



October 26, 2021

Betsy Holley, Public Information Officer
State of Alaska, Department of Corrections
550 West 7th Avenue, Suite 1800
Anchorage, Alaska 99501-3570

via email to betsy.holley@alaska.gov

**Re: Public Records Request Under AS 40.25.100 Regarding Alaska
Department of Corrections Actions to Protect Prisoners from
COVID-19 Transmission**

Dear Ms. Holley:

We write with increasing concern about the number of incarcerated people in Department of Corrections (DOC) custody that have been stricken with COVID-19. In recent weeks, we have watched with alarm as outbreaks have continued to occur at multiple facilities. DOC has recorded hundreds of positive tests, at least six hospitalizations, and the sixth COVID-19-related death of a person in DOC custody. These figures suggest that DOC does not have a sufficient mitigation plan in place.

Our concern is exacerbated by the dearth of information being provided by DOC to the public. For example, the most recent information on DOC's website describing its "preparedness and prevention" for the COVID-19 pandemic was posted over a year-and-a-half ago, on March 31, 2020. Likewise, DOC posted "FAQs" on its COVID-19 response on April 2, 2020, with no updates since, even though much of the information provided is clearly outdated. And although DOC's website invites the public to "please check back frequently for updates," it simply provides a link to the Department of Health and Social Services website containing general information about the COVID-19 pandemic.

On the other hand, we have heard directly from many who are incarcerated in DOC facilities that little to nothing has been done to keep people in the department's custody safe. We have learned, for example, that at multiple facilities, DOC has taken a haphazard and dangerous approach to segregating people who have tested positive for COVID-19. We have heard reports of people who have tested positive being placed in the same living quarters as those who haven't, as well as the use of solitary confinement as a quarantine tool, accompanied by conditions as bad as or worse than punitive segregation. We have also heard reports that incarcerated people have inadequate access to masks, and that masking requirements are not enforced.

We already know from news reports that the department does not keep track of positive tests among correctional officers and other staff, and is not demanding staff COVID testing, despite the fact that staff are more or less the only people from outside DOC facilities that incarcerated people come in contact with. Positive cases have also resulted in staff shortages, and weeks-long lockdowns that keep people from leaving their cells for long periods of time, without access to fresh air or phones.

The methods known to the public that DOC has implemented to reduce COVID spread, coupled with the lack of transparency about the actual mitigation measures in place, leads us to believe that not only is too little being done to stop the spread, but that those methods that are chosen are the most restrictive of prisoners' civil liberties.

The most recent example is DOC's abrupt announcement on September 23 that all in-person visitation was again being suspended. This follows, of course, only a brief five-month window during which limited, secured visitation had been allowed throughout the entire pandemic. The lack of visitation, coupled with the significant curtailment of rehabilitative programming, has had a significant deleterious impact on the overall well-being of the incarcerated population and in many cases has become a direct cause in the lengthening of sentences while increasing the chances of recidivism for those prisoners who are released.

Not only does the denial of visitation and removal of access to rehabilitative programming have such direct negative impacts, these deprivations appear to be infringing on inmates' constitutional rights. Alaska courts have long held that visitation and access to rehabilitative programming are fundamental rights under the Alaska Constitution. While it is well-understood that DOC has the authority to make decisions that may impact these rights under conditions imposed by a global pandemic, DOC also has an obligation to explore alternative ways of addressing the challenges posed by the pandemic and mitigating the spread of COVID-19 and finding solutions that are least restrictive.

Nevertheless, as I describe above, DOC has done very little to inform the public of the steps it is taking or has taken to reduce the spread of COVID-19 while information that does become available suggests that the methods it has implemented are ineffective, unnecessarily punitive, and potentially violative of constitutional rights. This letter, therefore, is a request under the **Alaska Public Records Act, AS 40.25.100-.295**, for records relating to the Alaska Department of Corrections efforts to protect prisoners from the transmission of the COVID-19 virus within its facilities. We seek the following records that have been developed or received by DOC from January 2020 to the present:

- All records concerning the consideration of any protocols, plans, or practices to reduce the transmission of COVID-19 within DOC institutions, whether or not such protocols, plan, or practices have been implemented;
- All records concerning any protocols, plans, or practices that have been implemented to reduce the transmission of COVID-19 within DOC institutions;

- All records concerning testing for COVID-19, including but not limited to how many tests have been administered at each facility, frequency of testing at each facility, and how many positive and negative test results have been recorded at each facility (but not the confidential medical records of individual prisoners);
- All records concerning which areas or units within which facilities are being used for quarantine for COVID-19 or potential infection;
- All records relating to the reduction or curtailment of rehabilitative programming for COVID-19 mitigation purposes;
- All records relating to the reduction or curtailment of visitation for COVID-19 mitigation purposes; and
- All records concerning any grievances, cop outs, or other complaints, or concerns raised by prisoners about their potential exposure to COVID-19, about DOC COVID-19 mitigation plans or practices, and about COVID-19-related reductions to programming or visitation.

Because this request is being submitted in the public interest and is likely to contribute significantly to the public's understanding of the operations and activities of the government, we ask that you waive or reduce any fees associated with retrieving these records. If you decline to waive or reduce fees, please provide an explanation for the declination and an estimate of the costs expected to be incurred to comply with the request, with the total amount of search time, and the total amount proposed to be billed for search time, be itemized.

Please respond to this request within ten business days. If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

If you would like to discuss any of these matters further, please feel free to contact me at skoteff@acluak.org or 907-263-2007.

Sincerely,



Stephen Koteff
Legal Director