

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

March 11, 2015

1:35 p.m.

**MEMBERS PRESENT**

Senator Lesil McGuire, Chair  
Senator John Coghill, Vice Chair  
Senator Mia Costello  
Senator Bill Wielechowski

**MEMBERS ABSENT**

Senator Peter Micciche

**COMMITTEE CALENDAR**

LEGISLATIVE HEARING: INMATE DEATHS IN THE ALASKA PRISON SYSTEM

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

RON TAYLOR, Commissioner  
Department of Corrections  
Anchorage, Alaska

**POSITION STATEMENT:** Participated in the discussion on in-custody deaths in the Alaska Prison System.

LAURA BROOKS, M.S., L.P.A  
Health Care Administrator  
Department of Corrections

**POSITION STATEMENT:** Participated in the discussion on in-custody deaths in the Alaska Prison System.

CHET WILLIAMS, representing himself  
Anchorage, Alaska

**POSITION STATEMENT:** Participated in the discussion on in-custody deaths in the Alaska Prison System.

JOHN R. SCOTT, representing himself  
Anchorage, Alaska

**POSITION STATEMENT:** Participated in the discussion on in-custody deaths in the Alaska Prison System.

#### **ACTION NARRATIVE**

[1:35:29 PM](#)

**CHAIR LESIL MCGUIRE** called the Senate Judiciary Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators Wielechowski, Coghill, Costello, and Chair McGuire.

#### **Inmate Deaths in the Alaska Prison System**

CHAIR MCGUIRE announced the business before the committee would be a discussion on inmate deaths in the Alaska Prison System.

[1:36:31 PM](#)

RON TAYLOR, Commissioner, Department of Corrections (DOC) thanked the committee for calling the hearing. He talked about the public being interested whenever a death occurs in a prison and the tremendous impact it has throughout the system. It does, however, provide an opportunity to review procedures and ask what could have been done differently to have a better outcome. He stressed that no one should have to worry because a family member or friend is under DOC's custody and care. Responding to the four deaths or serious incidents that occurred since December when he became commissioner, he asked for all data on deaths inside a facility over the past five years. The intent is to look at whether policies and procedures are being followed and if there might be better processes because even one death that occurs inside a facility is one too many.

LAURA BROOKS, M.S., L.P.A, Health Care Administrator, Department of Corrections (DOC), discussed the primary reasons that DOC can't provide an immediate answer when an inmate death occurs. First, DOC relies on the state medical examiner to perform an autopsy before drawing any conclusions. If a toxicology report is ordered, it can take 4-6 weeks to get the results. Second, DOC has to follow the privacy laws which means that personal information cannot be released to anyone until the court has appointed a personal representative of the estate.

She noted that she was asked to discuss how inmates access care while in custody. She explained that inmates go through a health

care screening when they're arrested and DOC relies heavily on the inmate's oral history. She noted that an inmate can put in a health request anytime they have a health concern. If it's more urgent, the correction's officer on the floor can make a referral to medical or call for emergency care. She also described the sick call procedure that is available in all the facilities. In the smaller facilities 10-15 inmates might be seen each day and 50-60 per day in the larger facilities. There are also referrals for mental health and dental, and outside referrals are made if needed. In smaller communities this generally means the inmate will be triaged at the ER. She explained that DOC also has a number of release planning programs, a medical social worker, and mental health staff who work every day to ensure that the transition from the correctional center back to the community is as seamless as possible.

CHAIR MCGUIRE asked how many remands there are.

MS. BROOKS replied there are 38,000 per year.

COMMISSIONER TAYLOR added that represents 22,000 individuals.

[1:48:33 PM](#)

SENATOR WIELECHOWSKI asked if there is a constitutional obligation to provide medical care for inmates.

MS. BROOKS confirmed that inmates have a constitutional right to health care.

SENATOR WIELECHOWSKI asked how much that costs.

MS. BROOKS reported that DOC's inmate health care budget is about \$43 million a year.

SENATOR WIELECHOWSKI asked if there is coordination with Medicare or Indian Health Care if the inmate is eligible.

MS. BROOKS explained that, by federal regulation, inmates are not eligible for either Indian Health Care or VA benefits. DOC becomes the payer of first resort and the federal government becomes the payer of last resort. The coordination is for continuity of care.

SENATOR WIELECHOWSKI asked about Medicare and Medicaid coverage.

MS. BROOKS explained that Medicare doesn't pay for services for an inmate, and there are limited categories by which an offender could qualify for coverage under Medicaid. She said that may change if Medicaid expansion happens because it will change the type of inmate who would be eligible for Medicaid. It would be more income-based instead of by those specific and limited categories.

SENATOR WIELECHOWSKI asked if she had an estimate of how much Medicaid expansion would save.

