

SENATE FINANCE COMMITTEE

March 28, 2017

1:34 p.m.

1:34:02 PM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Mike Dunleavy
Senator Peter Micciche
Senator Donny Olson
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

John Skidmore, Department of Law, Criminal Division; Dean Williams, Commissioner, Department of Corrections; Walt Monegan, Commissioner, Department of Public Safety; Ron Flint, President, Nugget Alaskan Outfitters, Juneau; }Jeff Jesse, Legislative Liaison, Mental Health Trust Authority; Senator John Coghill, Sponsor; Nancy Meade, General Counsel, Alaska Court System.

PRESENT VIA TELECONFERENCE

Gregory Razo, Chairman, Alaska Criminal Justice Commission, Anchorage; Quinlan Steiner, Director, Public Defender Agency, Department of Administration; Nicole Borromeo, Alaska Federation of Natives, Anchorage; Butch Moore, Self, Anchorage; Tara Rich, Legal and Policy Director, ACLU of Alaska, Anchorage; Cara Nelson, Director, Haven House Juneau, Juneau.

SUMMARY

SB 54 CRIME AND SENTENCING

SB 54 was HEARD and HELD in committee for further consideration.

SB 55 OMNIBUS CRIME/CORRECTIONS

SB 55 was HEARD and HELD in committee for further consideration.

#sb54

#sb55

SENATE BILL NO. 54

"An Act relating to crime and criminal law; relating to violation of condition of release; relating to sex trafficking; relating to sentencing; relating to probation; relating to the pretrial services program; and providing for an effective date."

SENATE BILL NO. 55

"An Act relating to criminal law and procedure; relating to controlled substances; relating to sentencing; relating to the period of probation; relating to revocation, termination, suspension, cancellation, or restoration of a driver's license; relating to parole; relating to the duties of the Department of Corrections and the Department of Health and Social Services; and providing for an effective date."

[1:35:16 PM](#)

GREGORY RAZO, CHAIRMAN, ALASKA CRIMINAL JUSTICE COMMISSION, ANCHORAGE (via teleconference), discussed the initial 21 recommendations, which formed the basis of the Omnibus Crime Bill from the previous legislature [SB 91]. He said that the recommendations had been consensus and evidence based. He relayed that the recommendations that came out in January 2017 had been fundamentally different from the previous recommendations, which had led to misunderstandings and consternation surrounding the implementation of SB 91. He explained that SB 91 would not be fully implemented until 2018, because of the substantial part of corrections implementation that still needed to be done. He said that the changes brought by the bill in

criminal law and sentencing had become the focus of law enforcement, prosecution, and public concern. He noted the substantial increase in misdemeanor crime that had coincided with the implementation of the legislation. He said that the recommendations that the commission had established in December 2016 highlighted both technical changes and changes based on requests from the Department of Law and the Department of Public Safety. He shared that the process had been challenging to find consensus.

[1:41:35 PM](#)

Mr. Razo explained that the current law provided that for first time C felons, the court could impose probation with a suspended term of imprisonment of 18 months. The provision had been included in SB 91, because the commission's research showed that prison time could increase a low-level offender's likelihood to commit a crime once released from prison. The commission had most recently recommended that the presumptive term for first time C felonies should be 0 to 90 days active time, which was a recommendation that stemmed from community input during public testimony. He noted that community condemnation was one of the proper objectives of sentencing under Tidal 12 of the Alaska State Statutes. He said that the recent recommendation was anecdotally based, unlike the original fact based recommendation in SB 91, and that the ultimate result of the recommendation found in SB 54 was an increase in the presumptive term, allowing a judge to impose a term of imprisonment between 0 and 1 year.

[1:43:47 PM](#)

Co-Chair Hoffman requested clarification on the comment that the recommendation that had not been evidence based.

Mr. Razo responded that the commission recommendations from January 2017 that formed the basis of SB 54 had not been based on the same type of data and research that had originally formed the basis for SB 91. He added that the 2017 recommendations had not had consensus, but had been a majority vote.

