



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Alaska

April 14, 2020

Nancy Dahlstrom
Commissioner
Alaska Department of Corrections
via email: Nancy.Dahlstrom@alaska.gov

RE: COVID-19 and Alaska's Correctional System

Dear Commissioner Dahlstrom,

As cases of novel coronavirus disease 2019 (COVID-19) spread across the state, I write to follow up on the American Civil Liberties Union of Alaska's March 18, 2020 letter to Governor Dunleavy (a copy of which was sent to you), both to call your attention to various issues related to the Department of Corrections' response to the COVID-19 pandemic in the ensuing weeks, and to urge you to use your authority to reduce the number of people currently incarcerated so as to alleviate the public health risk in our state's correctional system. Given the recent positive diagnoses of Department of Corrections (DOC) staff members, we exhort you to act with urgency—**the actions you take can save Alaskans' lives.**

We acknowledge the efforts DOC has made to date to reduce the risk of disease exposure and transmission within its facilities, and appreciate the summary information made available to the public on the COVID-19 page of the agency's website.¹ As you know, even under the most favorable circumstances, correctional facilities can act as catalysts for the spread of infectious disease: incarcerated individuals live, work, eat, and recreate in congregate settings where their ability to self-isolate, maintain hygiene, and sustain a clean, sanitary environment is inherently limited. In addition, incarcerated populations tend to have higher than average incidence of health conditions that elevate their susceptibility to disease.

This pandemic has struck under decidedly unfavorable circumstances: COVID-19 reached the state of Alaska at a time when our prison system has been both overcrowded and understaffed, conditions that undermine DOC's ability to maintain an environment that is safe and sanitary, while exacerbating the numerous issues faced by prisoners with medical

¹ <https://doc.alaska.gov/covid-19>

and mental health needs. As you reevaluate the Department's protocols and procedures,² it is therefore critical that you incorporate additional actions recommended by public health experts to reduce the prison population and minimize the risk to those who live and work in our state's corrections facilities.³

Most urgently, DOC should assess detained and incarcerated populations and maximize the number of people—with a heightened focus on populations identified by the Centers for Disease Control (CDC) as particularly vulnerable—who can be immediately released, including people who would be released within the next sixty days, anyway. As you are aware, Alaska's prison population is an aging population and highly vulnerable. Four of five incarcerated individuals suffer from substance use disorders,⁴ and approximately 44 percent have a diagnosed mental health issue.⁵ Between 2015 and 2019, the number of incarcerated individuals aged 60 and above increased 26.5 percent.⁶ We note, too, that our state's prison population also reflects systemic biases that result in incarceration of Alaska Native people at four times the rate of white individuals.⁷

We have been receiving reports from loved ones and attorneys of incarcerated Alaskans who have encountered challenges with their release, even among those who had initiated the process before DOC's current COVID-19-related measures were put into place. We have been informed, for example, that an incarcerated man at Goose Creek Correctional Center has not been seen by an in-house parole officer to approve his application for electronic monitoring and house arrest, even though he has a pre-existing chest injury that puts him at risk of a collapsed lung. He has been unable to get information about how to move the process forward, and in the absence of information, the speculation among inmates is that the in-house parole officers will not return until the pandemic is over.

² A DOC press release, dated March 13, 2020, notes that "DOC will be reevaluating all protocols and procedures in 30 days" (<https://doc.alaska.gov/commish/pressreleases/DOC%20Press%20Release%20-%20COVID-19%20Outbreak%20Response%20Plan.pdf>).

³ See, for example, https://law.yale.edu/sites/default/files/area/center/ghip/documents/final_covid-19_letter_from_public_health_and_legal_experts.pdf

⁴ Alaska Criminal Justice Commission, *2018 Annual Report* (November 1, 2018), <http://www.ajc.state.ak.us/acjc/docs/ar/2018.pdf>

⁵ "Alaska Scorecard 2019: Key Issues Impacting Alaska Mental Health Trust Beneficiaries" (February 2020), http://dhss.alaska.gov/dph/HealthPlanning/Documents/scorecard/2019%20Trust%20Scorecard_full.pdf

⁶ ACLU of Alaska analysis of data reported in Alaska Department of Corrections annual *Offender Profile* reports, 2015-2019.

⁷ Alaska DOC, *2017 Offender Profile*, <http://www.correct.state.ak.us/admin/docs/2017profile.pdf>; U.S. Census Bureau, "Annual Estimates of the Resident Population by Sex, Age, Race and Hispanic Origin for the United States and States," 2017 population estimates.

