

**SPECIAL ASSEMBLY MEETING  
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Meeting Minutes - August 31, 2016

**MEETING NO. 2016-30:** The Special Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 12:00 p.m. by Mayor Ken Koelsch.

**I. CALL TO ORDER / ROLL CALL**

Assembly Present: Mayor Ken Koelsch, Jesse Kiehl, Mary Becker, Debbie White, Maria Gladziszewski, Loren Jones, Kate Troll, Jamie Bursell, and Jerry Nankervis

Assembly Absent: None

Special Guests present: Senator Dennis Egan, and Jordan Schilling from Representative Coghill's office (telephonically)

Staff Present: City Manager Rorie Watt, Municipal Attorney Amy Mead, Deputy Clerk Beth McEwen, Police Chief Bryce Johnson, Deputy Municipal Attorney Jane Sebens, Assistant Attorney Robert Palmer, Assistant Attorney Sherri Layne, Assistant Attorney Trinidad Contreras, Law Office Manager Deb Senn, Community Development Director Rob Steedle, Finance Director Bob Bartholomew, Treasurer Cheryl Crawford.

**II. AGENDA TOPICS**

**A. Senate Bill 91**

Ms. Mead gave an overview of criminal justice reform in Alaska, what the philosophy was behind the movement, what the process the legislature implemented to meet its goals and how that resulted in Senate Bill (SB) 91 and what CBJ needs to think about moving forward.

She explained that in 2014, the legislature with SB 64 created the Alaska Criminal Justice Commission. They did that because Pew Research had reported that Alaska had the highest rate of recidivism in the nation. The Alaska prison population had grown 27% since 2005, which was three times faster than the Alaska population in general. She said that the pre-trial population, those incarcerated prior to standing trial had grown by 81%. Three quarters of those imprisoned had been imprisoned for non-violent misdemeanor crimes and the growth in the prison population had necessitated the construction of a new facility that had cost the state \$270 million and housed over 5,000 inmates and was predicted to be full at the close of 2014. The commission was tasked with looking at peer researched evidence on sentencing, corrections, and community supervision; taking input from the criminal justice stakeholders and developing recommendations aimed at "safely controlling prison and jail growth to recalibrate the state's correctional investments to ensure we are achieving the best possible public safety return on state dollars." Ms. Mead explained that the term "community supervision" is generally considered probation and parole. She also stated that in recognition of the budget difficulties the state was facing in 2014, the commission was tasked with bringing forward recommendations to reduce the prison population and thus free up funds for reinvestment purposes. In other words, to come up with a Smart Justice approach to use in Alaska. Smart

Justice is a philosophy that has been used by approximately 31 other states and looks at solving problems such as mental health, addiction, employment, education, and social problems that research has shown eventually lead to crime; and addressing the social problems in order to reduce the crime.

She said there are two initiatives underway in Alaska to implement Smart Justice. One is the "Results First" initiative and the other is the "Justice Reinvestment" initiative. The difference is that the Justice Reinvestment initiative was a short term project to analyze the data regarding the drivers of prison growth such as sentencing and pre-trial practices. It was designed to suggest ways to control growth and cost and assist with the drafting of legislation. The "Results First" initiative is a longer term project that looks at creating an inventory of programs currently available, doing a cost benefit analysis of those programs to determine "How do we effectively address prison growth and reduce the prison population with programs? Where can we best use our money?"

The Justice Reinvestment initiative is at its close. The commission came up with its Justice Reinvestment report that was published in December 2015. That report is what resulted in SB91. In drafting that report and coming up with its recommendations, the commission looked at three things:

- 1) Pre-trial detention
- 2) Post-conviction imprisonment (when people violate their terms of probation or parole and what happens)
- 3) Community Corrections (probation and parole oversight)

She said that the evidence showed that with respect to pre-trial detention, the pre-trial risks can be successfully identified and used to guide release decisions, meaning how bail is set. Risk assessment tools can be used to predict who is likely to miss court hearings and who is likely to engage in new criminal activity while on release since those are the two things bail is designed to prevent.

