

ALASKA STATE LEGISLATURE
FOURTH SPECIAL SESSION
JOINT MEETING
SENATE JUDICIARY STANDING COMMITTEE
SENATE FINANCE COMMITTEE
October 23, 2017
3:02 p.m.

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CALL TO ORDER

Co-Chair Hoffman called the Senate Finance Committee meeting to order at 3:02 p.m.

SENATE FINANCE COMMITTEE MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair (via teleconference)
Senator Click Bishop, Vice-Chair
Senator Gary Stevens
Senator Peter Micciche
Senator Donny Olson
Senator Natasha von Imhof

SENATE FINANCE COMMITTEE MEMBERS ABSENT

none

SENATE JUDICIARY COMMITTEE MEMBERS PRESENT

Senator John Coghill, Chair
Senator Mia Costello
Senator Bill Wielechowski
Senator Mike Dunleavy
Senator Pete Kelly

SENATE JUDICIARY COMMITTEE MEMBERS ABSENT

none

ALSO PRESENT

Senator Kevin Meyer; Senator Cathy Giessel; Senator Tom Begich; Senator David Wilson; Senator Dennis Egan; Walt Monegan, Commissioner, Department of Public Safety; John Skidmore, Director, Criminal Division, Department of Law.

SUMMARY

^PRESENTATION: CRIME and JUSTICE POLICY REVIEW

3:03:43 PM

Co-Chair Hoffman reviewed the meeting agenda. He stated that the joint committee would discuss SB 54, which was comprised of amendments to SB 91 [criminal justice reform legislation passed in 2016]. He thought everyone was aware that the Senate had acted by passing SB 91, which was now signed into law. He continued that the committee had acted on SB 54, which was the Senate's version of fixes to the bill. The bill was currently in the other body awaiting action.

Co-Chair Hoffman emphasized that it was important to stay focused on fixing the problems that were in SB 91. He stated that the members of the Senate strongly believed fixes needed to happen to SB 91 in the form of SB 54. The committee would hear from the Department of Law.

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Chair Coghill noted that SB 91 had been the product of recommendations from the Alaska Criminal Justice Commission (ACJC), which had been formed by SB 64 [passed during the 2013-14 legislative session]. The commission had investigated the question of Alaska's high rate recidivism, and had come up with 21 recommendations. Most of the recommendations had ended up in SB 91, which was meant to make the best use of funds. Additionally, the legislation was intended to strengthen probation and parole, reinvest where possible, and incentivize compliance with good behavior. The legislation had increased mandatory minimums which had not been congruent with public condemnation.

Chair Coghill continued to discuss SB 91, detailing that there was required risk assessments and post-jail planning. Defendants would be released on pre-trial supervision for in a coordinated way the first time. He qualified that the pre-trial supervision provision had not totally come to fruition. The bill had required more severe penalties on drug dealing and drug trafficking; and had changed some of the lower-level penalties. He went on that SB 91 had

established court reminders and had enhanced victim's advocacy significantly.

Chair Coghill continued to discuss the history of SB 91. In the process of the implementation, the sponsor had realized that the probation set forward for some crimes was not sufficient. Additionally, property theft was on the rise and law enforcement lacked sufficient tools. Additionally, there were violations to conditions of release. To respond to public outcry, police input, and the Department of Law (LAW); solutions came out in the form of SB 54, which the Senate had passed the previous year.

Chair Coghill discussed SB 54, explaining that the bill recriminalized the violations of conditions of release so there would be a penalty to cause a change of action or put offenders in jail if need be. He specified that the first-time C Felony was debated at length. At a recommendation from LAW, in SB 54 the sponsor expanded the sentencing for a first-time C Felony to up to a year of jail time.

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Chair Coghill explained that SB 54 had expanded theft crimes (felonies) and escalated B felonies; wherein the first time had monetary fine potential and further violations had jail time potential. The department had shown the sponsor that the provisions of SB 91 were not sufficient to get offenders to change behavior. Additionally, SB 54 put an aggravator on an A Misdemeanor, which allowed judges more discretion. The four changes delivered tools to the police and answered some of the challenges of the courts. When the Senate had passed the bill, there was expectation that debate would follow concerning C Felonies. He discussed debate over the proposed changes contained in SB 54.

