

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SJUD 125

File Copy

Okuley, Marcus J (DOC)

From: Rader, Michael B (DOA)
Sent: Wednesday, February 27, 2008 10:37 AM
To: Okuley, Marcus J (DOC)
Cc: Burke, Monica L (DOA)
Subject: Todd Godfrey Injury Leave Denied

Good Morning,

Diane Kiesel and Garland Armstrong made the decision that Todd's injury leave should not be approved for the MRSA staff infection. Since MRSA can be contracted at any location, and there was not a clear outbreak in the Institution it was deemed not eligible for injury leave. We will not be running an adjustment to credit his leave back and will be charging his personal leave for any other leave taken for this reason. If you have any questions please let me know.

Thanks!

**Mike Rader, Human Resource Technician III
Dept. of Admin., Div. of Personnel & Labor Relations
Technical Services Public Protection Group
Phone: 907-465-3324
Fax: 907-465-2202**

2/27/2008

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Inbox (Two-Line View)

Items 1 to 12 of 12

New [Icons] Help

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Recei

Injury Leave

Burke, Monica L (DOA)
To: Godfrey, Todd W (DOC)
Cc: Rader, Michael E (DOA)

- Mon Injury
- Mon House
- Mon ...
- Mon : REQU
- Wed : MRSA
- Fri 12 Today
- Fri 2/ Howd
- Wed New E
- Tue 1
- Tue 8 Your I
- Wed Today
- Tue 2 RE: R

Hello CO Godfrey,

Your injury leave has been denied due to the fact there is no evidence that you contracted MRSA in the institution, and there were no other reports of any other employee having this in your facility.

Please let me know if you have further questions. Thanks.

Monica Burke
Payroll Supervisor
Public Protection Group
Division of Personnel & Labor Relations
907-465-3300

Methicillin-resistant *Staphylococcus aureus* (MRSA)

Joe McLaughlin, MD, MPH
State Epidemiologist and Chief,
Alaska Section of Epidemiology
Division of Public Health
Department of Health and Social Services

Outline

- Epidemiology of *Staphylococcus aureus* and MRSA
- MRSA in prisons

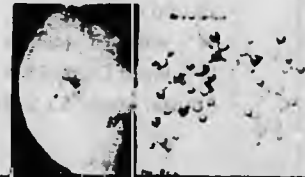
Staphylococcus aureus

- Bacteria
 - Commonly carried on the skin or in the nose of healthy people
- Common cause of minor skin infection
 - E.g., pimples and boils
 - Can be treated without antibiotics
- Can also cause serious infections
 - Surgical wound infections
 - Bloodstream infections
 - Pneumonia



MRSA

- Methacillin-resistant *Staph aureus*
 - Resistant to beta-lactam antibiotics
- Beta-lactam antibiotics include
 - Methicillin
 - Oxacillin
 - Penicillin
 - Amoxicillin



Colonization

- *S. aureus*: 25–30%
 - Nares, axillae, groin
 - "Carriers"
- MRSA colonization increasing
 - 2001–2002: 0.8%
 - 2003–2004: 1.5%
- Risk factor for infection
 - ~80% of infections



MRSA Colonization Consequences

- Consequences of MRSA colonization compared to MSSA
 - Increased risk of infection
 - Longer hospital stays (by ~10 days)
 - 2.5-fold higher mortality rate
 - Increased health care cost

Mayo Clinic Proc. Dec. 2007



Health Care-associated MRSA

- Immunocompromised are at highest risk
- Most common manifestations
 - Wound infections
 - Urinary tract infections
 - Bloodstream infections
 - Pneumonia
- Proportion of *S. aureus* infections that were MRSA in ICUs in the United States
 - 1974 2%
 - 1995 22%
 - 2004 64%

Community-acquired MRSA

- Occurs in otherwise healthy people who have not been hospitalized or had a medical procedure within the past year
- Most common manifestations
 - Pimples
 - Boils
 - Cellulitis
- ~12% of MRSA infections

