims of domestic violence or sexual assault, which due to prevention efforts over the past 5 years had dropped to 8 women in 100. She felt that the state was essentially "growing criminals" by not providing the services and outreach that high risk people needed in order to succeed. She pointed out to the committee that victims of trauma were more likely to make bad life choices. She stressed that if the state could focus on the reinvestment pieces of the legislation, and pour money into reinvestment, prevention, and treatment, drug addicts who truly wanted treatment could be helped.

[10:21:40 AM](#)

Ms. Stanfill reiterated that she strongly believed in the reinvestment recommendations.

[10:22:25 AM](#)

Co-Chair MacKinnon read from the Executive Summary in the report, "Alaska Criminal Justice Commission - Justice Reinvestment Report, December 2015":

Over a seven-month period, the Commission analyzed the state's criminal justice system, including a comprehensive review of sentencing, corrections, and community supervision data.

Co-Chair MacKinnon asked whether Alaska had more incarcerated felons than other states.

Ms. Stanfill replied that she would need more data in order to answer the question. She noted that the commission had not compared Alaska to other states.

[10:24:07 AM](#)

Co-Chair MacKinnon categorized the reform issue as the desire for "smart justice". She said that the state needed

to look at how to better utilize the dollars that were being spent on incarceration, and remobilize those dollars for inmate rehabilitation. She felt the committee should discuss what "justice" meant to the state. She quoted the Executive Summary:

Based on this analysis, and the directive from legislative leadership, the Commission developed a comprehensive, evidence-based package of 21 consensus policy recommendations that would protect public safety, hold offenders accountable, and reduce the state's average daily prison population by 21 percent, netting estimated savings of \$424 million over the next decade.

Co-Chair MacKinnon wondered how a conversation with Alaskans about justice could take place, which would be open enough to include how to support the victims of crime, while understanding and supporting the state's efforts to rehabilitate offenders.

[10:26:13 AM](#)

Mr. Shilling reiterated that there was not objective research that showed what an appropriate level of justice looked like, nor an appropriate level of community condemnation or retribution. He thought that the principal of justice varied from person to person. He spoke to the example of felony theft; public opinion was that if the felony threshold were to be raised, the state would experience an increase in theft. He stressed the importance of continually referring to the research, which reflected that 23 states in the last decade had raised their threshold and no correlation had been found with raising the threshold and the number of thefts. He asserted that the research was nearly irrefutable. He believed that the Justice Reinvestment Initiative was about stopping the spending of money on programs that researched had shown did not work. He proclaimed that sentences had been increased by 2 years in the mid-2000s, which had yielded no public safety benefits. He contended that spending should be scrutinized when taking about what justice meant to the state to examine whether we were getting the outcomes that had been expected.

[10:27:49 AM](#)

Co-Chair MacKinnon solicited comments from other committee members with regard to justice.

[10:28:10 AM](#)

Co-Chair Kelly felt that the criminal justice system had not changed significantly since medieval times. He felt that there was a possibility that the entire system needed an overhaul. He believed that the goal should be that inmates leave the system better people than when they began their incarceration. He asserted that all people that entered prison without a high school diploma should have acquired one upon release. He recalled an article he had read in an archeology magazine about the use of a panopticon in an Australian prison. He shared that panopticons had fallen out of use because the design eventually drove prisoners insane. He discussed various failures in criminal reformation throughout history. He asked whether the commission had encountered a criminal justice system model anywhere in the world that produced an improved citizen at the end of incarceration. He stressed his desire for a better system.

[10:32:18 AM](#)

Ms. Stanfill was not sure that such a model had been created. She offered that victims of property crime first and foremost wanted their property back without waiting for long periods while it sat in evidence. She discussed corrective provisions for returning property and restitution for victims. She wondered if it would be better to allow an offender to work to pay back their victim, rather than sit idly in a prison. She stressed that offenders often needed someone to help them to navigate life. She thought that some of the systems currently set up (such as CRCs) could successfully rehabilitate offenders through intensive programming.

[10:35:09 AM](#)

Senator Bishop commended the work that the commission had so far accomplished. He shared that the Department of Labor had worked with DOC in the past, and that there had been a General Education Diploma (GED) program, as well as job training, in prisons at that time. He said that the DOC budget subcommittee had included funding for a pilot program for trade instruction. He thought that judges

should have more discretion during sentencing. He believed that a work program would serve inmates in prison and upon release. He wondered how the Department of Education and Early Childhood Development could be worked into the equation. He felt that future criminals could be identified and redirected in grade school. He suggested that more resources could be directed to school-aged children in order to circumvent the criminal element.

[10:39:14 AM](#)

Co-Chair Kelly asked whether the Point Mackenzie Correctional Farm was still in operation.

Mr. Shillings understood that it had been shut down.

Co-Chair Kelly queried why the farm had been closed.