Chair Coghill had found that over the previous months that LAW, the courts, and the police force had recognized that the tools would be sufficient to implement public safety. The changes were not implemented yet. He wanted to demonstrate what had been done to answer the concerns created by SB 91. He added that SB 55 had been signed into law, and was comprised of technical issues. He emphasized that the focus of the presentation was to demonstrate that SB 54 had addressed some of the serious public safety concerns.

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WALT MONEGAN, COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY, testified in support of SB 54. He was delighted to speak on why he considered SB 54 to be necessary. He relayed that the department had numerous meetings in which there was public testimony, and there had been a number of individuals who had expressed dismay at the results of SB 91. He thought the public condemnation aspect of SB 54 was sorely needed. He stated that the department had worked with LAW and ACJC to put forth the provisions of SB 54.

Senator Kelly asked if SB 54 met the commissioner's desires for a bill to correct provisions of SB 91.

Commissioner Monegan was not entirely sure of any amendments proposed in the other body.

Senator Kelly stated there were no amendments yet.

Commissioner Monegan stated that the department supported everything that was in SB 54; including the additional discretion to judges.

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Senator Stevens referred to objections to SB 91 and thought many had considered that the entire bill needed to be withdrawn or repealed. He thought every major bill needed modifications as it went through the process. He asked the commissioner to comment on the idea of complete replacement of SB 91.

Commissioner Monegan discussed his history in law enforcement. He acknowledged that it had been critical to address the high rate of recidivism prior to the passage of SB 91. He referenced SB 64, which he had been asked to review while in leadership at the Alaska Native Justice Center. He thought things could be done in a more humane way. He thought SB 91 created the opportunity to address each individual that was in the criminal justice system, and tried to get them to change their ways rather than just incarcerate them. He discussed the negative effects of incarceration without rehabilitation. He had supported SB 91 but acknowledged that some tweaks needed to be made. He was in support of SB 54 and SB 55.

Senator Olson referred to criticism of SB 91, and wondered if the positive effects of the legislation had enough time to effect factors such as recidivism, particularly in rural areas. He wondered if in addition to the change in the law, there had been a change in society from the opioid epidemic getting a strong foothold. He thought blame on effects of SB 91 could have been misplaced.

Commissioner Monegan thought that Senator Olson had made a good point in reference to blame. He acknowledged a rise in crime in concert with a drug epidemic in the United States. There was an uptick in all crime areas, with the exception of arson and homicide.

Senator Olson asked if Commissioner Monegan stood by his statement that SB 54 was absolutely necessary.

Commissioner Monegan answered in the affirmative.

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Senator Micciche thought that there did not seem to be a correlation with increased Department of Public Safety (DPS) spending and a decreased crime rate. He considered the number of empty positions in the department and recalled funding five additional trooper positions the previous year. He recalled a requested a report from DPS as to how the vacancies would be filled. The report was to also address the reason for the vacancies and how to retain the individuals. He asked if it was true that the crime rate began increasing in 2011 and began rapidly increasing in 2014. He recalled that SB 91 began to take effect in mid-2016.

Commissioner Monegan agreed that the crime rate was indeed rising long before the passage of SB 91, because of factors such as the opioid crisis, reduction in state troopers, and reductions in the Anchorage Police Department. He stated that normally when there was a loss of troopers or police officers, existing personnel would be tasked with responding to higher priority crimes. He remarked that "people crimes" would always trump property crimes. He used the analogy of a "perfect storm" to describe the reduction in force and the drug-induced uptick in crime.

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Senator Micciche stated that the Senate had taken the departments' suggestions and ACJC's suggestions to heart, and had passed both SB 54 and SB 55. He hoped the other body agreed with the changes contained in SB 54. He thought it was important for people to know that the Senate would do what it took to help relieve the increase in crime in the state. He did not think that SB 91 and SB 55 were the final solution, and thought more work needed to be done. He thought it was necessary to understand how to interrupt the flow of drugs, and to understand what some of the socio-economic issues were in the state. He discussed the cycles of crime in the state, and thought they also followed the economic downturn in the state.