She said that the commission found that restrictive release practices for high-risk offenders, while effective for high-risk offenders, actually had the opposite effect on low-risk offenders. Pre-trial detention longer than 24 hours can lead to worse outcomes, especially for those lower risk defendants and unsecured bail is as effective as secured bail.

She said that with respect to post-conviction imprisonment, the research found that non-custodial sanctions were as effective at reducing recidivism as incarceration. Those are things such as electronic monitoring, fines, probation, and drug or wellness court. They also found that longer prison stays did not reduce recidivism and were not more effective than shorter prison stays in most instances.

With respect to community corrections, the evidence that the commission found was that it was most effective to identify and focus resources on the high-risk offenders. The use of swift, certain, and proportionate sanctions was extremely effective: community work service, increased reporting requirements, electronic monitoring, etc. The use of rewards and incentives had a direct proportionate effect on decreasing recidivism and front loading resources on that period of time when a person first leaves the prison system was extremely important and had a better cost benefit ratio. All of these findings lead to 21 recommendations, included in the December 2015 report in the meeting packet.

The commission warned that they were a package and that they needed to be adopted together and holistically in order for this reform to work.

Ms. Mead explained the commission's 21 recommendations (*in italics below*) and the impact they would have on CBJ.

*1. Expand the use of citations in place of arrest fore lower level non-violent offenses.*

Ms. Mead explained that officers can still arrest a defendant if the officer has probable cause for condition of release violations.

*2. Utilize risk-based release decision-making.*

This recommendation ties the bail recommendations to the risk assessment in categories of low, medium, or high-risk level offenders and the bail amount is tied to that level.

*3. Implement meaningful pretrial supervision.*

This was with respect to pre-trial services, reminders sent by the courts and the bail chapter was amended relating to release prior to trial.

*4. Focus supervision resources on high-risk defendants.*

*5. Limit the use of prison for lower-level misdemeanor offenders.*

Ms. Mead mentioned that this recommendation affects the CBJ Law department quite specifically. It makes changes to presumptive sentences and requires some code changes that she said were attempted with the original version of Ordinance 2016-28. Some of the lower level misdemeanor property crimes require no jail time, no prisonable offenses and only up to 5 days suspended time can be imposed.

*6. Revise drug penalties to focus the most severe punishments on higher-level drug offenders.*

She stated that long term stays regarding drug crimes are not effective and the classification of the crime is tied to the weight of the drug in the offense.

*7. Utilize inflation-adjusted property thresholds.*

Ms. Mead explained that the commission recommended felony thefts be bumped up from \$750 to \$2,000 threshold. The action in SB91 only bumped it up to \$1,000 but also imposed an inflation adjustment every five years. She said the Assembly also saw this in Ordinance 2016-28 which just passed.

*8. Align non-sex felony presumptive ranges with prior presumptive ranges.*

She said the presumptive term now becomes a presumptive range and the commission found that these longer terms did not have an affect on recidivism so they were ratcheted down.

*9. Expand and streamline the use of discretionary parole.*

Prior to SB91, eligibility for parole was quite limited. It took a three judge panel and was only available for non-sex offense unclassified felonies and first and second class B & C felonies.

As to those to whom discretionary parole was available, the commission found that many people were not taking advantage of that. They found that longer stays did not have any appreciable, meaningful impact, they recommended expanding and streamlining of discretionary parole.

*10. Implement a specialty parole option for long-term geriatric inmates.*

Similarly because of the low risk of geriatric offenders re-offending, they recommended the DOC implement a special parole option for long term geriatric inmates and that was also incorporated in SB91.

*11. Incentivize completion of treatment for sex-offenders with an earned time policy.*

They recognized that the in-prison sex offender treatment programs were very effective and they wanted to incentivize that. They recommended giving an earned time policy for those people who had completed sex offender treatment. They did not actually incorporate that into SB91, however SB91 does require DOC to establish minimum standards for sex offender treatment policies.