[10:39:52 AM](#)

Senator Bishop thought it was closed as a cost-savings measure. He believed that inmates from Goose Creek Correctional Center were bussed to work on the farm during the day.

Co-Chair Kelly thought that the farm was an example of a facility that produced benefits to the state. He felt that inmates could appreciate doing real "manly" work.

[10:41:16 AM](#)

Senator Olson commented on increasing the discretion of judges. He understood that the increased sentencing and overpopulation was due to judges having greater latitude.

Mr. Shilling stated that some parts of the bill were about limiting judicial discretion; he believed that to a certain extent the state was in the current situation because of too much judicial discretion. He countered that some parts of the bill were about expanding judicial discretion. He said that state sentencing laws were prescriptive and worked off of a "cook book" when it came to sentencing. He relayed that all of the sentencing ranges had been increased in the mid-2000s, which had a minimal effect on reducing the crime rate in the 1980s and 1990s, but that persistent increases were seeing a diminishing return. He concluded that it was true that judicial discretion had

been limited over the years because so that judges could work within a narrow range.

[10:44:12 AM](#)

Senator Olson surmised that Mr. Shilling was suggesting that legislators knew more about sentencing than court judges.

Mr. Shilling replied that he was not aware of the justification for the current sentencing ranges. He asserted that the legislature had accommodated for the rigidity in the sentencing statutes by having mitigators and aggravating factors to allow the courts to deviate from those ranges. He contended that the legislation was an opportunity to rethink the ranges.

[10:45:18 AM](#)

Vice-Chair Micciche related the desire for all Alaskans to have the chance to succeed. He pointed out that there were also "bad people" in the state. He wondered whether an accurate way to identify high-risk offenders could be established in order for the legislature to dedicate resources to ensure that those offenders served adequate sentences. He asked what proportion of those incarcerated were turned into career criminals by the system. He believed that justice was the act of incarcerating those who were a danger to communities, and rehabilitating those that showed the potential.

Ms. Stanfill stated that the bill did not change the acknowledgement of patterns of criminality in statute. She discussed the pretrial risk assessment, and pointed out that if an inmate could post bail, they were released regardless of their risk to society. She believed that the conversation would result in plans to approach the problem.

[10:48:04 AM](#)

Co-Chair Kelly remembered that the legislature in the 1990s had worked under the assumption that the state had been "soft on crime". He recalled that at that time, the state had experience a rise in the criminal element, which had cause the legislature to overreact. He felt that presumptive sentencing should be replaced with the opinions of sitting judges. He offered that if judged failed to

exercise their latitude they should be removed from office. He probed the correlation between a spike in the population of unsavory characters in the 1990s, and the small amount of increased penalties that had resulted in decrease in crime. He opined that some of the things that had been built into the system were impossible for an offender to overcome. He spoke of probationary periods of 25 years, which he assumed was for serious offenders, but thought that there may have been those that acquired that burden unnecessarily. He stated that it was impossible for someone not to reoffend over the 25 year time period, and was concerned that offenders could wind up pack in prison for insignificant offences. He noted that the bill would reduce probation time, but asserted that each individual case needed to be assessed for practicality and fairness.

[10:51:59 AM](#)

Mr. Shilling revealed that the state had witnessed an increase in the amount of time individuals spent on probation and parole supervision. He relayed that the commission had felt that 25 years was unnecessary, particularly after looking at the research that showed that if a person was going to offend they would likely do so within the first year of probation. He lamented that probation caseloads were incredibly high and probation officers lacked the resources to supervise their clients well. He expounded that many of the probation recommendations were about front loading the probation resources, because that was where they had been shown to have the greatest effect, and by focusing the limited resources on those most likely to reoffend. He informed the committee that the community supervision policies would not only limit the terms of probation, but would offer an earned compliance credit that was meant to incentivize sustained compliance with the conditions of probation, low-risk, low-level offenders would be removed from the caseloads sooner, and a number of other strategies to implement a swift, certain, and proportional principal that was known to reduce recidivism.

[10:53:17 AM](#)

Senator Dunleavy asked whether the bill contemplated dealing with the resurgent opioid issue in the state. He queried any changes in penalties regarding opiate dealers.

Mr. Shilling stated the bill contemplated the differentiation between high-level and low-level drug dealers. He believed that reinvestment was an important component to addressing the underlying source of the problem, and suggested that the committee could reinvest any savings that the bill incurred into those strategies. He asserted that due to the criminogenic effects of prison, prison did not work for low-level drug dealers and simple possessors.

[10:54:50 AM](#)

AT EASE

[10:55:09 AM](#)

RECONVENED

Co-Chair MacKinnon informed Mr. Shilling that the committee wanted to address the pre-sentencing element of the legislation.

SB 91 was HEARD and HELD in committee for further consideration.

Co-Chair MacKinnon discussed housekeeping.

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ADJOURNMENT

[10:56:21 AM](#)

The meeting was adjourned at 10:56 a.m.