[1:44:46 PM](#)

Co-Chair MacKinnon noted that the time allotted for public testimony was 2 minutes, and that Mr. Razo had exceeded

that limit. She asked him to summarize his comments and submit a written copy to the committee.

Mr. Razo agreed to the request. He concluded that the other important change reflected in SB 54 was the changes in theft in the fourth degree. He stated that current law provided that an offender may not be sentenced to jail for the first or second conviction for theft in the fourth degree, although fines and restitution could still be imposed. The third conviction carried a maximum term of 5 days in jail, with 6 months of probation. The provision in SB 91 stemmed from the commission's research that prison time could have a criminogenic effect on low-level offenders. The commission had recommended that for third-time theft 4 offenders the penalty should be increased up to 10 days in jail. He said that SB 54 went beyond the recommendations to provide that the first conviction for theft in the fourth degree may be punishable up to 5 days suspended, with 6 months of probation; the second conviction may be punishable by 5 days active time, with 6 months of probation; the provision for a third time offender was the same as the commission recommendation of 10 days. He asked that the legislature clarify in the bill language regarding probation terms for sex offenders. Presently, SB 54 would mandate a 15 year minimum term of probation and current law stated that a maximum term was 15 years of probation for sex offenders. He stressed that the evidence that supported SB 54 was different in kind than the evidence that supported SB 91, and that the changes in sentencing were not of the same consensus as in SB 91.

[1:47:55 PM](#)

Co-Chair Hoffman remarked that the changes currently in SB 54, regarding the C felonies and theft in the fourth degree, were not supported by evidence and that there was no evidence to suggest that the evidence based reform in SB 91 was not working.

Mr. Razo replied that there had not been enough time to gather data that would underlay the SB 91 recommendations. He stressed that SB 91 had not been fully implemented, and it had only been 8 months since the bill had become law.

[1:49:09 PM](#)

JOHN SKIDMORE, DEPARTMENT OF LAW, CRIMINAL DIVISION, testified that the commission had worked to find a balance in the criminal justice system. He stated that the commission's initial task had been to find ways to reduce recidivism, which they had attempted to do by giving judge's discretion in several areas that the commission had thought had been restricted by SB 91, more than was helpful or appropriate to ensure public safety. He spoke of Class C felonies, and clarified that there had been two proposals presented on the matter, one limited jail time from 0 to 90 days, and the other was for 0 to one year. He said that the people who voted against the 90 days were voting for the one year. He believed that previous testimony that the commission had failed to reach consensus on the matter neglected to take into consideration all of the votes that occurred at that particular commission meeting. He relayed that disagreement lay in the amount of time should be imposed for Class C felonies, which was a policy issue that should be decided by the legislature. He believed that the legislature should dictate to the courts how much discretion should be extended to judges when determining sentencing. He agreed that the current position in SB 54 went beyond the recommendations of the commission. He said that the commission had recommended that active jail time of 10 days be associated with a third theft in the fourth degree conviction. He said that SB 54 went beyond that, which was not what DPS or LAW had initially recommended to the commission, nor had they advocated for such action at any time. He stressed that the underlying theory for the commission had been that putting people in jail triggered a criminogenic effect on people; if you put people in jail they would be more likely to commit a crime in the future. He believed that this theory was valuable to take into consideration. He added that once a person was committing their second or third offense, the notion that the jail time was the criminogenic effect no longer carried as much weight because the person continued to commit crimes regardless of whether they were placed in jail or not.

Mr. Skidmore spoke to the issue of sex offender probation. He relayed that the recommendations had been to return to a provision in law prior to 1991, which required mandatory probation for sex offenders and set out the timeframes. He furthered that the timeframes had been evidence based gathered by DOC and multiple studies. He related that the evidence had indicated that having a person complete sex offender treatment, and having them on probation for that

period of time, reduced recidivism. He noted that the mandatory probation under SB 91 was subject to earned compliance credits, which meant that probation could be cut in half. He warned that adopting provisions different than what was currently in SB 54 would give individuals the potential to reduce their period of probation by 50 percent.