DOC should develop release plans that do not result in extended periods of detention. We have learned that the intrastate travel restrictions and Alaska Small Community Emergency Travel Orders effected under Health Mandate 12⁸ have made it difficult, and in some cases impossible, to return individuals who are released from prison to their home villages. While a local halfway house may be the default alternative, we note that a resident of a halfway house is still in detention—which is not the best solution for someone whose liberty has ostensibly been restored. We urge you to coordinate with local service providers and public health experts so that people who may not be able to return home have a safe, accessible place to be that does not consign them to further detention and is also close to medical facilities and services.

DOC should work to ensure that existing policies for good personal hygiene are implemented consistently and uniformly across all DOC facilities. Notwithstanding DOC's existing COVID-19 prevention policies and procedures, we have been receiving reports from loved ones and attorneys of currently incarcerated individuals that indicate implementation has been uneven across the correctional system. For example, women housed in the barracks-style tent housing at Lemon Creek Correctional Center, where a staff member has tested positive for COVID-19, are reportedly unable to wash their hands properly (that is, with at least 20 seconds of vigorous scrubbing of both hands with soap and water, in line with CDC recommendations) from the water and soap dispensers available to them in lieu of indoor plumbing. As another example, incarcerated individuals at Goose Creek Correctional Center were reportedly given hand towels to reuse due to a shortage of paper towels. While DOC has stated that hand sanitizer is being made available, consistent with CDC recommendations, many inmates have reported not having access.

As prison populations decline, DOC should implement social distancing measures as much as practicable. We anticipate that a confluence of factors—most notably, adherence to stay-at-home and social distancing health mandates, as well as the Alaska Court System's new bail schedule that suspends cash bail requirements for most misdemeanors—are resulting in some reduction to the prison population. If DOC takes measures to prioritize the release of certain prisoners, we would expect a more significant reduction within the state's crowded facilities. As prison populations decline, we urge you to take advantage of the space created to provide a living environment that more closely aligns with distancing practices recommended by the CDC and other public health authorities.

DOC should increase proactive communications to prisoners and their families. We appreciate that DOC has developed flyers, FAQs, and videos to share information with prisoners about COVID-19 and mitigation measures. Even so, a common theme of many of the reports we have received from the loved ones and attorneys of incarcerated individuals has been a dearth of information—about what it means when staff suddenly show up wearing face masks, about how to elevate medical risk factors to the appropriate level of attention within a facility, and other issues. In crisis situations such as this, proactive

⁸ <https://gov.alaska.gov/home/covid19-healthmandates/>

communication is invaluable, and more is generally better. We urge you to continue to develop communications for incarcerated individuals, as well as for their loved ones.

DOC should reassess its COVID-19 mitigation and response measures on a regular and transparent basis. The measures DOC has put into place—such as a ban on visitation (including by attorneys), movement restrictions within facilities, the cessation of much, if not all, rehabilitative, recreational, and educational programming, and the conscription of inmates into production of personal protective equipment (PPE)—are severe and should last only as long as public health officials deem necessary for addressing the risk to inmates and staff. We urge you to reassess these policies and protocols on a regular and transparent basis to determine the least restrictive measures consistent with public health guidance at each step.

In conclusion, we have been grateful for every day during this pandemic that has passed without a COVID-19 case in our correctional system, and we are deeply concerned about the risks that the disease's presence in DOC facilities now poses. The actions we have recommended here and in our March 18, 2020 letter to Governor Dunleavy accord with guidance from public health experts both to reduce the number of incarcerated individuals, and to limit the burdens people face due to incarceration or supervision that place them at elevated risk of being affected by COVID-19. We urge you to do as much as you can to lower the risk of disease exposure and transmission by addressing the issues identified here.

The urgency of deliberate and thoughtful action cannot be overstated. **We are eager to work with you to take the steps outlined above, and we are willing to be a resource for you throughout this process.** Please do not hesitate to reach out with any questions or for more information. We want to ensure implementation of policies that will limit the threats presented by this public health crisis.

Sincerely,



Triada Stampas
Policy Director

cc: Chief Medical Officer Dr. Anne Zink
Public Defender Samantha Cherot
Office of Public Advocacy Director James Stinson
Alaska Judicial Council Executive Director Susanne DiPietro
Alaska Correctional Officers Association President Randy McLellan
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