

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

February 27, 2019

1:32 p.m.

**MEMBERS PRESENT**

Senator Shelley Hughes, Chair  
Senator Lora Reinbold, Vice Chair  
Senator Mike Shower  
Senator Peter Micciche  
Senator Jesse Kiehl

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

PRESENTATION: Alaska Criminal Justice Commission - Criminal  
Justice Data

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

MS. SUZANNE DIPIETRO, Executive Director  
Alaska Judicial Council  
Anchorage, Alaska

**POSITION STATEMENT:** Presented an overview of the Alaska Criminal  
Justice Commission - Criminal Justice Data.

**ACTION NARRATIVE**

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**CHAIR SHELLEY HUGHES** called the Senate Judiciary Standing  
Committee meeting to order at 1:32 p.m. Present at the call to  
order were Senators Kiehl, Micciche, Shower, Reinbold and Chair  
Hughes.

**Overview of Alaska Criminal Justice Commission - Criminal  
Justice Data**

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CHAIR HUGHES announced that the first order of business would be an overview of Alaska Criminal Justice Commission - Criminal Justice Data.

CHAIR HUGHES made opening remarks.

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SUZANNE DIPIETRO, Executive Director, Alaska Judicial Council, Anchorage, explained that the Alaska Judicial Council (AJC) by statute provides staff for the Alaska Criminal Justice Commission (ACJC), so she would be testifying as staff to the commission.

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MS. DIPIETRO began the PowerPoint on the Alaska Criminal Justice Commission - Criminal Justice Data. She reviewed slide 2, "Information Collected and Analyzed by ACJC, AS 44.19.647."

- Information about sex offense cases
- Trends for supervision violators
- Crime trends
- Trends in pretrial outcomes

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MS. DIPIETRO reviewed slide 3, "Sex Offenses Victimization, Reporting to Law Enforcement, Prosecution, Conviction & Beyond." She described the process used for processing sex offenses, such that law enforcement would refer cases to prosecution, prosecutors would file charges, the courts would determine the guilt or innocence and sentencing, and the Department of Corrections would supervise sex offenders on parole.

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MS. DIPIETRO reviewed slide 4, "Forthcoming Alaska Criminal Justice Commission Report to the Legislature AS 44.19.645(4)." She stated that the Alaska Criminal Justice Commission (ACJC) just completed its report on sex offenses. This effort was commissioned by the legislature and the ACJC would present its findings next week. Most of the information she would summarize today was derived from the report, she said.

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MS. DIPIETRO reviewed slide 5, "Sex Offenses Report, Data Limitations."

- Exact figures on victimization are impossible, but victimization surveys indicate that sexual violence is pervasive in Alaska
- No one study has followed all sex offenses in Alaska from report through to disposition
- Existing data indicate that many people who commit sex offenses are not reported, arrested, or prosecuted
- Many reasons for this, including societal pressure not to report and standard of proof required for criminal cases

She said that it is often difficult to obtain accurate information on the level of victimization in the state, which the committee discussed at a previous hearing. In terms of sex offenses, the state has never had a study that followed sex offenses from victimization through the reporting, prosecution, and conviction process. She offered to piece together the information on each stage of the process to provide a sense of the order of magnitude and how sex offense cases move throughout the system. Many victims do not report victimization, so many people who commit sex offenses are never arrested or prosecuted for a number of reasons including societal pressure not to report and the high standard of proof required for criminal cases.

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MS. DIPIETRO reviewed slide 6, "Sex Offenses Case Processing." She reviewed the slide consisting of a schematic that described how sex offense cases are processed in Alaska. She said an incident occurs and if it is reported to law enforcement, law enforcement would investigate. If enough evidence exists to move forward, the case would be referred for prosecution. After evaluating the strength of the case, the prosecutor would decide whether to move forward, and if so, charges are filed. In the court process, the defendant would either be acquitted, charges would be dismissed, or the person would be convicted. The defendant might be convicted of charges not originally filed. If convicted, the defendant would be sentenced and referred to the Department of Corrections. After the defendant has served the

sentence, the sex offender would be supervised on probation or parole.

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SENATOR SHOWER asked whether data was available on the number of cases prosecuted or not prosecuted.

MS. DIPIETRO said she would cover that during the presentation.

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MS. DIPIETRO reviewed slide 7, "Estimates of Incidents of Sexual Violence."

#### 2015 Alaska Victimization Survey

- 2.9% of the women surveyed said they had experienced sexual violence within the previous year;
- Using Department of Labor population estimates, 2.9% of adult women in Alaska equates to about 7,136 individuals in 2015;
- Reported experiences may not be crimes;
- Some populations excluded from survey.