[1:54:25 PM](#)

Senator Micciche queried the types of crimes that were categorized under Class C felony.

Mr. Skidmore responded that Class C felony offenses were a broad category of crime. He listed assault in the third degree, burglary in the second degree, vehicle theft, theft between \$1000 and \$25,000, criminal mischief, possession of child pornography, terroristic threatening in the second degree, stalking in the first degree, riot, hindering prosecution, promoting contraband, harming a police dog, tampering with evidence, distribution of narcotics, as a sampling of the types of crimes that fell under Class C felony. He believed that there were over 60 Class C felonies.

[1:55:50 PM](#)

Senator von Imhof understood that the commission supported the changes in SB 54 in regard to theft in the fourth degree and mandatory probation for sex offenders.

Mr. Skidmore responded that DPS and LAW had recommended that the commission consider up to a year of possible jail time for Class C felonies, which had not been the commission's ultimate recommendation. He furthered that DPS and LAW had recommended that the third conviction of theft in the fourth degree should result in jail time, SB 54 proposed the possibility of jail on the second conviction as well as the third. He reiterated that the policy issue would be left up to the legislature. He stated that the provision of mandatory probation for sex offences found in SB 54 were the same as what had previously been in law under AS 12.55.125, subsection 0.

[1:57:59 PM](#)

Co-Chair Hoffman asked whether the position of LAW had altered since the passage of SB 91.

Mr. Skidmore asked for clarification on which position Co-Chair Hoffman was probing.

[1:59:38 PM](#)

Co-Chair Hoffman wondered whether the department's position the issues brought up by Senator von Imhof had already been established prior to the debate on SB 91.

Mr. Skidmore replied that due to the breadth of the legislation the department had not realized that the probation of sex offenders was being repealed until the debate had neared its end. He revealed that the department had though the revision had been an oversight. He stressed that the department's position never shifted. He said that the department had concerns about Class C felonies and theft in the fourth degree, but had remained silent with their recommendation in order to give the legislation time to work. He stated that the last 9 months had offered enough time for the department to observe that new recommendations needed to be made.

[2:00:10 PM](#)

Senator Dunleavy requested clarification of the earned compliance credits with regard to sex offender probation.

Mr. Skidmore responded that earned compliance credits were a section of the bill that stated that for every 30 day period that a probationer completed probation without a violation, the period of probation would be reduced by the same amount of time.

[2:01:18 PM](#)

Senator Dunleavy stated that the term "sex crime" encompassed a variety of crimes. He wondered whether there was a breakdown of the recidivism rates for specific categories of sex crimes, and whether there was a differentiation between different types of sex offenders, in regard to the earned compliance credits.

Mr. Skidmore responded that there was no distinction for the earned compliance credits, they applied to all felony offenses.

[2:02:24 PM](#)

Senator Dunleavy asked whether there were any circumstances for felony offenses that might be an exception to the rule for compliance credit.

Mr. Skidmore said that there was no distinction between any felony or the type of offense; when a person was sentenced to probation and did 30 days without a violation then the probation was reduced by 50 percent.

[2:03:13 PM](#)

Senator Dunleavy asked whether the bill would remove the compliance credits.

Mr. Skidmore replied no. He added that even if the legislature decided to re-impose the same mandatory probation for sex offenses that existed prior to SB 91, the probation would actually be a lower period of probation when the earned compliance credits were considered.

[2:03:57 PM](#)

Senator Dunleavy directed committee attention to the Alaska Justice Statistical Analysis Center Fact Sheet (copy on file), which showed that there had been an uptick in crime since 2013. He wondered whether something had happened in 2013 that had led to a rise in crime.

Mr. Skidmore stated that since 2013 the department had observed an uptick in crime. He lamented that there were no simple answers when it came to crime rates and that multiple factors could influence them. He thought that an educated guess about the cause of the steady rise in crime was the combination of the opioid crisis and the fiscal crisis that had led to the reduction of resources in law enforcement and in prosecution. He noted that criminal justice reform could also be a factor because whenever significant changes were made in the effort for criminal justice reform, it took time for the system to adjust.