Commissioner Monegan agreed that crime was cyclical and followed economic changes. He asserted that a downturn in the economy pressured individuals to commit crimes in order to satisfy drug habits. He reiterated that the opioid crisis was a national problem. He thought that SB 54 could give some of the tools back to enable the system to hold individuals accountable.

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Senator Wielechowski relayed that he had sat on the Senate Judiciary Committee during hearings on SB 91. He recalled that the attorney general, the commissioner of DPS and the commissioner of Department of Corrections were asked if the passage of SB 91 would have a detrimental impact on public safety. The committee was told definitively that it would not. He wondered if the testifiers had been wrong. He asked what sort of decreases in crime the state could expect if SB 54 was passed.

Commissioner Monegan thought that no one had envisioned such a widespread drug epidemic. He thought his predecessors had been very confident that SB 91 would not have a detrimental effect to public safety but acknowledged that perhaps not all mitigating factors had been foreseen. He was not able to quantify a future decrease in crime as a result of SB 54. He thought in addition to what was being done in intervention and education, the actual apprehension of C Felony offenders combined with the optional sentencing up to one year might be more incentive for individuals to seek treatment. He considered the point of SB 91 to be treating individuals in a more correct and humane manner.

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Senator Wielechowski referenced data on un-prosecuted crimes due to a lack of prosecutors. He noted the high incidence of violence against women in the state. He wondered how it was possible to change the culture of violence in the state.

Commissioner Monegan thought that in order to effect change in a culture, there needed to be a collaborative effort between education, enforcement, and treatment. He used the adage "it takes a village to raise a child" to describe the importance of collective action to aid in correct decisions for the state. He thought that the answer should start with SB 54.

Senator Wielechowski asked if Alaskans should consider that the passage of SB 54 would solve the crime problem in Alaska, or if there was more work to be done. He asked if the commissioner had specific policy ideas for the legislature to consider trying and address the crime problem.

Commissioner Monegan thought that SB 54 was a good first step on what he considered a journey. He emphasized that SB 91 would require a process, like all criminal justice efforts. He thought there were always changing factors that affected the process. He thought it was helpful that ACJC had been extended. He asserted that the council members were subject matter experts from across the state and could provide oversight as more issues came to light. He thought that SB 91 was not fully built yet, and used the example of pre-trial staffing, which was not yet in place. He thought that given time, there would be a clearer picture of the effects of SB 91.

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Co-Chair Hoffman thought that the importance of the ACJC and its reports could not be overstated. He wanted the people of the state to understand that the legislature was continuing to look at what problems might arise, which was why the extension of the commission was so important.

Senator von Imhof asked if the legalization of marijuana had an effect on any type of crime; or if it increased the

frequency of accidents, which would take time from public safety officers.

Commissioner Monegan thought it was still too early to pinpoint any problems that resulted from legalization of marijuana. He thought it was easier to identify problems with alcohol. Anecdotally he had gleaned that problems usually occurred when there was a mix of alcohol and marijuana. He recalled arresting an individual that was on drugs.

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Senator Dunleavy referred to increased crime and the resultant change in activities of residents (such as the purchase of guns and home surveillance technology) of the state who were feeling affected. He thought Alaska had a wide tolerance for behaviors, more so than any other state. He thought there had been a significant view in the way people viewed their fellow Alaskans, and in people's daily activities. He thought people were starting to feel as if they were under siege and had to take matters in to their own hands. He wondered what to tell the people of Alaska.

Commissioner Monegan thought that the issues of being safe and feeling safe were different issues. He thought many police agencies strove for the feeling of safety through presence, outreach, and showing crime statistics. He referred to publicity of increased crime and suggested that it helped to disrupt the feeling of safety. He did not think it was bad to be cognizant of one's own personal property and how to stay safe.

Commissioner Monegan addressed the question of increased home protection measures. He believed individuals should research the legality of the matter. He advised that if someone was considering using deadly force, it was important to be consciously aware of when it was justified and when it was not.

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Senator Dunleavy asked if the current crime rate was something to become accustomed to, or rather was it a temporary condition that could be addressed.