MS. BROOKS said looking at the data from the past three years and based on the categories that would apply for Medicaid expansion, it appears that about \$7 million could have been billed to Medicaid. The caveat is that the inmate health care budget is fluid depending on the kind of offender and their medical issues. She called it a fair assessment because the inmate population probably won't get healthier or smaller.

[1:52:16 PM](#)

SENATOR WIELECHOWSKI asked if substance abuse treatment would be covered under Medicaid expansion.

MS. BROOKS explained that none of the services that DOC provides and none of the specialty out-patient services would be paid for by Medicaid. An inmate would have to be in a hospital for 24 hours before Medicaid could be billed.

SENATOR COSTELLO said she was surprised to learn that Indian Health Service coverage doesn't extend to an individual once they're incarcerated. It becomes the responsibility of the state. She expressed interest in resolving that drop in coverage because of the benefit in continuing the relationship between the doctor and patient.

COMMISSIONER TAYLOR advised that DOC was interested in working with her office and DHSS on that matter.

SENATOR COGHILL commented on the potential for a zero sum gain if more people qualified for Medicare but no longer qualified under the hold harmless provision for welfare.

SENATOR WIELECHOWSKI asked for an explanation.

SENATOR COGHILL elaborated:

We have a hold harmless provision that says under certain requirements you get welfare. You get

incarcerated, instead of having you lose your eligibility the state will hold you harmless by paying cash in that particular event. That way they can stay enrolled; they don't have to reenroll when they get out. The state picks that up to a tune of about \$43 million a year, I think.

SENATOR WIELECHOWSKI asked if the state is paying welfare to people who are in prison.

SENATOR COGHILL replied "the eligibility and many times it's because of the families." He suggested it's a question for DHSS.

[1:56:08 PM](#)

SENATOR COGHILL asked if there is a determining protocol for health care screenings to keep people from gaming the system.

MS. BROOKS explained that inmates are triaged and then evaluated along the way to head that off, but DOC will err on the side of seeing the inmate. She noted that the most common request is for pain medication and while someone may have received the medication when they were in the community, they may not receive it when they're in custody. The medical staff uses their professional judgement and has the advantage of being able to observe the inmate on a 24/7 basis.

SENATOR COSTELLO asked if it would be correct to assume that the majority of inmate deaths are a result of an emergency or suicide.

MS. BROOKS relayed that since 2000 about 17 percent of the in-custody deaths were suicides. The majority were illness related, but there isn't a particular trend in any one area.

SENATOR COSTELLO asked if there is a process in the event of an emergency to ensure that a call for help doesn't go unanswered.

MS. BROOKS said the officers are trained to respond to emergencies and medical is called immediately. If there isn't nursing staff on site the officers will render emergency response and call 911.

SENATOR COSTELLO asked if the legislature could sign a confidentiality agreement in order to look at a description of the deaths, because it seems there is a compelling state interest in light of the fact that 12 inmates died in custody in 2014.

MS. BROOKS suggested consulting the Department of Law (DOL) because she didn't know.

COMMISSIONER TAYLOR agreed it was a conversation to have with the Department of Law and stressed that the information would not be available to the public.

2:05:49 PM

CHAIR MCGUIRE said Senator Costello makes a good point because the legislature wants to know what it can do better to reduce the incidence of death. She asked if he had more to share on the five inmate deaths that have occurred since he became commissioner.

COMMISSIONER TAYLOR said the investigations are ongoing for each of those cases, but they're not seeing any trends. Some were surprising because they were the first death in a particular institution since DOC started keeping these statistics.

CHAIR MCGUIRE expressed interest in receiving more information and continuing the dialog to help identify particular issues such as resource allocation.

COMMISSIONER TAYLOR agreed to continue to dialog and share the information to the extent possible.

CHAIR MCGUIRE said this committee is looking at all aspects of the corrections system because it's disconcerting to know that somebody could be incarcerated on a DUI or pretrial hearing and not survive. The legislature wants to support and partner with DOC to reduce these deaths.

COMMISSIONER TAYLOR reiterated that this is an opportunity for DOC to talk about what it goes through when a death occurs in an institution and cautioned he would not ask for additional resources before he's gotten a full and complete staffing analysis.

SENATOR WIELECHOWSKI asked if there is an appeal process for an inmate who requests and is denied treatment.

MS. BROOKS said there is a grievance process that is answered within the facility. If the inmate still isn't satisfied he/she can file a grievance appeal that goes to the medical advisory committee. Inmates also have access to the Ombudsman's Office and the Disability Law Center.

[2:15:31 PM](#)

SENATOR COSTELLO asked if other states apply a different process for death investigations.