[2:05:42 PM](#)

Co-Chair MacKinnon hoped that Mr. Skidmore would be available to the committee for further discussion throughout the day.

Mr. Skidmore said he was available for the entire day and would make himself available at the committee's request.

2:07:02 PM

QUINLAN STEINER, DIRECTOR, PUBLIC DEFENDER AGENCY, DEPARTMENT OF ADMINISTRATION (via teleconference), testified that he was a member of the Criminal Justice Commission, and had participated throughout the process, both with the original recommendations and the subsequent set of recommendations that formed the foundation of SB 54 and SB 55. He spoke to the changes found in SB 54. He believed that the biggest change was the Class C felony policy change. He said that the foundation for the original recommendation weighed the impacts of jail and a felony conviction, both had negative consequences that inhibited rehabilitation. He said that even 24 hours of jail time could cause someone's recidivism to increase. He relayed that the felony conviction in itself was a barrier to employment and could have other impacts that prevented rehabilitation and impacted recidivism. He explained that the original policy was meant to make sure that someone who was a first time felon, without an aggravated case, did not get both the impact of jail and the impact of the felony consequence. He shared that one of the things that had been debated was the balance of the scheme all the way from Class A misdemeanors to felonies. He stated that the discussion came about, though not supported by evidence that there was any negative impact of the policy, but that some jail time could be merited under the theory of community condemnation. He relayed that the commission had voted for 90 days, which had since been raised to 1 year. He revealed that 1 year of jail amounted to a roll back of the original policy, which he believed would result in an increase in felony convictions and jail time without any associated increase in rehabilitation. He shared that the original policy had the advantage of being able to arrange probation. He said that the result of 1 year would be more decision to plea in order to avoid open sentencing on a year, which could result in jail time as part of a plea agreement without necessarily increasing any opportunity for rehabilitation. He said that the 1 year cases would be more expensive for lawyers to process and would limit the

effectiveness of reducing recidivism. He continued that the other policies that had been departed from in SB 54 had been the Class B misdemeanor policy; the original intent had involved insuring that a person in their first or second time out was not sent to jail for even short periods of time, which would interfere with their rehabilitation. He pointed out to the committee that short amounts of jail time could cause someone to lose their job, their home, and the foundation by which they would build upon future rehabilitation. He stated that he voted for some change in the effort to even out the scheme, and he believed that the departures would impact the ultimate goal for the commission. He reiterated that the recommendation in SB 54 were not data driven. He expounded that the policy change for violating conditions of release in the new legislation was based on concerns that individuals could be arrested for violating conditions of release, and then be released from jail before the bail hearing. He shared that the problem had been potentially solved through an administrative change to how bail was provided for by the courts, but the fix had not yet been implemented across the state, which resulted in a change that had an administrative base, but no further criminal justice policy goal. He thought that it was important to weigh how much jail time was being imposed against the potential achieved benefits.

[2:12:55 PM](#)

Co-Chair Hoffman asked how much time the commission spent discussing the 0 to 90 versus the 0 to 1 year.

Mr. Steiner thought that the recommendation had been vigorously debated. He said that there had been a disagreement about jail time for the first time Class C felony; what should the judge be allowed to impose under their own discretion. He stated that the community had responded that some jail time should be available that signaled a condemnation for the conduct. He personally felt that a timeframe limited to 90 days would not upset the recommendations to a degree that would result in plea negotiations in order to avoid open sentencing. He thought that in 1 year there would be plea agreements that were the result of the coercive force of jail looming overhead, rather than addressing the merits of rehabilitation. He said that in the past when wider discretion had been provided for judges in sentencing, in spite of very clear

direction from the legislature that the sentences should not increase, the sentences increased. He asserted that when bail policies changed people spent more time in jail simply because they were poor and could not afford even small amounts of bail, and he revealed that it was the judge's discretion that was driving the problem.