She explained that the Council on Domestic Violence and Sexual Assault has twice conducted a victimization survey in partnership with the University of Alaska Justice Center. This survey did not ask victims whether a statute had been violated. Instead, the survey asked victims about "sexual violence." For example, a question would ask whether a person through threats or force made the victim have sex against his/her will. She stated that the surveys were conducted by telephone so people without phones were not surveyed, which would skew the data. She reviewed the data, noting that 2.9 percent of the women responded that they had experienced sexual violence within the previous year. Although the process to extrapolate the number of victims was not done using the most rigorous analysis, it helps to give a sense of the magnitude of victims. She noted that the victims surveyed were all women.

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MS. DIPIETRO reviewed slide 8, "Reports to Law Enforcement."

Victim responses to sexual violence are varied:

- Some victims disclose to someone else;
- Some victims do not disclose to anyone;
- The closer the relationship between the victim and the attacker, the less likely the victim will report to police;
- In 2017, 1,475 felony sex offenses were reported to Alaska law enforcement.

She said that many people do not necessarily report sexual offenses to law enforcement.

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SENATOR MICCICHE related his understanding that the figures spanned a year, but over ten years the figure would not correlate to 29 percent. He asked whether that factor was part of the data set.

MS. DIPIETRO answered that the survey was conducted twice. It contained some lifetime questions. Some respondents were asked if they had ever experienced sexual violence in their lifetime. She said the survey responses were posted online and the figures were much higher although she did not recall them. She offered to report back to the committee. She said that in 2017, 1,475 felony sex offenses were reported.

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MS. DIPIETRO reviewed slide 9, "Disposition of Reports to Troopers." She directed attention to the pie chart on the slide that illustrated the disposition of reports to the Alaska State Troopers from 2008-2011. She noted that it does not include municipal law enforcement. First, 37 percent of the cases did not result in an arrest or referral. Some were closed as unfounded and others were closed by investigation, which meant that law enforcement did not find enough evidence to arrest the perpetrator. She stated that 38 percent of the cases were referred and accepted for prosecution. Approximately 6 percent of cases were referred and declined for prosecution. She said that 19 percent of cases led to an immediate arrest. She acknowledged that a substantial number of cases were not prosecuted.

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CHAIR HUGHES reconvened the meeting.

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SENATOR KIEHL asked whether the figures were similar for municipal law enforcement offices.

MS. DIPIETRO answered that she did not have that data, but she thought it would be possible to obtain it, particularly in working with the Anchorage Police Department.

SENATOR KIEHL said he thought the information would be very valuable.

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CHAIR HUGHES asked whether there was any sense of the figures if men and boys were included. She related her understanding that about 10 percent of the victims are male.

MS. DIPIETRO said she was unsure, but she recalled that Ms. Monfreda covered it during a previous committee meeting.

CHAIR HUGHES indicated that the figures would increase if male victims were included.

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MS. DIPIETRO reviewed slide 10, "Outcomes of Arrests by All Law Enforcement Agencies Combined."

- Sex offense arrests by all law enforcement agencies in Alaska, 2008-2011
- 1,460 arrests
- 97.1% of these arrests led to prosecution.

She said that 1,460 arrests were made by all law enforcement agencies. When the response begins with an arrest, it often leads to prosecution. She said the percentage of those arrested who were prosecuted was quite high.

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MS. DIPIETRO reviewed slide 11, "Prosecution: Charging to Disposition." This bar chart depicted the number of court cases disposed in 2017. The most serious initial charge was sexual abuse of a minor in the first degree. She reiterated the process, that the prosecutors screen cases for probable cause to

move forward. She described the court process as an adversarial process that could be resolved by a trial, but most often through a plea agreement. She provided examples for all the cases completed in 2017, including those with charges filed in prior years. Almost all cases with an initial charge of first-degree sexual abuse of a minor resulted in a conviction of some charge. She pointed out that 5.3 percent of cases were dismissed or acquitted, but only 23 percent were convicted of the initial charge. She directed attention to the bar charts that showed the remainder were convicted of lesser charges.

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SENATOR KIEHL asked whether an acquittal rate of one in 20 meant not enough cases were being charged.

MS. DIPIETRO deferred to the Department of Law. She said that another slide compares the acquittal and dismissal rate for sex felonies to other types of felonies. She said that the dismissal rate for sex felonies was a bit higher than for other felonies.

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SENATOR SHOWER asked whether 52 percent of the cases closed in 2017 that were initially charged with first degree sexual abuse of a minor were ones in which the defendant pled down via a plea agreement. He offered his belief that it seemed like a pretty high rate.