MS. BROOKS said different jurisdictions use the attorney general's office, the state attorney's office, an internal affairs unit, or the sheriff's office. But it appears that the investigations that are done by another agency are those where foul play is suspected. She reminded the committee that not only does DOC conduct an internal investigation when a death occurs in a facility, but also the Medical Examiner's Office and the Alaska State Troopers.

SENATOR COSTELLO asked if an agency other than DOC signs off when the investigation is completed.

MS. BROOKS explained that DOC adds those reports to the internal investigation and presents it to the Attorney General's Office and the division directors within the system.

[2:17:54 PM](#)

CHAIR MCGUIRE said she'd like a legislative research report that looks at the structure of investigations in other jurisdictions, because it may be a fundamental structural flaw for a state to investigate its own department of corrections.

COMMISSIONER TAYLOR clarified that DOC's internal investigations are limited to looking at whether or not policies and procedures were followed.

[2:21:25 PM](#)

MS. BROOKS reviewed the 2000-YTD2015 in-custody deaths by year, and noted that there were two years that higher than usual number of deaths. In 2002 a motor vehicle accident accounted for 4 of the 16 deaths. Deaths also spiked to 15 in 2008; over half were due to liver disease, which speaks to lifestyle.

CHAIR MCGUIRE asked how DOC handles detoxification.

MS. BROOKS explained that DOC's policy is to send extremely intoxicated individuals to the hospital. They aren't returned to prison or jail for booking until medical personnel clears them for treatment in an out-patient setting. The prison then has procedures to make sure the inmate doesn't deteriorate.

She reviewed the 2000-YTD2015 in-custody deaths by facility, and noted the 70 death spike at the Anchorage Correctional Complex (ACC). In part that's because ACC is the medical hub; it has a concentrated population of high risk medical cases, palliative care, and hospice services. The higher numbers of deaths at the out of state facilities and Spring Creek reflect long-term sentenced facilities and an aging population.

CHAIR MCGUIRE asked for a more detailed breakdown on the Anchorage Correctional Complex, because that has been the source of many of the complaints.

MS. BROOKS agreed to provide the information.

SENATOR COSTELLO asked for a breakdown on the age of the people who died while in custody.

[2:26:40 PM](#)

MS. BROOKS reviewed pie charts of the 2000-YTD2015 in-custody deaths by cause. They show that 76 percent of the deaths were natural causes, 17 percent by suicide, 4 percent by trauma, and 3 percent by homicide. She noted that these numbers are fairly consistent with national numbers. The natural causes breakdown shows 9 percent substance abuse, 17 percent cancer, 22 percent cardiovascular/pulmonary disease, 13 percent end stage liver disease, 2 percent end stage renal disease, 3 percent gastrointestinal bleeding, 4 percent infectious disease, and 6 percent unknown. She noted that liver disease is high in Alaska overall and higher yet in the prison population. In Alaska the statistics show 11 deaths per 100,000 from liver disease and in DOC it's 15 deaths per 100,000.

MS. BROOKS directed attention to a graph of the U.S. and Alaska offender mortality rates per 100,000 offenders. Nationally, the mortality rate is 243 per 100,000, whereas in Alaska it is 118 deaths per 100,000 inmates.

SENATOR WIELECHOWSKI asked what the overall mortality rate is for Alaska and the U.S.

MS. BROOKS said the overall mortality rate in Alaska is 543 deaths per 100,000 people.

SENATOR WIELECHOWSKI observed that people are less likely to die in prison.

MS. BROOKS agreed.

MS. BROOKS displayed a quote from a parent of an inmate.

When incarceration is the best a parent can hope for,  
something is very wrong.

She said she completely agrees that jail should never be the first place where someone receives mental health treatment, prenatal care, or substance abuse treatment, but the majority of inmates haven't had consistent medical and they're generally in poor health. Relative to the general population, inmates represent an exceptionally ill and complex population. For example, Alaska has an overall rate of hepatitis of 1 percent; in DOC the rate is 30 percent. DOC provides considerably more care than these offenders received on the outside, but it's not possible to reverse the years of compounded hard living.

SENATOR WIELECHOWSKI asked what percentage of offenders commit a crime to have a place to sleep or get medical treatment.

MS. BROOKS said she doesn't have any data but it does happen.

SENATOR WIELECHOWSKI said he didn't mean to turn this into a discussion on Medicaid expansion, but it would be extremely helpful to know that if 5 percent more of the population had access to medical care than the inmate population would drop five percent, because they wouldn't need to go back to jail to get medical treatment.

[2:33:11 PM](#)

COMMISSIONER TAYLOR clarified that people come in for a host of reasons in addition to medical issues. Some people simply need a place to stay or food, which is one reason there are spikes in the winter. Although it's cause for concern, it's cyclical; the population drops again in April and May when seasonal work and subsistence activities start.