[2:16:10 PM](#)

Co-Chair Hoffman wondered whether there was debate regarding increasing the maximum from 90 to 120, or 180 days.

Mr. Steiner replied that there had been a proposal for 1 year, which had been amended to 90 days. He said that the commission then debated whether or not to vote for the 90 day limit. He relayed that the vote had been split, with the majority voting for 90 days, the minority opposed because they felt a 1 year was more appropriate. He stated that there had been no discussion on a position of compromise. He understood that 120 days had been debated during discussions on SB 91, but that it had been voted down.

[2:17:29 PM](#)

Co-Chair Hoffman queried the details of the vote to forward the 90 day recommendation to the legislature.

Mr. Steiner recalled that the vote had been close, he believed that the majority had won by 1 vote.

[2:18:27 PM](#)

DEAN WILLIAMS, COMMISSIONER, DEPARTMENT OF CORRECTIONS, acknowledged the difficulty of the process of criminal justice reform. He relayed that he had not been on the commission before the passage of SB 91. He spoke to the balance necessary to find the appropriate deterrent to criminal activity, while honoring the original intention behind criminal justice reform. He shared that the system had been expected over the past several years to avoid prison growth, in fact, a 15 to 25 percent reduction had been requested. He lamented that the department's budget had been set with the expectation that the prison population would decrease. He stated that 40 percent of the prison population fell under the Class C felony

classification. He explained that it had been challenging for his department to craft a fiscal note for SB 54 because SB 91 had not been in place for long enough to provide meaningful data. He relayed that whatever course the legislature chose, appropriations would be made to make the prison system safer and more viable. He hoped that funds could be invested in opioid prevention efforts. He concluded that the pre-trial part of SB 91 would begin in January 2018, and should have a positive impact in contracting the pre-trial population. He related that a focus for the future should be on sufficient opportunities to provide treatment intervention.

[2:23:56 PM](#)

Co-Chair Hoffman queried the anticipated saving from the 0 to 90 day change over the construction of a new correctional facility.

Commissioner Williams replied that one result from the decrease in the prison population was the closure of the Palmer Correctional Center. He said that the decision had been a difficult one, but had saved the department several million dollars, and had allowed for staff to be reinvested in other neglected areas. He lamented that he could not speak to specifics, but that the department had experienced a slight contraction in the population and a down-cline in certain sectors of the population. He reiterated that some of the pieces of SB 91 had not yet been implemented.

[2:25:11 PM](#)

Co-Chair Hoffman wondered whether the 90 day provision in SB 54 would result in an increase in the population and the need to reopen the Palmer facility.

Commissioner Williams said that it was a possibility.

[2:26:15 PM](#)

WALT MONEGAN, COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY, expressed support for SB 91. He shared that he had spent 34 years with the Anchorage Police Department, and that in the time he had spent on patrol he had started to arrest the second generation of families who found themselves in the system. He believed that the systems necessary to support SB 91 had not yet been fully realized, and that with more

time and some minor adjustments the legislation could produce the results that he hoped for. He relayed that the public was upset about the state of criminal justice reform in the state. He noted that there were key pieces of SB 91 that had not yet been fully implemented. He added that the budget crisis had resulted in a decline on the number of prosecutors and troopers, and that the state was in the middle of an opioid epidemic. He said that he supported the proposed changes in SB 54. He believed that the bill would allow judges to examine each case based on merits and facts. He agreed that judges to have the discretion to make determinations in sentencing.

[2:30:30 PM](#)

Co-Chair Hoffman remarked that the recidivism rate was critical and key to the legislation. He relayed that the general measurement for recidivism was 3 year increments. He stated that the Alaska Criminal Justice Commission was going to be examining those rates when analyzing the effects of SB 91. He stated that by changing SB 91, the recidivism rate would be unmeasurable. He noted that plea deals took place in cases that stretched out over long periods of time. He wondered whether the zero to 1 year sentencing would result in more plea deals.