MS. DIPIETRO answered that it could be a plea agreement or if it went to trial, the jury may have found the defendant guilty of a lesser charge. She said the report will reflect a variety of other charges.

MS. DIPIETRO reviewed the bar chart on slide 12, "Prosecution: Charging to Disposition, Court Cases Disposed in 2017: Most Serious Initial Charge was 1st Degree Sexual Assault." She pointed out that 11.3 percent were convicted of the original charge. The remainder of the slide showed 24.2 percent of the cases were dismissed or acquitted, 12.9 percent were convicted of misdemeanor offenses, 41.9 percent were convicted of other felony offenses, 8.0 percent were convicted of class B sexual assault in the second degree and 1.6 percent were convicted of class A attempted sexual assault in the first degree.

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MS. DIPIETRO reviewed slide 12, "Case Resolutions for Felony Sex Offenses Compared to Felony Assaults." She said that ties into Senator Kiehl's earlier question, which was one shared by the

commission. This pie charts shows the differences. The acquittals in felony assault cases in 2017 were smaller than the ones for felony sex offense cases. However, the conviction on any charge was roughly comparable, she said.

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SENATOR KIEHL asked how Alaska's statistics compared to other states.

MS. DIPIETRO offered to research it and report back to the committee.

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MS. DIPIETRO reviewed slide 13, "After Conviction."

Virtually all defendants convicted of a sex offense receive a sentence of incarceration;

Once released from prison, sex offenders are monitored closely by probation officers (containment model) for extended periods of time;

Sex offenders are less likely than other felony offenders to be convicted of a new crime after being released from prison;

Sex offenders are infrequently convicted of new sex offenses after being released from prison.

She said the only reason defendants would not receive a sentence of incarceration would be if the person spent a lot of time in pretrial detention. She said that offenders released from prison are felons. She said the Department of Corrections uses a containment model, which involves close supervision. She said it was encouraging to learn that offenders are infrequently convicted of new sex offenses after being released from prison.

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SENATOR KIEHL asked for her sense of the magnitude of recidivism.

MS. DIPIETRO answered that it was significantly less likely, although it would depend on how it was counted. She explained that staff was working to ensure that the data being used from different sources would compare "apples to apples." The ACJC was also working to ensure that the information was consistent with other studies. It was pretty consistent with national statistics

and findings. She reported that based on 7-8 years of studies, approximately 1-3 percent of sex offenders were convicted of a new sex offense. She suggested that many of them would still be on probation.

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CHAIR HUGHES asked whether she had data for post-probation violations.

MS. DIPIETRO answered that the probation period varies, so she did not currently have that data point. However, it would be helpful to have that statistic, she said.

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SENATOR REINBOLD said that Senator Hughes found that 63 percent of sexual offenses were unreported nationwide. She said she wanted to be certain the committee was aware that the statistics were convictions not incidences of sexual assault.

MS. DIPIETRO agreed. She said that she was providing small bits of the data, but the report breaks it down by rearrests and returns to prison for probation violations.

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CHAIR HUGHES recalled that 7,000 sexual assaults occurred per year, with 1,300 reported, but 100-200 were convicted. She expressed an interest in what policy makers could do and what tools law enforcement, prosecutors, and judges needed to change the conviction rate.

MS. DIPIETRO agreed that 220 people were convicted of a sex offense in 2017.

SENATOR HUGHES asked for further information on the flowchart of cases processed [as shown on slide 6].

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SENATOR SHOWER referred to page 7. He asked for further clarification on the populations that were excluded from the survey.

MS. DIPIETRO answered that victims without a phone, children, and men were not surveyed. In further response to Senator Shower, she said that children were younger than age 18. She said that the commission would like to have better data.

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SENATOR REINBOLD remarked that the mean age for rape was 15 years of age. She expressed concern that this group of victims was not captured.

MS. DIPIETRO said the survey was done by the Council on Domestic Violence and Sexual Assault and the University of Alaska Justice Center. She said she didn't know for sure, but she imagined that it might be harmful to survey minors about their experiences with sexual victimization.

SENATOR REINBOLD said it was appropriate to get the information. She said the committee just received the Uniform Crime Statistic Data and that age was being targeted.

CHAIR HUGHES pointed out that privacy issues also must be considered. She said that it might mean figuring out how a small sampling could be done with parental permission.