Commissioner Monegan referred to the cyclical nature of crime and recalled that the crime rate in the 1980's had been higher than currently. He did not recall as much crime in the news in the 1980's when he was a patrolman. He thought crime was cyclical and that the state would come out of it. He thought that the state would experience the current crime rate until the perpetrators of the crimes were dealt with. He thought SB 54 would make it possible to hold people accountable in a way they currently were not.

Senator Kelly remarked that the state was experiencing a nation-wide trend. He referred to the confirmation of United States Attorney General Jeff Sessions, and noted that an amazing amount of time was spent on the opioid problem and rise in crime. He thought other states had seen huge increases in crime that had not been seen in Alaska. He stated that crime resided in the hearts of men and women, and not in the statute books. He did not think legislation would magically get rid of crime. He thought the answers to the problem were more complex than the passage of SB 54.

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Vice-Chair Bishop thought that parts of his district had felt the effects of crime issues sooner than individuals in a bigger city. He stated that the Senate had taken the matter to heart and worked on the issue. He referred to the addition of troopers in DPS. He referred to personal experience being a victim of crime and having proximity to opioid abuse. He considered that the legislature was taking a measured approach to make the changes correcting SB 91. He agreed with the assertion that the legislation would need time to work.

Vice-Chair Bishop referred to a discussion with a trooper the previous summer, who had relayed there was about 50 or 60 known individuals causing a problem in his district. The trooper considered that if the individuals could be apprehended, a large part of the problem would be solved in Fairbanks. He wondered if the commissioner could estimate a similar number for the city of Anchorage.

Commissioner Monegan was not aware of a number for Anchorage. He referenced the homelessness issue and suggested that 10 percent of the population accounted for 90 percent of the police transports. He thought the

comments by the trooper had some basis in other issues. He thought if such individuals were held accountable for what they were doing, the percentage would go down.

Vice-Chair Bishop hoped that the bill would include education, training, and treatment so that offenders would not go back out on to the street to re-offend.

Commissioner Monegan answered in the affirmative.

3:47:45 PM

JOHN SKIDMORE, DIRECTOR, CRIMINAL DIVISION, DEPARTMENT OF LAW, discussed questions that had been posed from the public. The questions included what could be done to address problems, and how could people get the criminal justice to be more responsive to concerns. He thought the Senate had already taken action by passing SB 54, which contained multiple tools that allowed law enforcement to address most of the problems that people had repeatedly (vehicle thefts, arrests, immediate release). He thought all of the concerns had been addressed through various provisions in SB 54.

Mr. Skidmore emphasized that he agreed with what the commissioner had stated, that SB 54 was not a silver bullet that would magically fix everything. The legislation did return discretion to courts; and provided additional tools to law enforcement, prosecutors, and courts to try and respond to some of the problems such as the opioid crisis. He agreed with Senator Coghill and others in the assertion that other parts of SB 91 were very important in trying to address some of the criminal justice issues in the state.

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Senator Olson thought one criticisms of the bill had been that judges were not exercising every tool at their disposal. He thought Mr. Skidmore had commented that the courts had been re-empowered to mitigate the crime rate. He was referring to a time frame from ten years previously to about five years previously.

Mr. Skidmore was not familiar with the criticism that judges were not exercising the discretion they had to try and address problems. He relayed that ACJC had found that sentencing offenders to lengthy periods of incarceration

(when they were low risk offenders) was not helpful and could be counter-productive. One of the things SB 91 attempted to do was to adjust sentencing discretion downward slightly in order to be more similar to that in 2005-2006. He thought that the discretion had been limited more than it should have been for first-time Class C felonies.

Mr. Skidmore detailed that SB 54 did not try to adjust all sentencing provisions in law. He thought SB 54 focused on areas where discretion had been limited too much; including first-time Class C felonies, which it adjusted zero to one year. The zero to one-year sentencing range encompassed two types of jail: active imprisonment and suspended time. The provision would return discretion to the judges and was trying to strike a balance.

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Senator Olson used the example of a judge sentencing a high-risk individual to five years with two years suspended. He thought judges had suspended sentences to the point where criminals became more antisocial.

