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Subject: Racial Disparities from COVID-19, Enforce the Law
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To Address Racial Disparities from COVID-19, Enforce the Law

The ADN recently reported on a horrifying COVID-19 outbreak that resulted from Copper River Seafoods willfully ignoring workplace safety guidance. Rather than enforce the law, the Dunleavy administration cancelled penalties even though state occupational safety staff said the safety violations were willful. Sadly, this case is a microcosm of why people of color are getting infected with COVID and dying at a much higher rate than white people. Simply put, we are more likely to be “frontline” and “essential” workers, and for too long the federal and state governments have been more focused on shielding employers from liability than on protecting frontline workers. That should change now, and it is positive to see the legislature exercising oversight over the administration’s appalling behavior.

How disproportionate are COVID infections and deaths? Black Americans represent 13% of the US population and 30% of COVID infections. According to the Centers for Disease Control, Black and Alaska Natives/American Indian citizens are twice as likely to have died of COVID-19 than whites. Hispanics and Pacific Islanders are 2.4-2.6 times more likely to have died. Why are minorities suffering and dying from COVID-19 at a higher rate? We work more frontline jobs, from health care to meat packing to seafood processing plants. Anyone who has been in a seafood processing plant in Alaska knows that Alaskans who are racial minorities are over-represented among seafood processing employees.

When the COVID-19 pandemic hit America, both the Trump and Dunleavy administrations decided not to issue COVID-specific workplace safety rules. The Trump administration even ordered dangerous facilities like meat packing plants to stay open, leading to massive superspreader events and communities with such plants having some of the country’s highest infection rates. Nonetheless, both Alaska’s Department of Health and Social Services and the state Department of Labor staff worked closely with high risk industries like seafood processors in an attempt to mitigate risk by advising employers on safe practices like masking, distancing, and sanitizing. One employer--Copper River Seafoods--refused to listen to state health and occupational safety and health staff. Faced with intransigence, as a last resort state staff prepared enforcement actions to protect workers and discourage unsafe workplaces in the future.

It's important to understand how and why occupational safety staff prepared enforcement action. Since the state hadn't adopted COVID-specific guidelines, staff relied on the "general duty" clause in state statute. This part of our state law represents employers' overarching responsibility to provide safe workplaces, and its purpose is to ensure the department can provide safe workplaces even in the

absence of specific rules on a new disease like COVID-19. In fact, at a legislative oversight hearing this summer, the Dunleavy administration claimed it could and would use the general duty clause to ensure safety at workplaces during the pandemic.

Instead of fulfilling this promise, the Labor Commissioner blocked enforcement action even after extensive and well-documented violations of workplace safety law. Not only did she block enforcement. The administration covered it up, allowing the statute of limitations to run out so no enforcement action could be taken at all. According to former Alaska OSH staff quoted in the media, this kind of executive abuse of power has never happened in Alaska history. When political appointees blocked enforcement of the law, civil servants blew the whistle and reported their activity to legislators on the House Labor and Commerce Committee, which has jurisdiction over the Alaska Department of Labor and workplace safety issues. Now the legislature has scheduled an oversight hearing to look into the administration's abuse of power.

Let me be clear: When minority workers are exposed to COVID-19 on the job, the workers aren't the only people at risk. Workers' family members are placed at risk as well, and national data strongly suggests that intergenerational housing exacerbates the spread of COVID when frontline workers are tragically exposed to it on the job.

As President of the Anchorage NAACP, I ask that the legislature vigorously investigate. When political appointees fail to enforce the law during a pandemic, we have seen how minorities' life and safety are disproportionately at risk--particularly in front-line jobs like seafood processing. In addition to legislative oversight, the Governor should appoint an independent counsel to determine how this decision was made. Was there political interference from the Governor's office, and did political favoritism play a role? This kind of egregious enforcement failure is highly unusual, and we need to learn all the facts and hold responsible parties accountable. Minorities who work at our seafood processing plants don't have any lobbyists, and they don't have a direct line to high-ranking political appointees. All they have is the law, and our workplace safety laws must be enforced, particularly during this deadly pandemic.

Kevin McGee is President of the Anchorage NAACP.