Commissioner Monegan replied that it could. He clarified that law enforcement was not part of the plea deal process. He reiterated that the discretion should lie with the judge overseeing the case.

[2:33:28 PM](#)

Senator von Imhof asked why there was so much disagreement about zero to 90 days versus zero to 1 year. She queried that public response to SB 91 over the past year in regard to sentencing.

Commissioner Monegan replied that the current law was not working. He stressed that the system lacked treatment facilities, and until that time data needed to be gathered and examined as the process toward criminal justice reform continued.

[2:36:59 PM](#)

Senator von Imhof understood that under current law Class C felonies received zero to 90 days active imprisonment for first time offenders.

Commissioner Monegan replied that zero to 90 days was not currently in statute. He explained that the first offense earned probation only on a Class C felony. He shared that the debated surrounded putting something that allowed for more than simply writing a citation and then releasing offenders.

[2:38:00 PM](#)

Co-Chair Hoffman argued that the commission had been tasked with solving the problem if sentencing on Class C felonies, and that had been the intent of the commission's recommendation.

[2:39:14 PM](#)

RON FLINT, PRESIDENT, NUGGET ALASKAN OUTFITTERS, JUNEAU, testified in support of SB 54. He expressed frustration that felony limit for theft was set at \$1000. He felt that there had been an increase in small time theft. He offered several personal anecdotes about theft in his store.

[2:43:23 PM](#)

JEFF JESSE, LEGISLATIVE LIAISON, MENTAL HEALTH TRUST AUTHORITY, testified that his work on the commission had been to craft policy that was driven by data and scientific fact. He stressed that if criminal justice reform was only about minimizing criminality, and therefore minimizing the amount of general funds that were spent on crime, then the original criminal justice recommendations in SB 91 would be the most effective vehicle. He said that it was apparent that this was not the only goal. He encouraged the committee to craft legislation that adhered a closely to the commission's recommendations as possible.

[2:46:14 PM](#)

NICOLE BORROMEO, ALASKA FEDERATION OF NATIVES, ANCHORAGE (via teleconference), spoke in opposition to SB 54. She stated that the federation did not believe that replacing SB 91 was warranted at the present time. She hoped that the legislature could wait until the 32 legislative session

before substantive changes were made to SB 91. She said that if substantive changes were going to be made this year she hoped they would closely follow the criminal justice commission's recommendations.

[2:47:47 PM](#)

Co-Chair Hoffman asked whether the Ms. Borrromeo had discussed the federation's views with Julie Kitka, President, Alaska Federation of Natives.

Ms. Borrromeo replied in the affirmative. She relayed that Ms. Kitka supported the federation's position on SB 54.

[2:49:28 PM](#)

BUTCH MOORE, SELF, ANCHORAGE (via teleconference), believed that penalties for Class B felonies should be added to SB 54. He cited Page 53, section 89 of SB 91:

Sec. 89. AS 12.55.125(d) is amended to read:

(d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, zero [ONE] to two [THREE] years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085

Mr. Moore explained that Class B felonies included burglary, arson in excess of \$25,000, bribery, sexual assault 2, and theft over \$25,000. He requested that minimum jail time be added to Class B felonies. He spoke to previous testimony he had given in another committee. He believed that one of the biggest problems with the prison system in Alaska was the issue of substance abuse and mental health. He felt that the parts of SB 91 that had been implemented had been focused on the financial aspects of the criminal justice system. He did not believe that SB 91 would protect the public from violent offenders. He

requested that the committee review sections 89 and 122 of SB 91. He continued to speak to SB 91.

[2:54:54 PM](#)

Co-Chair MacKinnon explained that the SB 91 referred to in the meeting was from the 29th legislative session.

[2:55:31 PM](#)

Senator Micciche asked whether Mr. Moore supported the five items in SB 54 that increased sentencing for various types of crimes.

Mr. Moore replied in the affirmative. He hoped that consideration could be given for increasing sentencing for Class B felonies.

