To: Alaska Legislature House Community & Regional Affairs committee

From: Megan Edge, ACLU of Alaska Prison Project Director, Jacqueline F. Shepherd, ACLU of Alaska Prison Investigator and Intake Attorney

Date: 3/21/24

SUB: Status update on 2015 safety recommendations to DOC

INTERNAL USE ONLY

What are the most important components from the 2015 investigation + recommendations to flag?

Summary: The 2015 sweeping Administrative Review ordered by then-Governor Bill Walker was sparked after several high-profile deaths, and intended to provide solutions the state to make Alaska's jails and prisons safer for the incarcerated people detained there and the Alaskans working inside each facility. Investigators reviewed policies and practices, as well as videos and other documentation of events (like suicides and the use of solitary confinement), and staff training curriculum. They spent countless hours interviewing correctional staff, incarcerated people, the families of those who died, and other service providers working within the system. Investigators made eight recommendations at the conclusion of their investigation. They are as follows. In each section, the ACLU of Alaska Prison Project has provided a brief status update to the best of my ability on each recommendation. I have also provided any lingering questions.

Policy Review and Updates

Recommendation: "*Develop a strict guideline to ensure all department policies are updated within six months. The Department of Law should provide advice but not serve as an approval gatekeeper. Attention should be given to streamlining policies to avoid redundancy and communicate in plain English. Having policies that are up-to-date, clearly stated, and briefly stated will help close the gap between policy and practice. Future updates to policies should be planned and executed according to a scheduled cycle."*

Update: It does not appear that this guideline was ever formalized. During the Walker Administration, DOC hired a technical and legal writer to start the process of policy review with the goal of annual reviews. When the Dunleavy Administration took office, came in they fired the policy review staff. This position was created because nearly all of the policies were out of date, with some being 20 or 30 years old without any review or change.

While several policies were updated under the Walker Administration, the process was never completed. Some have been updated under the Dunleavy Administration, but many are still out of date. An example of this is 807.05, which is the agency's "Use of Pharmaceuticals" policy, which hasn't been updated since 2001. It should be reviewed, and such a review would likely recommend changes that improve access to Medically Assisted Treatment (MAT) for individuals with a substance use disorder.

Questions

- Did DOC implement a guideline on policy review? If so, what does that look like?
- When does DOC review policy?
- Who reviews DOC policy?
- Do superintendents or people working directly with incarcerated people participate in policy review?

Organizational Structure in Facilities

Recommendation: "*Develop a chain of command that puts superintendents in supervisory control of all employees within a facility. Superintendents carry a weighty responsibility in keeping staff and inmates safe. They should have full authority to supervise, direct, and control all staff within their facility*."

Update: Overcrowding has resulted in massive staffing shortages in every Alaska jail and prison. To attempt to remedy this, DOC has some correctional officers (COs) rotating facilities, making it more challenging for superintendents to build rapport with staff inside of their respective facilities. Staff have also told us that the Executive Office does not respond when issues like this are raised.

Questions:

- What protections do non-unionized staff have when elevating concerns to DOC's Executive Office, or the Alaska Legislature?

Solitary Confinement

Recommendation: "*Establish a clear priority to reduce solitary confinement and establish benchmarks of progress. State correctional systems and the federal prison system have established goals for reducing the use of solitary confinement. Many national agencies and resources exist that could help in this effort, and concerned members of the public have offered to help. Reducing solitary confinement is compatible with Alaska's goal of reducing recidivism. Inmates released directly from solitary confinement to the community are particularly at risk of poor adjustment."*

Update: The use of solitary confinement has increased. Solitary confinement is used for punitive purposes, to house youth charged as adults, transgender people, individuals who report sexual and other forms of physical abuse, individuals detoxing, and to house other medically vulnerable people. For example, those who've recently undergone surgery, or suffer from chronic medical. conditions, like cancer, HIV/AIDs, and dementia. At the Anchorage Correctional Complex (ACC), the facility went from one solitary confinement unit to four. Other facilities are at capacity.

Under former Commissioner Dean Williams, Superintendents at each Alaska jail and prison were told to reduce use of solitary – for example by incentivizing good behavior and implementing step-down programs that provide a transition from restrictive housing to the general population. Superintendents met with the DOC executive office monthly to review the status of these efforts. These efforts led to reductions in violence in every DOC facility, alongside reductions in the use of solitary confinement. However, this initiative to reduce use of solitary ended after the Dunleavy Administration took office.

Questions:

- What efforts are being made to reduce the use of solitary confinement?
- What step-down programs are DOC using to reduce the use of solitary confinement?
- When acute and sub-acute mental health housing units are full, where do others in need go? What does care look like?
- When individuals are placed in solitary for mental health or behavioral health purposes, how often does medical staff see them? How are these wellness checks documented?
- How many people are currently in solitary confinement for non-punitive purposes?
- How many people are currently housed in solitary confinement for punitive purposes?
- How do individuals placed in solitary for non-punitive purposes get out of solitary confinement?