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MS. DIPIETRO reviewed slide 15, "Trends in Criminal Justice, Probation and Parole." She provided an overview of the probation and parole process. She said that probation and parole typically was for the period at the end of the process. The offender has typically been incarcerated. During this period those defendants convicted of felonies would be supervised to help them reintegrate into society and to rehabilitate them. The judge who presided over the person's sentencing would issue an order outlining the conditions of probation. These conditions would outline rules and tasks that the probationer must accomplish while on probation. The judge would be careful to order things that would help rehabilitate the offender. The probation officers would provide tools to encourage and incentivize probationers to complete the tasks that will lead to their rehabilitation. The probation officers could also formally sanction probationers via a petition to revoke to the court if they engage in illegal activities or antisocial behaviors.

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MS. DIPIETRO, reviewed slide 16, "Probation and Parole." The bar graphs on the slide showed the probation and parole discharges since the new administrative sanctions and incentives were implemented. She reported a slight dip in successful probation and parole discharges in FY 2015 - 2016 followed by substantial increases in FY 2017 - 2018.

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MS. DIPIETRO reviewed slide 17, "Supervision Violators." She explained that the current system was an evidence-based system that relies on the theory that swift, certain, and proportional sanctions would be more effective at controlling probationers' behavior than delayed, uncertain, and disproportionate sanctions. She explained that the department has caps on the first three technical violations. The violator would be arrested immediately, serve his/her time, and be released again. She said this chart indicates the number of people who have been admitted to the Department of Corrections on a Petition to Revoke Probation (PTRP). The slide indicates that 1,426 PTRP's were issued between January 1, 2017 and December 31, 2018, that 630 were issued for second violations, and 366 for third violations. The number of PTRPs drops off for the fourth, fifth, and sixth violations, she said. This slide illustrated the principle that swift, certain, and proportional sanctions result in fewer probationary violations. Prior to implementing this system, sanctioning was inconsistent throughout the state. The new regime provided more continuity and certainty in the system so that probationers understand that consequences follow any violations.

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SENATOR KIEHL asked whether the previous system had different punishments for the same crimes.

MS. DIPIETRO answered that the Alaska Criminal Justice Commission (ACJC) found that some of the weaknesses in the old system were that probation officers were sanctioning inconsistently throughout the state for similar behavior. For example, a missed appointment or drug test failure might be handled differently by individual probation officers for probationers. One of the theories was that the punishment should be certain. Everyone should know the rules, she said. Probationers should know the consequences for inappropriate behavior.

She explained that previously supervision violators used 22 percent of prison beds on any given day. Probation officers were spending 109 days to adjudicate a Petition to Revoke Probation (PTRP) written primarily for technical violations. She said the current goal was to sanction violators, connect their actions to consequences, and get them in and out of the system quickly. This will avoid clogging up the system, she said.

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SENATOR KIEHL asked about swiftness, and for a comparison of the administrative actions to the old system.

MS. DIPIETRO answered that the administrative sanctions and incentive system includes incentives. Probationers can be rewarded for pro-social activities such as completing treatment and paying restitution. The administrative sanctions and incentives put in place by criminal justice system reform [in Senate Bill 91 law] were not the kind of sanctions and incentives that send probationers back to jail. Instead, they are administrative tools that the probation and parole officers can use to encourage pro-social behavior and discourage anti-social behavior without actually sending the offenders back to jail. The officers can use those options or file a PTRP with the court. That mechanism means the probationer would be arrested and remanded to prison for three, five, or ten days, depending on whether it was the first, second, or third violation.

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SENATOR REINBOLD asked for further clarification on the caps for swift punishment and if it was one, three, or five days.

MS. DIPIETRO answered that caps are not used for probationers who break a substantive rule or commit a new crime. Caps are in place for those probationers who commit a technical violation, such as missing an appointment, or having drugs or alcohol in their system. She said it is not illegal to miss an appointment, but they broke the rules and need to be sanctioned. She outlined the caps for technical violations at three, five, and 10 days for the first, second, and third violations. After the third violation, the judge could impose any sanction that he/she found appropriate.

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SENATOR REINBOLD said the Department of Law reported that these sanctions were not working. She said that if offenders were told to avoid chemicals, but they do not avoid them, it could be serious.

She advised members she reviewed the average age for victims of sexual assault in various parts of the state. She said that the average age of victims in Western Alaska was 13, in Anchorage it was 12, and in Southeast Alaska it was 15 years of age. She said that overall about half of the victims are children, but the median age was 18 years old. She said the record should reflect that the Uniform Crime Statistics have shown a dramatic increase of crimes since 2014 when Senate Bill 64 created the Criminal

Justice Commission. She characterized the increase as a rampant epidemic of crime in Alaska. She said the commission could massage the data, but she would be looking to the Uniform Crime Statistics since those figures relate to real offenses.

