



Alaska

October 24, 2019

Nancy Dahlstrom
Commissioner
Alaska Department of Corrections
550 W 7th Ave., Suite 1800
Anchorage, AK 99501

Re: Prison overcrowding and plans to send prisoners out of state

Dear Commissioner Dahlstrom:

I write to share the American Civil Liberties Union (ACLU) of Alaska's profound concern regarding recent reports of overcrowding conditions in our state prisons, as well as the plan to send hundreds of prisoners out of state as a result. **Pursuant to the Alaska Public Records Act, AS 40.25.100, et seq., I request copies of the following public records:**

- The daily count of inmates, disaggregated by institution and by prisoner status (sentenced or unsentenced) between October 16, 2018 and October 15, 2019, inclusive;
- Emails, memoranda and/or other documents related to the planned reopening of Palmer Correctional Center (PCC), from December 5, 2018 to October 15, 2019, inclusive; and
- Emails, memoranda and/or other documents related to the Department of Corrections' decision that "the option to reopen PCC was not viable",¹ from December 5, 2018 to October 15, 2019, inclusive.

As you know, a core responsibility of the Department of Corrections (DOC) is to provide safe, sanitary, and humane conditions for individuals in state custody.

¹ "DOC Addresses Population Management" (press release), Oct. 15, 2019.
<https://doc.alaska.gov/commish/pressreleases/DOC%20Addresses%20Population%20Management.pdf>
(last accessed Oct. 17, 2019).

With four of five incarcerated people suffering from substance use disorders,² and approximately 44 percent with a diagnosed mental health issue,³ Alaska's prison population is a reflection of the state's struggling economy, insufficient availability of mental health and substance use disorder treatment, and a raging opioid epidemic. It also reflects systemic biases that result in incarceration of Alaska Native people at four times the rate of white individuals.⁴ We are concerned about the impacts of both overcrowding and dislocation on vulnerable populations within our prison system.

The press release issued by DOC on October 15, 2019 notes our state's corrections system is at 97 percent of its maximum capacity.⁵ I understand that a facility's maximum capacity is intended to be limited to emergency circumstances since it exceeds the specifications for normal use. With the *average* capacity of our state's corrections system so perilously close to the maximum, it is reasonable to assume that some institutions have already reached (or exceeded) that maximum, and recent news coverage regarding the Lemon Creek Correctional Center indicates this is in fact the case.⁶ As you are no doubt aware, the established guidelines for prison population caps forbid DOC from allowing the population to exceed the maximum capacity for ten days or more.⁷ Overcrowding conditions such as these corrode DOC's ability to maintain an environment that is safe, sanitary, and conducive to rehabilitation.

While increases to the state's prison population were anticipated with the passage of House Bill 49, the decision to transport prisoners out of state is a total departure from DOC's previously announced plan to reopen Palmer Correctional Center, which was shared with the legislature and the public as recently as May of this

² Alaska Criminal Justice Commission, *2018 Annual Report* (November 1, 2018), <http://www.ajc.state.ak.us/acjc/docs/ar/2018.pdf>

³ "Key Issues Impacting Alaska Mental Health Trust Beneficiaries" (February 2019), http://dhss.alaska.gov/dph/HealthPlanning/Documents/scorecard/2018_MHT_Scorecard_full.pdf

⁴ 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.

⁵ "DOC Addresses Population Management," *supra*.

⁶ Baxter, Adelyn. "Overcrowding Leads to Loss of Hobby Shop at Lemon Creek." KTOO Public Media, October 17, 2019. <https://www.ktoo.org/2019/10/17/overcrowding-leads-to-loss-of-hobby-shop-at-lemon-creek/>

⁷ Although the settlement that established this requirement, *Cleary v. Smith*, is no longer in effect, the population caps it set remain the legal standard that would be applied.

year,⁸ and for which the legislature appropriated needed funds in the current Fiscal Year 2020 budget. Moreover, it runs counter to state policy that preferences retention of Alaskan prisoners in-state,⁹ inmates' constitutionally protected rehabilitative interests,¹⁰ and the public safety interests of Alaskans.

Given Alaska's troubled history with private, out-of-state prisons—including the importation of well-organized, violent prison gangs to our state¹¹—and the widespread opposition that has resulted, DOC's stated plan to reopen PCC reassured a wary public that the Department knew what it would need to do to manage the situation appropriately. Instead, our state is now returning to a practice that is widely understood to hinder rehabilitation by placing inmates too far away to successfully sustain positive family relationships and community connections. Given this dramatic turnaround, there is legitimate public interest in knowing how well developed the plan to reopen Palmer was at the time it was offered to legislators and the public as a solution to a growing prison population.

We also look forward to reviewing the Request for Proposals to ensure that it not only requires conditions that are equivalent to those available in Alaska, including rehabilitation services, but that it also provides for meaningful oversight of the selected contractor so that those provisions can be enforced.

If there are any fees for searching or copying the requested records, please inform me if the cost will exceed five hours of search time, in which case I request that the total amount of search time, and the total amount proposed to be billed for search time, be itemized. Please also inform me if the total amount for copying the records will exceed \$25.00. Please note, however, that I am also requesting a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of current conditions in Alaska's prisons, and how state government is addressing anticipated population increases. This information is not being sought for commercial purposes.

⁸ See, for example, Fiscal Note 17 for House Bill 49 (dated May 6, 2019), in which DOC acknowledges that it will need to reopen PCC in order to accommodate approximately 500 inmates in the first year of implementation (available at <http://www.akleg.gov/PDF/31/F/HB0049-17-4-050819-COR-Y.PDF>).

⁹ Alaska Statute 33.36.010 states that "it is the policy of the State of Alaska not to transfer a resident inmate outside of the state ... if that inmate's continued confinement in Alaska will better facilitate rehabilitation or treatment."

¹⁰ See Alaska Const. art. I, § 12.

¹¹ For example, the violent white supremacist 1488 gang was founded in part by Alaskan inmates incarcerated in Colorado and Arizona (U.S. Department of Justice, "Multi-Agency Investigation Results in Charges against 18 Members and Associates of Violent White Supremacist Gang," press release, March 27, 2019).

DOC Commissioner Dahlstrom
DOC plans to send prisoners out of state
October 23, 2019
Page 4 of 4

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 tstampas@acluak.org or 907-263-2004.

Thank you.

Sincerely,



Triada Stampas
Policy Director

cc: State Senate President Cathy Giessel
Senator Shelley Hughes, Chair, Conference Committee on House Bill 49
Senator Bert Stedman, Co-Chair, Senate Finance Committee
Senator Natasha von Imhof, Co-Chair, Senate Finance Committee
Senator Mike Shower, Chair, Senate Finance Subcommittee on Corrections
State House Speaker Bryce Edgmon
Representative Matt Claman, Chair, Conference Committee House Bill 49
Representative Neal Foster, Co-Chair, House Finance Committee
Representative Jennifer Johnston, House Finance Committee
Representative Tammie Wilson, Chair, House Finance Subcommittee on Corrections
Randy McLellan, President, Alaska Correctional Officers Association