Mr. Skidmore found it difficult to comment without knowing specifics of the example, but thought the analogy concerned an individual who was a repeat felony offender. He thought there needed to be some sanction for such individuals. He knew that almost anyone sentenced to time in jail would be released, and the suspended time was hanging over the offender's head while on probation. He knew that DOC was focusing on trying to reduce recidivism through considering what could be done while someone was in custody, and what could be done when an individual was released and returning to society.

Senator Dunleavy thought there was speculation as to whether the administration would make criminal justice reform a priority focus for the coming year. He wondered if there would be resources moved within the budget to focus on the issue. He referenced Alaska's Liquid Natural Gas project as an area from which funds might be switched.

Commissioner Monegan stated that the administration had just recently had a cabinet retreat; at which time the governor had relayed his intention to work towards a safer, smarter, and stronger state. The governor had expressed

that his priority was public safety. The commissioner acknowledged the concerns of member's constituents.

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Senator Wielechowski recalled that the criminal division had cut 31 prosecutors and staff, and thought that (according to the attorney general) there had been 7,000 fewer prosecutions between 2015 and 2016 as a result of the cuts. The previous year the legislature had added back 3 prosecutors, and he asked if Mr. Skidmore believed that the department had enough prosecutors and staff so that criminals were not being set free without consequences.

Mr. Skidmore stated that the division needed more prosecutors, while acknowledging the state's fiscal limitations. He thought the LAW budget was an ongoing topic of discussion in the administration. He stated that the department would follow the lead that was given to them based on the resources that were available.

Senator Wielechowski considered that the administration's top priority was public safety and asked how many more prosecutors and staff the division would need. He had heard a statistic that 90 percent of crimes were drug or alcohol related, and roughly 50 percent of crimes were committed by people with mental health issues. He wondered if the state was devoting enough resources to substance abuse treatment and mental health treatment.

Mr. Skidmore contemplated society and the criminal justice system, and thought the issue of criminality was not solved by merely considering how many prosecutors were needed. He emphasized that more prosecutors would be needed if there was more law enforcement on the streets. He contended that if there were more prosecutors, then more defense attorneys and judges would be needed as well as more space for whatever sanctions were imposed. He did not think the issues were straightforward. He thought it was important to consider society and the entire system as a whole.

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Senator Micciche thought there seemed to be no correlation between spending and the crime rate. He asked if Mr. Skidmore agreed with the statement.

Mr. Skidmore was unsure of how to answer. He qualified that law enforcement and prosecutors responded to the crimes that existed. He pondered if it would drive down the crime rate if the state simply responded to crimes that existed. He thought that with increased spending for the criminal justice system as a whole, it would be easier to hold people accountable and get them the needed treatment. Conversely, when the system was cut back, there was less of the necessary structure needed to help people. He did not want to say there was causation.

Senator Micciche referred to other states that were spending money on the opioid problem, and still experiencing increased crime rates. He did not think that the numbers were correlated. He asked if there was an increase in opioid abuse. He discussed prescription drug and opioid fatalities in the state, which had followed the national trend of increasing significantly. He asked about other ways to measure an increase in opioid abuse that led to crimes.

Mr. Skidmore thought the question of how to quantify opioid abuse was not an easy question to answer. He thought it seemed to make sense to look at the amount of treatment that was available in the state, as well as if there had been an increase or decrease in the use of the treatment. He wondered about a way to measure criminal cases and the percentage associated with alcohol or drugs. He thought the legislature could undertake measures to require the data to be gathered.

Mr. Skidmore anecdotally agreed with Senator Wielechowski's assertion that 90 percent of cases were related to drug or alcohol use. He discussed his wife's practice as a healthcare provider and the increased patient struggles with alcohol and drugs. He did not doubt that the problem of opioid abuse was increasing, but thought it was difficult to measure. He thought trying to treat those that were suffering from opioid addiction was one of the most important things the state could do, and he thought it was what the criminal justice reform efforts had tried to achieve.

Mr. Skidmore thought SB 54 continued towards the goal of assisting those suffering from opioid addiction and abuse. He stated that one of the reasons the department had supported the zero to one-year sentencing discretion for

the court (for first-time C felonies) was that it was the same amount of time that the judge legally had to order an offender into residential treatment. He stated that residential treatment was needed for many types of opioid abuse. He suggested that treatment was one of the steps that could be taken to address the problem.