MS. DIPIETRO agreed it would be helpful to have a victimization survey of underage victims. She suggested that she could speak with Senator Reinbold about other information she might find more helpful than the data she was providing today.

SENATOR REINBOLD said that the Department of Law has provided her with sufficient data.

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MS. DIPIETRO reviewed slide 18, "Supervision Violators, Average Length of Stay for Probation/Parole Violations, Sentenced and Unsentenced, in Days." She reviewed the bar charts of supervision violators who were not successful. She explained that the length of stay was going down, but this did not mean that violators were not being sanctioned. It simply meant that violators were being sanctioned with shorter amounts of time. Prior to implementing the new system, a number of Petitions to Revoke Probation (PTRP) would be stacked up and be adjudicated all at once. This meant a violator would go back to jail for an average of 109 days, just long enough to completely destabilize the violator by taking him/her away from any pro-social activities the person managed to accomplish. However, evidence did not support any benefits derived compared to the cost of the longer incarceration stays.

One interesting point was that successful probation and parole discharges were increasing, which meant that low-risk offenders were succeeding and being discharged. The result of discharging low-risk offenders reduced the caseload and allowed probation officers to focus on medium and high-risk probationers who need more supervision. She reiterated that sanctions should be swift, certain, and proportional, but not necessarily lengthy. She said that the trends were encouraging.

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MS. DIPIETRO reviewed slide 19, "Supervision Violators, Admissions to DOC for Probation Violations Jan. 1, 2017 - Dec. 10, 2018," to a chart that showed the average incarceration in days for petitions to revoke probation. Graduated sanctions were instituted to change behaviors by increasing sanctions for each repeat violation, she said. She said that sanctions were

stepping up, which was exactly what the commission hoped would happen.

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SENATOR KIEHL related his understanding that the first petition was for three days. However, the chart showed an average incarceration of 16 days for 1 PTRP.

MS. DIPIETRO answered that the chart included all PTRPs, some of which were non-technical violations that were subject to longer incarceration.

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MS. DIPIETRO reviewed slide 20, "Supervision Violators in Prison." The results of the new system using sanctions and incentives along with informal and formal methods of controlling behavior were reflected in the two pie charts on the slide. The number of beds taken up by supervision violators were reduced. Before new procedures went into effect, supervision violators represented 20 percent in FY 2015 as opposed to 14 percent in FY 2018.

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SENATOR KIEHL asked whether she could provide figures in addition to the percentages shown on the pie charts.

MS. DIPIETRO recalled that the total number of inmates in the Department of Corrections system was approximately 4,800 - 4,900. In FY 2018, it was approximately 4,600 - 4,700. She offered to provide the exact figures.

CHAIR HUGHES clarified that reducing the supervision violators did not mean that more people were incarcerated. She did not want the public to think that more convicted criminals were in jail.

MS. DIPIETRO agreed that these were percentages and not actual figures. She offered to provide actual numbers to the committee.

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MS. DIPIETRO turned to the Crime Trends portion of the overview. She reviewed slide 22, "Long-Term Crime Rate Trend, Alaska 1976-2017 (Homicide, Rape, Robbery, & Aggravated Assault)." She said that Ms. Monfreda, Department of Public Safety, gave an excellent presentation to the committee on the most recent crime statistics. Some questions were asked about historical crime trends. This line graph depicts the 30-year trend for violent

crimes of homicide, rape, robbery, and aggravated assault, adjusted for the change in population to allow for year-to-year comparison. She pointed out that the line jumps around quite a bit. She said she was unsure of what caused the dips in 1984 and 2014, but unfortunately violent crime in Alaska has been rising for a number of decades.

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SENATOR MICCICHE observed that drive by shootings, possessing explosives, arson, and other crimes were not included. Those are some of the issues that need to be considered since they also constitute violent crimes, but it was not how Alaska has regarded them.

MS. DIPIETRO characterized her presentation as a 30,000-foot view, one that examined the trends.

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MS. DIPIETRO reviewed slide 23, "Long-Term Property Crime Rate Trend, Alaska 1976- (Burglary, Larceny-Theft, & Motor Vehicle Theft)." She referred to a line graph that depicted the long-term crime rate downward trend with spikes in 1980 and a low point in property crime in 2011. One could speculate, but the interesting takeaway was that the property crime rate was decreasing until it began increasing in 2015. She said she did not want to make any comments on the recent crime statistics but to consider the long view.

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SENATOR SHOWER said that the chart did not make any sense to him. The committee recently reviewed the Uniform Crime Statistics and he recalled those statistics reported 17,000 crimes related to burglary, theft, and motor vehicle thefts. He further recalled that the motor vehicle thefts alone were 4,000. However, this chart indicated a total of 3,539 property crimes in 2017.