[2:57:24 PM](#)

TARA RICH, LEGAL AND POLICY DIRECTOR, ACLU OF ALASKA, ANCHORAGE (via teleconference), testified in support of evidence based and research driven policies. She spoke to three provision that the group hoped would be changed: the violations of conditions of release, the Class C felonies, and low-level theft in the 4th degree. She said that the violations of conditions of release were geared toward an administrative end and were costly and unnecessary. She stated that increasing the active term of presumptive imprisonment for Class C felonies to up to 1 year of possible imprisonment was premature. She asserted that it was too early to make the decision and that there was no evidence that creating an active term of imprisonment made spending sense. She said that there was evidence to suggest that for first time offenders, active terms of imprisonment had a criminogenic effect. She urged the committee not to base decisions on anecdotal, third-hand accounts of perceptions on the increase of theft in the 4th degree offences. She reminded the committee that the recommendations that resulted in SB 54 were not data driven or evidence bases and requested that the committee give SB 91 more time to provide results.

Co-Chair MacKinnon CLOSED public testimony.

[3:02:01 PM](#)

Co-Chair MacKinnon queried additional comments from the sponsor of the legislation.

[3:02:11 PM](#)

SENATOR JOHN COGHILL, SPONSOR, hoped that the debated on the bill would result in a balanced piece of legislation. He felt that the changes in SB 91 that were reflected in SB 54 had caused confusion for the public. He expressed appreciation for future discussions, and offered to provide additional backup and details.

[3:04:38 PM](#)

Co-Chair Hoffman stated that people had supported the legislation because the need for criminal justice reform had been evident. He spoke of the financial strain felt by the state because of the cost to construct the Goose Creek Correctional Facility. He commended the work that had been done on SB 91. He believed that the bill had been intended to reduce recidivism and curb spending. He stressed his expectation that cost saving measures would be realized. He expressed concern that SB 54 did not follow some of the recommendations of the Alaska Criminal Justice Commission. He asked whether redirected dollars could be in jeopardy under the current bill version.

Senator Coghill replied that the commission had been composed of people who practiced within the system, and those who had been affected by the system. He said that the goal of the legislation had been to reduce crime, increase public safety, and decrease the recidivism rate. He said that putting money from incarcerated prisoner care into rehabilitation programs was the goal. He stated that accommodation to help offenders reenter communities as productive members of society was lacking in the state. He did not believe that jail and accountability were the same thing. He lamented that the process would continue to be challenging. He stressed that the system contained criminals who were incarcerated for mainly drug and alcohol related crimes, and without incentives those offenders would be accountable for their rehabilitation. He said that SB 54 went further than the commission had recommended, than he personally wanted, but that it had been based on public and police testimony, as well as the Department of Law testimony in Senate Judiciary Committee.

Co-Chair MacKinnon REOPENED public testimony.

[3:12:24 PM](#)

CARA NELSON, DIRECTOR, HAVEN HOUSE JUNEAU, JUNEAU (via teleconference), testified that over 65 million Americans had criminal records, which meant that public policy and perception of criminal justice needed to evolve. She thought that meaningful change would take time, and that there was no way to gauge whether SB 91 was working because it had only been law for 8 months. She stressed the need for data driven, evidence based recommendations as the foundation for criminal justice legislation. She believed that addiction should be aggressively addressed in policy. She hoped that policy decisions would not be solely based on public condemnation, but on evidence. She expressed appreciation for the conversation surrounding criminal justice reform.

Co-Chair MacKinnon CLOSED public testimony.

[3:16:47 PM](#)

Senator Micciche said that he supported the philosophy behind SB 91. He stated that the commission had updated some of their 2015 recommendations in 2017, which were reflected in SB 54. He said that most of SB 54 had been crafted in observance to the adjustments the commission made in 2017 of its 2015 recommendations.

Senator Coghill explained that most of the items in SB 54 had been considered by the commission, which had modified in the Senate Judiciary Committee, namely the level of incarceration issues surrounding Class C felonies and fourth degree theft.