Staph aureus Incidence

- ~12 million outpatient healthcare visits annually in the US
- ~292,000 hospitalizations per year
- ~94,000 people were diagnosed with invasive MRSA in 2005
 - 19,000 died
 - 86% were HC-MRSA
 - 14% were CA-MRSA
 - Annual cost: \$3.2-\$4.2 billion

Mayo Clinic Proc. Dec 2007

MRSA Surveillance

- Most states do not require MRSA reporting
 - Burden to HCP and laboratorians
 - Public health response
- Alaska reporting regulations
 - >50 reportable infectious diseases
 - MRSA is not reportable
 - An unusual number or clustering of any infectious disease is reportable

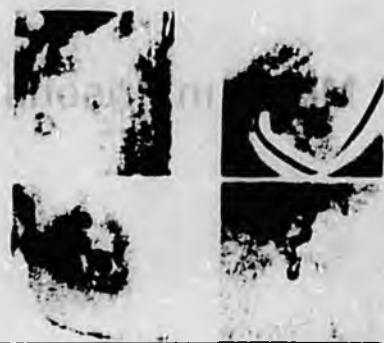
What do Staph and MRSA skin infections look like?

Photos from <http://www.staph-infection-resources.com/mrsa-pictures.html>

Pimples, Boils, Cellulitis



Ulcers, Impetigo, Drainage



Who is at increased risk for CA-MRSA?

- Risk factors
 - Close skin to skin contact
 - Openings in the skin such as cuts or abrasions
 - Contaminated items and surfaces
 - Crowded living conditions
 - Poor hygiene
- Identified risk groups
 - Alaskan Natives
 - Athletes
 - Children
 - Men who have sex with men
 - Military recruits
 - Native Americans
 - Pacific Islanders
 - Prisoners

Diagnosis of MRSA Skin Infection

- Clinical
- Culture
 - Recommended
 - From drainage or skin biopsy
 - Antimicrobial resistance testing

Treatment

- Incision and drainage
 - Boils and abscesses
 - Should only be done by a health care provider
- Antibiotics
 - Guided by susceptibility profile of the organism
 - Often not necessary
 - Indicated for
 - Large area of cellulitis
 - Systemic illness (fever)
 - Significant co morbidity
 - Immune suppression

Decolonization

- Mupirocin (Bactroban®), chlorhexidine, rifampin
- Occasionally effective in the short-term for individual patient (e.g., dialysis, ICU)
 - Effectiveness interrupting transmission in healthcare settings not established
 - No data for community transmission
- Increasing resistance to mupirocin
- No consensus recommendations

Prognosis/Recurrence

- Highly favorable for people with good general health who have mild cases
 - Patients may be carriers for years
 - Recurrence may be as high as 40%
- Few develop invasive disease
 - <1-7% ?
 - ~20% of patients with invasive MRSA die

Prevention

- Wash hands
- Keep cuts and scrapes clean and covered with a bandage until healed
- Avoid contact with other people's wounds or bandages
- Avoid sharing personal items such as towels or razors
- Effectively diagnose and treat to prevent MSSA → MRSA

MRSA in Prisons

Presentation and Risk Factors

- | | |
|--|--|
| <ul style="list-style-type: none">• Implicated risk factors | <ul style="list-style-type: none">• Presentation |
| <ul style="list-style-type: none">• Longer incarceration• Prior antibiotic use• Gender• Washing clothing by hand• Not using soap to wash• Co-morbidities• Self-draining of boils• Sharing towels, razors• Tattoos obtained in prison | <ul style="list-style-type: none">• Skin infections• "Spider Bites"• Often recurrent |

MRSA Colonization in Prisons

- Mississippi — 2000
 - 1,757 inmates samples; 4.9% colonization
 - Sex: 2.5% males vs. 5.9% females
- New York — 2005–06
 - Men's prison: 0.8%
 - Women's prison: 4.7%
- New Orleans — 2008
 - 302 inmate samples; 16.6% colonization
 - Sex: 15% males vs. 20% females