MS. DIPIETRO answered that these figures represented rates and not absolute numbers. This would also take into account the changing population. It would be the number of reported crimes divided by the population. Otherwise it would not be possible to compare 1976 to 2017 since fewer people resided here.

SENATOR SHOWER commented that it seemed misleading since the committee was aware of the crime happening in Alaska.

MS. DIPIETRO asked whether he would like to see the actual numbers. She said that she hopes that no one believes she was trying to say that the 2017 crime statistic presented by Ms. Monfreda was inaccurate. She agreed that crime was increasing.

SENATOR SHOWER said the trend appears to show it going down.

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SENATOR REINBOLD reported that there were 62 murders, 1,073 reported rapes, 949 robberies, and 4,236 assaults, 139 arsons, 4,250 vehicle thefts, 4,153 burglaries, 17,683 larceny thefts, for a total of 26,225 violent crimes and 6,320 offenses.

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SENATOR MICCICHE offered his belief that the long-term property crime trend was important to evaluate. Obviously, there has been a dramatic increase [since 2015-2016], but the rates were much higher in the 1970s and 1980. He noted the state experienced a recession in the late 1980s. However, it was imperative the committee understand the reasons and factors for high crime rates, such as socio-economic ones since the 1970s. He expressed an interest in learning what impacts caused the trends to change besides changes to Alaska's criminal statutes.

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MS. DIPIETRO reviewed slide 24, "Violent Crime Rate Trends by Location." This slide showed a line graph for violent crimes in Anchorage, Juneau, and Fairbanks between 2003-2017 including homicide, rape, robbery, and aggravated assault. She said that what happens in Anchorage substantially drives the statewide statistics since much of the population resides in the area. She expressed the wish that the Kenai Peninsula figures were also on the chart.

MS. DIPIETRO reviewed slide 25, "Property Crime Rate Trends by Location." This slide showed a line graph for property crimes [including burglary, larceny, theft, and motor vehicle theft in Anchorage, Juneau, and Fairbanks from 2003-2017. She stated that the commission considers the statewide view but local police resources, policing strategies, community cohesion and response, and social problems such as drugs and alcohol vary from community to community and affect the trends.

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MS. DIPIETRO turned to the "Pretrial Outcomes" portion of the overview, including bail, supervised release, and racial disparities. She said that this section would cover the time

period when defendants are arrested or charged with a crime and what happened during the timeframe when they are considered innocent, prior to case disposition or the "pretrial" period.

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MS. DIPIETRO reviewed slide 27, "Pretrial Outcomes - 2015."

2015 Alaska Pretrial Outcomes (findings from AJC court file review)

- A 2015 study showed about half of all defendants were detained pending disposition of their cases;
- Most defendants were given third party custodian and/or money bond conditions
- Alaska Natives were more likely than Caucasians to be detained pretrial (about twice as likely).

She said that the Alaska Judicial Council (AJC) did a study with the Alaska Criminal Justice Commission in 2015. They reviewed a sample of court case files of people who were arrested and charged with a crime. They determined who was detained and who was released on bail. The Constitution of the State of Alaska gives people who are charged the right to bail. The AJC data found that people who are detained during the pretrial period had worse outcomes and received longer sentences. Only half of all defendants were detained during the pretrial phase, which was one reason a number of beds in prison were taken up by pretrial detainees.

MS. DIPIETRO said that Alaska Natives were much more likely than whites to be detained during the pretrial period. She characterized that as an extremely robust finding. She said she found it to be quite unfortunate and shocking. The AJC took into account the type of charge, prior criminal history, and any other factors that might explain why Alaska Natives were more likely than whites to be detained pretrial. The AJC was not able to determine any legally relevant factors to explain that finding, she said.

She said that most defendants were given a third-party custodian requirement and/or a money bond.

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MS. DIPIETRO turned to slide 28, "Pretrial Outcomes - 2018." She reviewed the pie chart that depicted the number of defendants

released before their cases were disposed. This study does not include bail schedule releases, and 30 percent of all pretrial defendants in the 2018 sample were released on bail.

She cautioned members that the Alaska Judicial Council and the Alaska Criminal Justice Commission were still in the process of the study. Unfortunately, the changes to the pretrial system and bail system were so recent that not all of the people have made it through the process to disposition. She offered to provide some information, but more time was needed to allow cases to be completed.

MS. DIPIETRO explained the process. She said that when a person is arrested the person would be brought to a prison facility. Some people charged with misdemeanors might be released on the court system's bail schedule. Others who were not eligible for release would be booked into the facility. They would be given an arraignment before a judge, typically within 24 hours.