Administrative and Criminal Investigation

Recommendation: *"Develop an independent internal investigation team that reports outside the Department of Corrections. The missteps and faulty investigations documented by the Review Team are among the compelling reasons to develop a professional internal affairs agency. Various models for such a structure can be found around the country. We believe this recommendation can be accomplished with existing resources."*

Update: This was created and called the Professional Conduct Unit (PCU) and acted as an internal affairs unit. It was made up of a highly skilled and well-seasoned group of

investigators from who'd worked for the DEA, and the Anchorage Police Department. PCU had investigative authority of all significant incidents inside of DOC – deaths, excessive force, staff misconduct, sexual assault, assault, and contraband. The unit was given investigative authority of all DOC facilities, which was outlined in a memorandum from Alaska State Troopers (AST) who have investigative authority in statute. AST preferred this because they said they lacked the resources and expertise to do meaningful investigations in state jails and prisons. The unit worked closely with the FBI, AST, APD, DEA, and other law enforcement agencies to file criminal charges when warranted. unit The unit was dismantled within a month of Dunleavy's first term.

Per a former PCU investigator: The last recommendation PCU gave the Dunleavy Administration was to change the bunks in housing that was designated for vulnerable populations (those detoxing or withdrawing from substances, with severe mental illness, and/or experiencing suicidal ideation) because the physical design of the bunks was a threat and commonly how people were attempting or committing suicide. DOC never changed the bunks.

Questions:

- What does an AST investigation look like for deaths, including suicide and "anticipated deaths?
- What are the advantages of constructing a unit with specific expertise in corrections, that is independent of DOC?
- Does AST visit DOC facilities for significant incidents, such as deaths, rape, assault, and contraband?
- How do DOC staff — including officers, medical personnel, and others who may respond to incidents — preserve evidence after a significant incident?
- Will DOC replace bunks in housing units for the described vulnerable populations?

Relationship with Department of Law

Recommendation: *"The Department of Law should provide advice to Corrections in policy review and development, but should not serve as an approval gatekeeper. Management at Law and Corrections should work together to strike an appropriate balance between protecting the state against liability and promoting accountability and transparency."*

Update: It is hard to tell what this relationship looks like at the current moment.

Questions:

- Does DOL still weigh in on policy, procedure, and regulatory changes?

Leadership Challenges

Recommendation: *"Establish a functional team comprised of labor and management to address long-standing labor issues. The relationship between Corrections management and employees and their unions needs repairing. Past wrongs, both real and perceived, have created a sometimes-toxic environment. The labor-management team should establish a process for discussion and work toward incremental goals to begin to reestablish trust."*

Update: Hiring shortages and an intolerable amount of overtime for correctional staff is problematic. New staff are working in facilities before ever going to DOC's training academy.

Multiple current staff members have reported to the Alaska Prison Project a hostile work environment, including being forced to retire, the threat of being fired for expressing safety concerns or attempting to provide healthcare services or education to the incarcerated staff. Front-line corrections workers often have direct knowledge of improper conditions of confinement – including people living without mattresses, warm water, and access to healthcare – and should not face retribution for elevating concerns.

Several correctional officers, superintendents, nurses, parole officers, kitchen staff and educators have quit because of the hostile work conditions.

Questions:

- What unions represent the constellation of employees who work for DOC? Are there non-unionized staff working for DOC?
- Are current union contracts under negotiation, and if so, do unions see this process as an opportunity to address long-standing issues or build trust?

Title 47 Protective Custody Admissions

Recommendation: *"Work to change Title 47 to eliminate the practice of admitting intoxicated individuals in prison for protective custody. Developing appropriate alternatives with current resources will be a challenge, but this change would improve prison safety and reduce risk to affected individuals, prison staff and the prison system."*

Update: We have no data on this, but pretrial staff report complications from Title 47 holds.

In late 2023, a person with complicated mental health conditions was placed at the Anchorage Correctional Complex (ACC) from API on a Title 47 hold. The individual was placed in "max-seg" which is the most extreme version of solitary confinement. According to staff, he was placed in seg for allegedly refusing medication. He was placed in a cell for one week without anyone ever opening the door. When an officer did finally

open it, there was rotting flesh and feces all over the cell. The individual detained there hadn't showered, so the officer stripped him out and learned the individual had removed the elastic from his underwear and had attempted self-castration several days prior. The elastic had been there for several days, and the man developed sepsis. DOC finally transported him to a local hospital where he was placed in ICU and underwent emergency surgery.

Questions:

- How often are Title 47 holds being used, and at which facilities?
- What would alternatives look like?

Training and Evaluation

Recommendation: "*Develop policies and practices that ensure correctional officer recruits are appropriately trained before assuming duty posts, and receive ongoing professional training and evaluation. All recruits should attend the Correctional Academy before being placed on the job. In addition to ensuring all correctional officers have met training requirements before placement into a stressful job, this change could send a message that the "academy way" is the 'real way.*"

Update: New hires go to work inside of DOC facilities before going to the academy. Officers often spend months on the job before every receiving training. Officers have no mental or physical fitness test.

Questions:

- How long are officers on the job before attending the training academy?
- How often do officers do new training?
- What trauma supports are staff provided?

ACLU
Alaska