Incidence

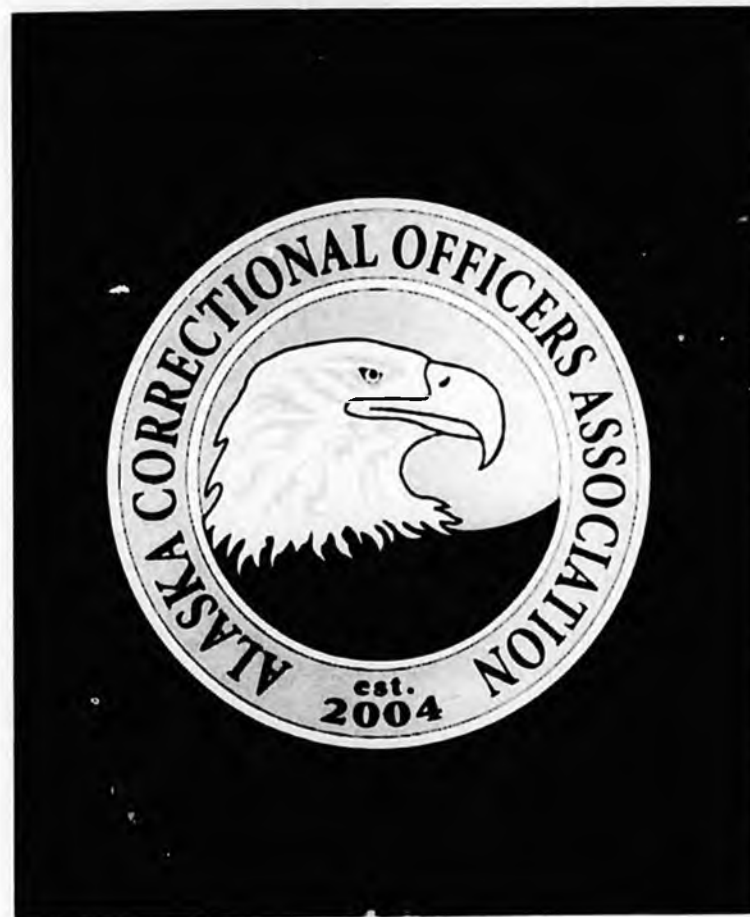
- Texas study
- 299,179 inmates incarcerated from 1999–2001
- Incidence: 12 MRSA infections/1000 person-years

Management in Prisons

- Federal Bureau of Prisons
- *Management of MRSA Infections*
 - August 2005
 - Screening and surveillance
 - Reporting
 - Treatment
 - Infection control
 - Outbreak management

Legislative Hearing

May 27, 2008



Reference Book

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1. Fill all 776 positions funded in the Budget
2. Bring minimums back up to pre-December 4, 2006. Open discussion on staffing/posts.
3. Make Officer Hansen whole
4. Have an independent person review discipline
5. Allow ACOA hats, turtlenecks again
6. Do not lay off Sergeant John Macomber (SCCC)
7. Fight for MRSA coverage by Workers Compensation
8. Cover MRSA infections – Injury Leave
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 - A. Unnecessary & detrimental actions against membership
 - B. Disciplinary actions against members for their own personal reasons.
 - C. Evasive and/or false statements in Arbitrations
 - D. Propagating an investigative hearing process that is more about guilt-finding than fact-finding.
 - E. Undermining the morale of the Department
10. Permission to conduct CISD meeting at Institutions
11. Authorization for a dress uniform

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Pennsylvania: PHS sued.

http://www.philly.com/inquirer/front_page/20071123_Jails_contagious_dispute.html

Posted on Fri, Nov. 23, 2007

Jail's contagious dispute

As MRSA infections spread, so does legal mess.

By Jan Hefler

Inquirer Staff Writer

At the Gloucester County Jail, Michael DiFelice requested a cell that would keep him away from more hardened criminals. The real estate appraiser, who was serving time for driving with his license suspended, got his wish. The price was a mattress on the floor, in a cell shared with two other inmates.

From the beginning of his 40-day stay in 2005, parts of the chronically overcrowded jail seemed unusually dirty, DiFelice said. The bathrooms were often so filthy that he tried to time his showers to their cleanings. "I'd watch and wait because I was afraid of getting something," he said.