She said that during the arraignment the judge will determine whether the person should be released during the pretrial period and what conditions should be placed on them to ensure that the defendant would appear for the person's court hearing and not commit another offense while on release. The data depicted on the pie chart indicated that 69 percent of defendants were released on bail, and 31 percent were not released.

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MS. DIPIETRO reviewed slide 29, "Pretrial Outcomes."

#### Conditions of release

- Alcohol use/possession restrictions: 38%
- Electronic monitoring: 24%
- Drug or alcohol monitoring or testing: 21%
- About half of all defendants (released and not) had one or more of these conditions of release.

#### PED Supervision

- Judges ordered PED supervision for about half of the people they arraigned.

- About 78% of defendants who had a PED supervision order were released before their cases were disposed.

She reviewed the findings of the study related to conditions of release shown on the slide. She said that since January 2018 the Department of Corrections Pretrial Enforcement Division (PED) was created. She said that these officers can supervise individuals who were released during the pretrial supervision. She reviewed the PED supervision on the slide. The judge may also have ordered conditions that the person was unable to meet, such as a money bond, so not all of the defendants with a PED supervision order made it out.

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MS. DIPIETRO reviewed the bar chart on slide 30, "Pretrial Outcomes," depicting the rates of release by ethnicity for 2018.

She explained that the release rate was not as disparate as it once was. She characterized this as a very rudimentary analysis lacking a super rigorous investigation, but on its face, it appeared as though the disparity the council had documented prior to the pretrial system reform were diminishing.

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MS. DIPIETRO listed the members of the Alaska Criminal Justice Commission on slide 31.

MATT CLAMAN, EX OFFICIO, CHAIR ALASKA HOUSE OF REPRESENTATIVES

BRENDA K. STANFILL, VICE-CHAIR EXECUTIVE DIRECTOR, INTERIOR ALASKA CENTER FOR NON-VIOLENT LIVING

JOEL BOLGER CHIEF JUSTICE OF THE ALASKA SUPREME COURT  
SEAN CASE CAPTAIN, ANCHORAGE POLICE DEPARTMENT

ADAM CRUM, VALERIE DAVIDSON, EX OFFICIO COMMISSIONER, ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES

KEVIN CLARKSON, JAHNA LINDEMUTH ATTORNEY GENERAL, STATE OF ALASKA

AMANDA PRICE, WALT MONEGAN COMMISSIONER, ALASKA DEPARTMENT OF PUBLIC SAFETY

GREGORY P. RAZO, ALASKA NATIVE JUSTICE CENTER  
DESIGNEE; VICE PRESIDENT, CIRI

STEPHANIE RHOADES DISTRICT COURT JUDGE (RETIRED),  
STATE OF ALASKA

QUINLAN G. STEINER, ALASKA PUBLIC DEFENDER

TREVOR N. STEPHENS SUPERIOR COURT JUDGE, STATE OF  
ALASKA

NANCY DAHLSTROM, DEAN WILLIAMS, COMMISSIONER, ALASKA  
DEPARTMENT OF CORRECTIONS

STEVE WILLIAMS COO, ALASKA MENTAL HEALTH TRUST  
AUTHORITY

SHELLY HUGHES, JOHN COGHILL, EX OFFICIO ALASKA STATE  
SENATE

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SENATOR MICCICHE said the greatest impact on his community was from defendants in the pretrial phase because they reoffended while out on bail. As a legislator, he would like to know how to make effective changes, but this overview does not provide the means to do so. It talks about the percentage of people who are released or not released during the pretrial period, but it does not show the impacts to law enforcement. However, he offered his belief that it impacted public safety fairly negatively. He asked how many defendants failed to appear for court and how many violated conditions of release. He said he needs more information and data to help determine that answer. Now she can see why the [legislature] has been feeling so strongly that "we took the wrong path." He said that the increase in property crimes has not made him a big fan of this approach.

MS. DIPIETRO said that those types of questions were included in the study. She questioned whether she should speak about the preliminary findings today since not all the cases have been resolved. She said the preliminary data has been discussed at the Criminal Justice Working Group. She avoided releasing findings on failure to appear rates or new criminal activity and would need to revise it six months later when the cases that affect the rates were resolved. However, she understood the need for information now. The preliminary results showed the failure to appear rate has increased a little. The new criminal charge rates were a little lower than pre-Senate Bill 91 law. She said

the data seemed inconsistent with members' experiences. She asked members to keep in mind that prior to the pretrial system change, just 50 percent of defendants were released and about 37 percent of those people had a new arrest during the pretrial period. The arrest rates could be improved upon. The preliminary findings, without data from people still in the system show that the rate has decreased. Once the cases are resolved, those figures could increase, but right now it was lower than 37.

