

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 26, 2024

8:02 a.m.

MEMBERS PRESENT

Representative CJ McCormick, Chair
Representative Kevin McCabe, Vice Chair
Representative Tom McKay
Representative Thomas Baker
Representative Justin Ruffridge
Representative Rebecca Himschoot
Representative Donna Mears

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

PRESENTATION(S): ADDRESSING DEATHS IN DEPARTMENT OF CORRECTIONS
CUSTODY AND PROPOSED SOLUTIONS

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

MEGAN WALLACE, Chief Counsel
Legislative Legal Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions on the legality of hearing the presentation on deaths in the Department of Corrections.

ACTION NARRATIVE

[8:02:46 AM](#)

CHAIR MCCORMICK called the House Community and Regional Affairs Standing Committee meeting to order at 8:02 a.m.

Representatives McKay, Baker, Ruffridge, Himschoot, Mears, McCabe, McCormick were present at the call to order.

PRESENTATION(S): Addressing Deaths in Department of Corrections Custody and Proposed Solutions

[8:02:46 AM](#)

CHAIR MCCORMICK announced that the only order of business would be a presentation on deaths in Alaska prisons by the American Civil Liberties Union (ACLU) of Alaska.

[8:03:40 AM](#)

REPRESENTATIVE MCCABE stated that before proceeding with today's agenda, he wanted to address a matter of concern regarding the presentation and the invited testifiers. He said it had come to his attention that the individuals present were actively involved in an active death lawsuit against the State of Alaska, and while it's the committee's job to deliberate various topics, it's important to acknowledge that [the legislature] is not a judicial body or court of law. He asserted that today's presentation pertain directly to facts alleged in ongoing lawsuits. The 2015 report appears to be an exhibit to the complaint in James Rider v. State of Alaska, which the ACLU is a party to. He added that Mason's Manual of Legislative Procedure ("Mason's") rule 111 regarding reference to questions before the court clearly advises that any matter awaiting adjudication should not be debated or discussed in the legislative body. He opined that participating in any conversation about this subject might unintentionally make [members] witnesses to the ongoing proceedings. Given the legal implications, he objected to proceeding on this matter until the legal proceedings are resolved.

[8:04:54 AM](#)

The committee took an at-ease from 8:04 a.m. to 8:18 a.m.

[8:18:35 AM](#)

CHAIR MCCORMICK said although he appreciated the remarks by Representative McCabe, the committee would proceed with the presentation as scheduled.

REPRESENTATIVE MCCABE maintained his objection.

[8:19:27 AM](#)

REPRESENTATIVE RUFFRIDGE requested that Legislative Legal Services be made available so that he could make an informed decision before voting on the matter and ask questions about the legal memorandum ("memo"), dated 3/25/24 [hard copy included in the committee packet], referenced by Representative McCabe.

[8:20:10 AM](#)

The committee took an at-ease from 8:20 a.m. to 8:22 a.m.

[8:22:27 AM](#)

CHAIR MCCORMICK noted that the committee had been joined by Megan Wallace, Legislative Legal Services.

REPRESENTATIVE RUFFRIDGE highlighted the 2015 Department of Corrections (DOC) report that was referenced in the legal memo. He asked whether Mason's Manual addresses public documents that are listed as an exhibit in a lawsuit and questioned whether such documents can be discussed in committee.

[8:23:29 AM](#)

MEGAN WALLACE, Legislative Legal Services, Legislative Affairs Agency (LAA), stated that the procedural restriction in Mason's advises the legislature to refrain from debating or discussing something that's awaiting active adjudication before a judicial tribunal. She acknowledged that the 2015 DOC report is available to the public, and that the litigation appears to reference the report and use its recommendations as a basis for arguments against the department's policies and procedures. The question as to whether to delve into the report and its relation to the pending litigation is at the discretion of the legislature and the committee, she concluded.

[8:25:13 AM](#)

REPRESENTATIVE RUFFRIDGE said he was trying to differentiate between discussing a public report versus discussing the details of a specific case. He opined that [discussing the report] would be appropriate since it is a publicly available document. He asked whether discussing the specific lawsuit was at issue, or whether it's discussing anything "in" the lawsuit [that's problematic].

MS. WALLACE said Mason's guidance refers to any matter awaiting adjudication; consequently, it depends on what's being adjudicated in court. she reiterated that it was be the committee's responsibility to ascertain whether the presentation would discuss these issues or the practices of the State of Alaska that may or may not be negligent or may have resulted in liability, which she described as a "blurrier" area of interpretation.

REPRESENTATIVE RUFFRIDGE pointed out that the lawsuit referenced in the legal memo sought, in addition to compensatory damages, a review of DOC, an audit of finances, a review of programming, medical screening practices, suicide watch protocol, staffing practices, and staffing shortages. He expressed concern that the ACLU's presentation appeared to discuss many of the same issues in the proposed solutions.

[8:29:01 AM](#)

REPRESENTATIVE MCCABE asked whether any questions asked by committee members or testifiers in today's hearing could be used in the court of law to support either side of the lawsuit.

MS. WALLACE answered yes, as any testimony or information shared would be part of the public record that either party could access. She noted that it would be up to the court to determine whether anything discussed could be admitted as evidence.

[8:30:11 AM](#)

REPRESENTATIVE MCCABE asked whether the court could interpret a committee member's comment as reflective of the entire legislature.

MS. WALLACE opined that it would not be an accurate reflection to say that "the legislature believes X, Y, and Z" based on [the comments] of a singular committee. Nonetheless, she reiterated that Mason's speaks to the risk of discussing matters that are pending active adjudication in court.

[8:31:33 AM](#)

REPRESENTATIVE MCKAY recalled an example involving a dispute between oil companies over road access on North Slope and asked whether Ms. Wallace was familiar with that recollection.

MS. WALLACE answered no, she was not familiar with it.

REPRESENTATIVE MCKAY said he shared that example to illustrate that the legislature's actions can be used in court.

[8:33:14 AM](#)

The committee took a brief at-ease at 8:33 a.m.

[8:34:46 AM](#)

A roll call vote was taken. Representatives Himschoot, Mears, and McCormick voted in favor of suspending Mason's Manual of Legislative Procedure Rule 111 for the purpose of hearing the ACLU's presentation. Representatives McKay, Baker, Ruffridge, and McCabe voted against it. Therefore, rule 111 was not suspended by a vote of 4-3.

[8:35:24 AM](#)

The committee took a brief at-ease at 8:35 a.m.

[8:35:34 AM](#)

CHAIR MCCORMICK stated that he wanted to personally apologize to the ACLU and to the individuals who had called in to testify. In addition, he apologized on behalf of the Alaska State Legislature for showing citizens how difficult it is to illuminate the crisis of deaths in Alaska's correctional system. He pointed out that he had not expected this from his vice chair and apologized for failing Alaskans and allowing them to die in custody.

[8:36:20 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:36 a.m.