*12. Implement graduated sanctions and incentives.*

This recommendation came about as a result of inconsistencies found across the state. Ms. Mead gave examples of different sanctions being imposed for similar crimes in differing parts of the state. The concept is that the sanction should be "swift, certain, proportional and consistent across the state."

*13. Reduce pre-adjudication length of stay and cap overall incarceration time for technical violations of supervision.*

*14. Establish a system of earned compliance credits.*

The commission recommended that there be established a system of earned compliance credits. That was incorporated into SB91 so for every 30 days someone successfully spends on probation, 30 days is reduced from their overall term of supervision.

*15. Reduce maximum lengths for probation terms and standardize early discharge proceedings.*

Because the research showed that offenders who re-offend, did so within the first three months of their release, but the time people were spending on probation and parole had dramatically increased since 2005, the commission recommended reducing the maximum length for probation terms. The following were incorporated into SB91:

- 3 years misdemeanor assault, DV, sex offenses
- 2 years DUI and Refusal
- 1 year all other misdemeanors

This will require CBJ to be very mindful that the alternative sentencing programs are scheduled to be completed within the above maximum time frames.

*16. Extend good time eligibility to offenders serving sentences on E.M. (electronic monitors).*

The commission recommended extending good time eligibility to offenders serving sentences on E.M. and should be entitled to the same "good time" as those serving jail time. Those changes were incorporated into SB91.

*17. Focus ASAP resources to improve program effectiveness.*

ASAP is the Alcohol Safety Action Program run by the state. When a person commits a DUI in the state, that individual is referred by the court to ASAP. The commission found that ASAP was not functioning at the level that everyone had expected and that it would be improved by either focusing on high risk offenders or by limiting the categories of offenses eligible for referral to the program. SB91 did the latter. It used to be that when a crime was committed and alcohol was a factor, it was always the standard to ask that the court order the person to go to JASAP and follow through with any recommendations. That is no longer an option except for DUI and refusal cases.

*18. Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders.*

The commission recommended improving treatment offerings in Community Residential Centers "CRC" and focusing the use of these resources on high need offenders. As such, the CRCs are now required to implement an admission criteria that prioritizes those high-risk offenders.

*19. Require collection of key performance measures and establish oversight council.*

Looking at ensuring the success of the "results first" initiative, the commission recommended the collection of key data by certain agencies such as the court system and DOC, Health and Social Services, Dept. of Law. That did result in a number of the requirements in SB91.

*20. Ensure policy-makers are aware of the impact of all future legislative proposals that could affect prison populations.*

The commission also required that policy-makers be aware of any fiscal impact of future legislation.

*21. Advance crime victim priorities.*

The commission recommended advancing crime victim priorities such as making sure crime victims were notified of the proceedings in court and assisting with recovery of restitution in some case.

Following all the above review, Ms. Mead gave a synopsis of what to expect next. She said the commission's sunset date has been extended. Once they receive the data, they will do a review and give a report of recommendations on how the state's resources could best be used. The report will likely include information on the most cost effective ways to reinvest those resources into the criminal justice system in order to reduce recidivism. Over the next six years, SB91 promises \$98 million of both marijuana tax revenue and the savings from this stage of the project, to be reinvested in treatment services, in prison and the CRCs, reentry support for offenders leaving prison, pre-trial services and supervision, violence prevention training, and services for victims.

She said that there is one piece that has not been identified with SB91 yet, and that is the lack of treatment options. This leads into the areas of "What can we expect?" and "What should we be concerned with?" There is a lack of treatment options and that can be very serious, especially since one of the underlying philosophies of SB91 and "Smart Justice" is that you address the underlying social problems that lead to the offending in the first place. Those things have not been put in place yet to the degree that they need to be.