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SENATOR MICCICHE noted that she just mentioned lower charges and pointed out that the legislature was led to believe that other states had lower charges, fewer people in prison, and more people in pretrial services. At the time changes were made to the criminal justice system, he said no one ever made a correlation to lower crime rates. "And we were sort of led to believe that there would be lower crime rates," he said. The lack of reporting, decriminalizing some crimes, fewer arrests, and frustrated law enforcement could have a direct correlation to lower crime rates rather than actually reducing crime. He said that there is a disconnect from what was being reported and what actually was happening in communities. That disconnect needed to be eliminated. He offered his belief that he was swayed by figures from the Pew Charitable Trust and others. The same data points are being used and it just misses the point, he said.

CHAIR HUGHES offered her belief that Senator Micciche has made an excellent point. She asked whether the goal was to have less people incarcerated or less crime on the street.

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SENATOR SHOWER echoed Senator Micciche's comments regarding "disconnect" between data and the criminal activity in the communities. He said he was convinced that some of the changes such as reducing sentencing affect the statistics but has not actually lowered the crime rate. Instead, crime rates increased after enacting the crime bills. He offered to hold discussions with Ms. DiPietro on this issue.

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MS. DIPIETRO responded that the studies and research that the Alaska Criminal Justice Commission (ACJC) relied on were studies to reduce recidivism in the criminal justice system. Certainly, recidivism among people who had committed crimes and were in the system create part of the crime rate, but it was not the whole picture. People who have been through the criminal justice

system do not account for all of the reported crime in Alaska. Other people also committed crimes and that was part of the crime rate. Those two things cannot be equated.

She made the distinction between recidivism among people in the system, who were the ones the criminal justice system tried to reform and would like a better outcome versus the people who committed crimes who have not been part of the system. She said she did not wish to argue against the point being made, but she thought it was important to distinguish between the different types of criminal activity.

CHAIR HUGHES said that when the legislature changed the laws by downgrading crimes, it skewed the data. Even though some crimes were no longer being counted, crime rates have increased, so if those crimes were being counted, the crime rate would be even higher.

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SENATOR KIEHL suggested that as the legislature considers the correlations related to the crime bills, it would be valuable to see similar correlations to recent statutory changes that increased penalties for violent crimes and its impact on violent crimes, and whether these crime rates have increased or decreased. He also expressed interest in the correlation between increased law enforcement officers and prosecutors, as well as the number of cases not prosecuted, on crime rates and whether that could provide a better explanation.

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SENATOR REINBOLD referred to recidivism and ways to affect [the recidivism rates]. For example, under Senate Bill 91 law first time felony convictions did not result in jail time, so those offenders could continue to commit crimes in her community, which has experienced dramatic increases in crime. In addition, dismissing cases also affects the overall statistics.

She said that the people in her district want reductions in offenses. In response to the high number of Alaska Natives in the system, she pointed out the racial profile of crimes against victims and reported that 444 suspects were Alaska Native, 9 Asian, 51 black, 75 unknown and 111 Caucasian. She honed-in on the data that showed a disproportionate number of Alaska Native suspects and a disproportionate number of Alaska Native victims. She offered her belief that the number of Alaska Native victims has not been pointed out in the presentations she has heard. She said she was more interested in reducing the number of offenses

than massaging data and stopping "bad guys" from being imprisoned.

MS. DIPIETRO clarified that she did not say the absolute number of Alaska Natives being held in pretrial was higher than the absolute number of Caucasian offenders being held, just that it was disproportionate. She reassured Senator Reinbold that the commission intended to study the recidivism of people who were charged or convicted, whether they had a sentence of incarceration or not. She agreed with Senator Reinbold's comment that not everyone who was convicted was incarcerated. She said that it was important to pay attention to both.

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CHAIR HUGHES said she was intrigued that Ms. DiPietro indicated that there seemed to be no explanation for the higher rate of Alaska Natives, but with the change in criminal statutes the data seemed to be more balanced. She expressed interest in researching the reason for the substantial change since an explanation was not given. She noted that Ms. DiPietro also mentioned recidivism for sex offenders was lower than for overall offenses. She asked for additional information on what happened within the system, such as any new programs or other explanation for the impact on sex offender recidivism.

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CHAIR HUGHES reconvened the meeting and reviewed upcoming committee announcements.

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There being no further business to come before the committee, Chair Hughes adjourned the Senate Judiciary Standing Committee meeting at 3:06 p.m.