[4:06:57 PM](#)

Senator Micciche referenced interrupting the flow of illegal drugs into the state. He discussed the many geographic access points to the state, and the propensity for preventing drugs from entering. He wondered about the constitution, and how it might hamper public safety and prosecution. He asked if privacy was a problem. He asked about the departments vision for further prevention efforts.

Mr. Skidmore stated that the administration certainly wanted to expand efforts to interrupt the flow of drugs into the state. He knew that the administration had recently spent time analyzing the problem and believed they had come up with concrete steps they were hoping to discuss publicly. He disagreed with the notion of the constitution being in the way. He affirmed that the laws of privacy prevented officers of the law from searching every single person that entered the state, and attested that he would not want to live in a place where such a search was possible. He thought it was important to stop the flow of drugs while respecting the values that everyone agreed on.

Vice-Chair Bishop remarked that a U.S. Customs agent had thoroughly checked his bags.

Commissioner Monegan stated that he supported criminal justice reform for financial reasons as well as humanitarian reasons. He thought that the savings would bolster needed services such as substance abuse treatment. He discussed the importance of a small window of time for treatment of addiction. He mentioned the long wait time for treatment. He asked the committee to consider criminal justice reform as a healing concept rather than just a punitive concept.

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Chair Coghill thanked the commissioner and the director for their testimony on the bill. He commented on the concern for public safety by the administration and the legislature. He emphasized the need for getting resources to the right place. He remarked that society was producing problems faster than the agencies knew how to respond. He considered that some of the reforms were not being implemented yet. He reiterated three dates to make note of:

July 2016 - reforms began to be implemented, and reinvestment into programs began

January 2017 - community supervision and parole policies put into place

January 2018 - pretrial supervision will begin

Chair Coghill emphasized that pretrial supervision would begin for the first time in the state, which he thought would be greatly beneficial. He explained that approximately \$26 million had been focused towards different areas such as victim's advocacy and Department of Corrections treatment issues. He acknowledged that new efforts were not immediately functional or perfect. He recommended that members and the administration review the ACJC report that came out October 22, 2017. He thought many of the issues discussed during the meeting would be addressed in the commission's report, including the next steps for addressing behavioral health issues.

Chair Coghill appreciated comments by LAW that referenced returning discretion to judges and tools to hold people accountable. He mentioned issues after SB 91, and the resultant public outcry and dissatisfaction of police. He thought it was important to get the tools in the hands of LAW and police to ensure that when someone cried out for help, there was the means to help them.

[4:15:02 PM](#)

Senator Micciche referred to his constituency and asked about car thefts, burglaries, and shoplifting. He referred to store owners no longer attempting to stop shoplifting because of lack of response from law enforcement. He wondered what to tell constituents that believed SB 91 was the cause of increased crime.

Mr. Skidmore thought that the repeal of SB 91 would result in the loss of many important steps that had been taken to reform the criminal justice system. The overall concept of the effort was to reduce recidivism. He thought there were important concepts in SB 91 that should not be thrown out. He thought the areas of concern were regarding Phase 1 (classification and sentencing). After they were implemented, LAW had determined that some of the reforms had unintended consequences, and the department had made suggestions to make alterations to the law. He thought the right steps had been taken in introducing SB 54. He acknowledged that SB 54 would not be an immediate solution, but thought that it provided appropriate discretion for law enforcement, prosecutors, and judges to try and respond to crime.

Mr. Skidmore reiterated that repealing SB 91 would undo many of the good things that had been accomplished. He used the example of an individual on probation, and the efficacy of using incentives along with disincentives.

Co-Chair Hoffman thanked the committee members for their questions. He thanked the testifiers for their participation. He thought members of the public should identify that the Senate was concerned about public safety, and was sincere in its efforts to correct and reverse the problems facing the state. He reminded that SB 54 was in the other body awaiting action. He specified that the bill included an extension of ACJC, and the committee had just received the commission's latest report the previous day. He emphasized that the Senate was willing and able to address the safety of the people of Alaska.

Co-Chair Hoffman discussed the agenda for the following day.

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ADJOURNMENT

4:20:01 PM

The meeting was adjourned at 4:19 p.m.