[3:19:01 PM](#)

Senator Micciche felt that the discussion was pertinent. He felt that the commission had adjusted its recommendations out of the recognition that it had gone too far in certain areas, and that communities were being severely impacted. He wondered how the process worked for identifying the difference between possession of child pornography versus a lower level Class C felony, when considering for sentencing.

Mr. Skidmore replied that the department certainly differentiated between the two felonies when considering length of sentencing.

Co-Chair MacKinnon requested a written response to the question from the department.

[3:21:26 PM](#)

Co-Chair MacKinnon requested clarification concerning the bail schedule.

[3:22:19 PM](#)

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, explained that state had set bail schedules for decades, only for misdemeanors and never for felonies. The bail schedule provided that when a person was arrested for a misdemeanor they could be taken by law enforcement to a correctional facility, and then released under certain circumstances and with certain conditions without immediately seeing a judge. The person would be given a piece of paper asking them to return some time later for arraignment. She said that evidence had come to light in March 2016 that had coincided with the SB 91 reforms, and the evidence brought forth by the commission, showing that the pre-trial population had grown 81 percent over the past 10 years. The changes to the pre-trial provisions, and how bail would be set under SB 91, had not yet come into effect. She stated that, recognizing what the legislature had intended with SB 91, the presiding judges got together and created a statewide bail schedule. Prior to that there had been different bail schedules for the different judicial districts in the state, with variations within and among them. The statewide bail schedule was intended to enhance consistency and to allow for more people to be released upon arrest than was previously possible. This was to address the fact that the pre-trial population had been growing because people could not make the bail that was set by a judicial officer. She clarified that felons were not released right away under the bail schedule, and no domestic violence or stalking related offenders were released on their own recognizance. She said that the bail schedule said that in any particular case an arresting officer could call the on call judge to set a different bail if necessary. She noted that in nearly all of the instances the judge would defer to the expertise of the

arresting officer. She admitted that there had been some dissatisfaction with some of the things that were listed as a release under the bail schedule. Presiding judges were currently revising the bail schedule, which should be release in a few weeks.

[3:26:55 PM](#)

Co-Chair MacKinnon remarked that there had been confusion surrounding the new bail schedule.

[3:27:34 PM](#)

Co-Chair Hoffman requested information related to the percentage plea bargains of Class C felonies in the year.

[3:28:12 PM](#)

Mr. Skidmore asked whether Co-Chair Hoffman wanted to know how many cases resulted in a plea bargain, or the sentence that resulted from the plea bargain.

[3:29:06 PM](#)

Co-Chair Hoffman clarified that he wanted to know how many cases by year, over the last ten years, had resulted in a person being sent to prison under a plea bargain deal.

Mr. Skidmore replied that such data was not collected by the department. He said he could not tell the committee how many people ended up with sentences as a result of a plea bargain. He offered that 90 to 95 percent of the cases resolved through plea negotiations, but he could not provide the numbers for active jail time versus no jail time.

Co-Chair Hoffman had heard that the number of plea bargaining cases would increase under the zero to 1 year sentence.

Mr. Skidmore did not believe that the sentencing was set up would control the number of plea negotiations that occurred. He stated that the system would find an equilibrium no matter where the legislature decided to provide the discretion in term of what sentences could be imposed. He relayed that 90 to 95 percent of the cases would continue to be resolved through plea negotiations.

3:30:14 PM

Co-Chair Hoffman interjected that if someone was facing a 90 day sentence versus a 1 year sentence, and the person had a job and a family, the person would plea bargain. He believed that a person would be less likely to push for a plea bargain if they were only facing 90 days in jail.

3:30:53 PM

Co-Chair MacKinnon requested some facts for the committee concerning what the department did in the normal course of business to address public safety, and the consequences for individuals who went through the criminal division office.

Mr. Skidmore agreed to provide the information.

Co-Chair MacKinnon discussed housekeeping.

SB 54 was HEARD and HELD in committee for further consideration.

SB 55 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

3:31:43 PM

The meeting was adjourned at 3:31 p.m.