



May 10, 2021

The Honorable Shelley Hughes
Chair, Senate Community & Regional Affairs Committee
Alaska State Senate
State Capitol
Juneau, AK 99801

by email: Senate.Community.And.Regional.Affairs@akleg.gov

Re: ACLU of Alaska Support for Senate Bill 46, “Law Enforcement: Registry; Use of Force”

Dear Chair Hughes, Vice Chair Myers, and Members of the Senate Community & Regional Affairs Committee:

The ACLU of Alaska writes to express our support for Senate Bill (SB) 46, “Law Enforcement: Registry; Use of Force.” This legislation would take important steps to bring more transparency to how law enforcement officers across the state use force, including excessive use of force, and help deliver accountability for harmful officer conduct.

When law enforcement officials exercise their immense legal authority to use force excessively or improperly, it creates harm at the individual and community levels, erodes trust, and generates a need for accountability. This is especially true for people and communities of color, people with disabilities, and other marginalized populations who are disproportionately over-policed and subject to excessive uses of force.

Unfortunately, we do not know how pervasive excessive use of force is in Alaska. Given that in Alaska all law enforcement officers are agents of the government, it is incumbent that the state collect and maintain reliable, comprehensive data on how officers are using — or abusing — their authority. Were SB 46 to pass, Alaska would join the nearly two dozen other states, like Texas and Oregon, that have recognized the importance of collecting use of force data and established a similar statewide data collection.¹

Three aspects of the data collection, as proposed in SB 46, are especially important.

1. The database would capture data on use of force by a wide variety of law enforcement entities. The phrase “use of force” tends to conjure an image of police officers on patrol. But SB 46 intends to document uses of force in other contexts, like within prisons or in interactions between a parole officer and a person they are supervising. All of

the officers hold immense power to use force when interacting with members of the public, especially those held in state custody. We need to understand how they are exercising these powers in Alaska, which has the second highest rate of police killings in the country.ⁱⁱ

2. The database would capture demographic and geographic data to better understand disparities and trends in uses of force. While Alaska does not currently capture this data, independent reports show that disparities exist. For example, a recently released report by the Alaska Justice Information Center found that Alaska Native and Black people were over-represented in incidents where lethal force was used, and the overwhelming majority of incidents involved men. This report, based on a 10-year review of Office of Special Prosecution records, points to the need to collect this information comprehensively and routinely.ⁱⁱⁱ

The database should also capture “disability status” as a demographic characteristic of people against whom force was used. Nationally, people with disabilities make up a third to half of all people killed by law enforcement officers.^{iv} In Alaska, the Justice Center’s report found that more than two thirds of incidents involved a person showing an indicator of mental illness. And given that the Department of Corrections is one of the largest mental health providers in the state, and 42 percent of people incarcerated are Mental Health Trust beneficiaries^v, it’s important to know how its officers use force on people with disabilities.

Identifying how police use force on specific populations is a matter of equal protection and revealing when intervention is necessary. For instance, if the data collection showed that law enforcement in a specific region use force on people in psychiatric distress at a rate far higher than other areas of the state, it would point to an especially urgent need to establish an alternative type of response.

3. The intent of SB 46 is to make the Department of Public Safety’s (DPS) annual report on use of force public. We understand that there are privacy concerns with any data collection. DPS should take care to collect, store, and make public data in a way that does not reveal personally identifying information, including through reverse identification. It should also report data in a disaggregated manner, so that we can know how people who fit into multiple categories experience use of force.

Making use of force data public is vital for the purposes of trust, transparency, and accountability. We have observed that some opposition to the data collection is because unique aspects of use of force data, when collected in a central database, can be misinterpreted and therefore should be kept under the control of an individual agency.^{vi} It is true that data alone cannot tell the whole story on why force was used, or if it was justified. But the same potential for misinterpretation exists for any large data set in any context, whether it’s employment and labor statistics, health care trends, or crime reports. The state routinely collects data and publishes data on criminal activity through the Uniform Crime Reporting Program; in 2019, 32 agencies, representing nearly the entire population of Alaska, felt comfortable enough with the risks of misinterpretation to share this data with the state.^{vii}

Fear of misinterpretation cannot be a justification for shielding use of force data from a state agency and the legislature, and from the broader public. It's squarely in the public interest for Alaskans to know law enforcement agencies are exercising their incredible authority to use force at the systems level, and how they are held accountable for excessive uses of force. Consequently, it's vital for agencies and policymakers to be clear in how they evaluate data and exercise oversight when needed. SB 46 would establish important mechanisms for doing so, and delivering the transparency that Alaska needs.

If you have any questions, please do not hesitate to reach out to me at mgarvey@acluak.org.

Sincerely,



Michael Garvey
Advocacy Director

ⁱ National Conference of State Legislatures, *Use of Force Data and Transparency* (Jan. 12, 2021), <https://www.ncsl.org/research/civil-and-criminal-justice/use-of-force-data.aspx>.

ⁱⁱ Mapping Police Violence, *State Comparison Tool* (Showing Alaska with an average annual rate of 8.3 people killed by police per 1,000,000, based on data from Jan. 2013 and Dec. 2020), *available at* <https://mappingpoliceviolence.org/states>.

ⁱⁱⁱ Payne, Troy C.; Kisarauskas, Yevgenii; Henderson, Robert E. (2021). Alaska Police Officer Use of Deadly Force: 2010-2020 (at 17). Anchorage, AK: Alaska Justice Information Center, University of Alaska Anchorage. *Available at* <https://www.uaa.alaska.edu/academics/college-of-health/departments/justice-center/>.

^{iv} Perry, David M.; Carter-Long, Lawrence (2016). The Ruderman White Paper on Media Coverage of Law Enforcement Use of Force and Disability. Ruderman Family Foundation. *Available at* https://rudermanfoundation.org/white_papers/media-coverage-of-law-enforcement-use-of-force-and-disability/.

^v Alaska Mental Health Trust Authority, *Alaskans in crisis often get tangled in the criminal justice system*, Anchorage Daily News (Sponsored, March 11, 2021), <https://www.adn.com/sponsored-content/2021/03/10/alaskans-in-crisis-often-get-tangled-in-the-criminal-justice-system/> (Note that beneficiaries include people with mental illness as well as other disabilities, including developmental disabilities and chronic substance misuse issues).

^{vi} Alaska Association of Chiefs of Police letter in opposition to SB 46 (Feb. 23, 2021), *available at* http://www.akleg.gov/basis/get_documents.asp?session=32&docid=15101.

^{vii} Alaska Department of Public Safety, *Crime in Alaska 2019, Uniform Crime Reporting Program, Annual Report* at 2 (Sept, 2020), *available at* <https://dps.alaska.gov/getmedia/711689b9-fe2f-4d89-b232-fc8e2262a37e/Crime-in-Alaska-2019>.