SENATOR WIELECHOWSKI expressed interest in seeing overall inmate populations charted on a bell curve to stimulate discussion on this critical issue.

CHAIR MCGUIRE agreed and requested information about the incidence of traumatic brain injury in the inmate population.

COMMISSIONER TAYLOR acknowledged the request.

[2:35:41 PM](#)

MS. BROOKS displayed a pie chart showing 2000-YTD2015 in-custody deaths by age. She noted that inmates age 56 and older account for 27 percent of the deaths but represent just 9 percent of the population. This is a reflection on the aging population, she said. About one-third of the inmate deaths were someone under age 40, which points to the fact that irrespective of age, inmates are generally not healthy. She noted that the breakdown of inmate deaths by gender mirrors the inmate population as a whole, whereas the breakdown of inmate deaths by race was a little surprising. It shows 53 percent of the deaths were Caucasian when the inmate population is only 46 percent Caucasian. African Americans represent 9 percent of the deaths, which is consistent with the overall population of 10 percent, but the Alaska Native percentages are not consistent. The inmate population is 37 percent Alaska Native while 28 percent of the in-custody deaths were Alaska Natives.

MS. BROOKS reviewed the roster that makes up a death investigation. She explained that a team goes onsite and interviews staff and inmates, reviews videos and files, and collects all the documents related to the inmate's incarceration. A timeline and summaries of the security and medical response is prepared and copies of the autopsy and police reports are collected and recommendations are made. The findings are given to the attorney general, the division directors, and the commissioner so that changes can be made quickly if need be.

2:39:40 PM

COMMISSIONER TAYLOR discussed recent changes within the facilities to ensure due diligence. He noted that the DOC performance review specifically focused on the deaths looking at whether or not the policies and procedures were applicable. He reiterated that the department takes the concerns raised about inmate deaths very seriously.

CHAIR MCGUIRE asked her to discuss the policy change for death of a prisoner.

MS. BROOKS explained that the biggest change was made in 2012 when the process was formalized. DOC now sends a team onsite to do a full review and a final report is written and sent to the attorney general. DOC also added specific things such as what the superintendent collects, what the medical director looks for, who the information is shared with, and how the scene is blocked off.

2:44:57 PM

CHET WILLIAMS, representing himself, said he is the shift commander at the Anchorage Correctional Complex and has been in the department for 22 years. He recounted a story to illustrate how quickly someone can attempt suicide. An inebriated female was remanded to custody and placed alone in a cell. When officers weren't looking, she wrapped the hem of her shirt around her neck and tied a knot. Her face was purple by the time that officers reached her. Fortunately, the ligature was cut in time.

He explained that the Anchorage Jail was designed as a direct supervision concept jail, which places 1 officer in a module to supervise 64 prisoners. He received training to run this type of jail and he in turn trained others. Initially the direct supervision training was 32 hours. It subsequently dropped to 16 hours and the last training was 2 hours. He opined that training and education is key for officers and prisoners to reduce suicide, PREA incidents, and recidivism in general. Prisoners should be offered incentives to attend AA meetings, anger management classes, and other programs while they're incarcerated, he said. Responding to a question about training, he clarified that there is no longer any direct supervision training. Training now consists of basic suicide prevention, CPR, and "read and sign" training.

CHAIR MCGUIRE asked if he believes that fewer incidents occurred when there was more training.

MR. WILLIAMS said it seems there is more assaultive behavior today, but suicides have remained about the same.

3:00:02 PM

JOHN R. SCOTT, representing himself, said he retired 18 months ago after working almost 21 years at the Anchorage Correctional Complex. His greatest concern was lack of training. When he was working ACC was about 3 years behind on suicide prevention training because of staffing shortages. Training for first aid and CPR was 3-4 years behind. He said he believes that staffing levels have a large bearing on suicide rates.

CHAIR MCGUIRE asked how he would describe the changes in training over the course of his career.

MR. SCOTT said that when he retired last October, training had plunged to virtually nothing because there weren't enough officers to cover the night shift and conduct training at the

same time. There was no direct supervision training whatsoever for the last five years that he worked.

CHAIR MCGUIRE asked if he saw any correlation between the number of hours of training officers receive and the conditions within the jail.

MR. SCOTT said conditions were better when more training occurred. He related that one night shift officer doing security checks on almost 400 inmates isn't adequate, and is stressful for both officers and inmates. He shared that the lack of training was a primary reason he retired.

[3:07:38 PM](#)

CHAIR MCGUIRE thanked the presenters for their service.

SENATOR COSTELLO thanked Senator McGuire for holding the hearing.

[3:08:53 PM](#)

There being no further business to come before the committee, Chair McGuire adjourned the Senate Judiciary Standing Committee meeting at 3:08 p.m.