She gave the example of Gloucester, MA where drug addicts can turn themselves into the police department, they will not be arrested but rather, they are offered immediate treatment and immediate assistance to get into a program. She said that she knows that our police chief thinks very highly of that program but we do not have any options in Juneau for immediate substance abuse treatment. In order for us to effectively move forward with what SB91 is trying to accomplish, we need to expand the options that are available in Juneau and statewide. She said that it is unlikely that the state will be able to do that alone. The questions then arise, how are communities going to work with the non-profits and local governments. Those solutions have not been fully fleshed out yet. There is also a question of how DOC will be working with the primarily two communities that prosecute misdemeanor crimes - Juneau and Anchorage. Although other communities have misdemeanor's on their books, they have left the prosecution of those crimes up to the DA's office in their communities. Our DA's office, because of budget

cuts, is not prosecuting misdemeanor's. CBJ has been asked to consider adding drug crimes to our books but she has not been ready to bring that request forward to the Assembly. The CBJ Dept. of Law prosecutes almost 100% of the misdemeanors brought in Juneau. How will the concept of pre-trial services and reentry services that DOC will be providing be extended to the main two local communities, Anchorage and Juneau. Will that be provided as a matter of course; will there be some sort of agreement needed? She said CBJ has a current agreement with the state for the use of their jail but she does not know how that process will work yet under this new system but it is something that will need to be considered.

She said figuring out what CBJ's role in this process will be very important, not only because we prosecute many of the misdemeanors, but because it is a big change in how we address the lower level misdemeanor offenders and keeping that population out of jail that SB91 is focused on. We need to figure out how best to use our local resources to address that population which is not necessarily going to be on the receiving end of many of the state's efforts at this stage because it is really the higher use offenders that need the attention at this time in order to reduce prison population. She said she does not have any good answers as it is an area outside her area of expertise. She raises these issues because they are very important and it is imperative that we ensure we have a seat at the table as this moves forward with the commission considering the next steps such as where money should be invested and what resources are needed in order to continue on this path.

CBJ Law was wading through issues as they are arising day to day in the implementation of this massive piece of legislation. There have been some bumps along the way as far as court process and the mechanics of how to implement some of these changes and they have been working closely with the court to try to figure some of those things out. She said she has been told that there is a companion piece of legislation that will be coming that cleans up or fixes some things with SB91. She has reached out to one of the commissioners and some of our local providers on that issue and she has some comments with how SB91 deals with domestic violence in particular that she would like the commission to consider. She has brought issues to the court about clean up pieces of legislation that are necessary such as changes to the minor offense rules, a change to Title 9 that needs to happen for consistency with SB91. On the other hand, she is looking at how to make her office most effective. She is trying to get a list together of exactly what programs are available in Juneau. She is looking to other communities to see what they use and she has also been in touch with the Pew/MacArthur Foundation which was the entity that assisted the commission on moving this forward. They are the ones who came up with the "results first" initiative that has been used in 22 states and four counties. They have sent her a massive amount of resources and she is trying to see what is feasible for CBJ to do and what is available locally and how the oversight piece works. She is also looking at the oversight piece if they end up going down the road of the community corrections oversight piece. Do we need a misdemeanor probation officer who can track compliance? That is not something her office would be able to do so is that something we can look to the local program providers to do?

Following Ms. Mead's presentation, she answered a number of questions from Assemblymembers relating to community work service, payment of fines, and the graduated sanctions for non-compliance issues. They also were concerned about the shift of the burden to the local level and how local communities are going to address this and what the costs and expectations will be. Ms. Mead explained that Juneau is only one of two communities who prosecute misdemeanors and she said that she spoke with one of the commissioners and was told by that commissioner that they didn't even consider Anchorage and Juneau when they were putting the program together.

Mayor Koelsch thanked Ms. Mead for her thorough presentation.

B. Assembly Comments and Questions

None.

**III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS**

None.

**IV. ADJOURNMENT**

There being no further business to come before the Assembly, the meeting adjourned at 1:00 p.m.

Signed: \_\_\_\_\_  
Laurie Sica, Municipal Clerk

Signed: \_\_\_\_\_  
Kendell D. Koelsch, Mayor