What DiFelice did not know was that his cell block also housed sick inmates. One was his cell mate, who had a "big, nasty boil" on his back. The relevance of this would not be known for five months, when DiFelice was back on the street and his armpit swelled to the size of a softball. At the hospital that day, the emergency-room doctor said the septic cyst would "explode unless we operate."

DiFelice suffered from methicillin resistant staphylococcus aureus - MRSA - a strain of a common bacterium that causes staph infections, spreads by casual contact, and sometimes goes undetected until it shows up as a boil or a swollen area.

Unlike most staph infections, MRSA is difficult to treat and potentially lethal if it spreads to vital organs or the blood. A recent nationwide scare over staph was driven by a federal study that estimated the number of MRSA deaths at 19,000, and by an infected 17-year-old student's death in Virginia.

At the Gloucester County Jail, MRSA spread among inmates to corrections officers and beyond: Several spouses of inmates and corrections officers were infected. No one has died, but the infections have left many of the victims with lifelong medical complications, produced 18 lawsuits, and raised questions about the jail's response.

The federal lawsuits have already cost tens of thousands of dollars to defend, and there is a local precedent for substantial jury awards and payments to plaintiffs. The Bucks County Jail was the subject of 19 MRSA-related lawsuits. Two years ago a jury awarded \$800,000 and \$400,000 to two inmates, and \$150,000 settlements were reached with others. A lawsuit to improve conditions at the jail, filed on behalf of 36 other inmates, is pending.

Corrections facilities are especially vulnerable to MRSA because the germ spreads in close quarters and thrives in unsanitary settings. Aside from the cases in Bucks County, MRSA outbreaks have taken place in other county jails in the region and in Philadelphia. The Pennsylvania Institutional Law Project, a rights advocate for inmates, estimates that as many as 30 people infected with MRSA in city prisons have received undisclosed settlements.

The Gloucester County Jail, home to about 300 men awaiting trial or serving sentences of less than one year, became a kind of incubator for MRSA in 2003, according to the lawsuits and interviews with inmates, corrections officers and others.

The lawsuits allege that county officials withheld or "fraudulently concealed" information about the spread of MRSA and failed to "put procedures or policies in place to eliminate or minimize the risk of exposure." County officials deny the allegations and say they responded aggressively as soon as they learned MRSA was spreading.

For the victims, the shock of learning they are infected is followed by the rigors of treatment, which in some cases will continue for years.

Sgt. Ken Warfield, a corrections officer, broke out with boils in August 2003, six months after MRSA first struck the jail. Despite aggressive treatment, the boils reoccur. Two years after he became infected, Warfield required 14 days of intravenous applications of Vancomycin, a powerful antibiotic. Last month, he was hospitalized with pneumonia, and doctors aren't sure whether his continuing battle with MRSA caused it.

Now 60 and still working when able, Warfield retreats to his upstairs bedroom in his Franklinville home whenever the boils return because he fears infecting his wife or their six grandchildren. His clothes are laundered separately - in hot water and bleach. And he is constantly washing his hands.

The infection, he said, "really ruined my life."

Mysterious lesions

Officials at the Gloucester County Jail were mystified. It was February 2003, and 14 inmates had developed oozing lesions. The initial theory?

Spider bites.

Chad Bruner, the jail's former health director, told The Inquirer in 2004 that it had taken the jail "a long time to figure out" what caused the lesions. But once MRSA was identified, jail and county officials said, they acted.

Within three months, county freeholders replaced the sheriff who oversaw the jail and brought in a professional administrator to make improvements. Health experts say education and hygiene are key to controlling the spread of MRSA, particularly in group settings, and officials said plans had been put in place at the jail.

"Every employee and corrections officer went through a program with the health department on avoidance and how to spot" MRSA, Freeholder Director Stephen M. Sweeney said in a recent interview. "We never ignored the problem."

By 2004, hand-sanitizer dispensers were installed around the jail. Daily logs of confirmed and suspected MRSA cases were kept, starting that September. Over the next two years, according to the jail, MRSA cases decreased by half, from 20 to 10.

But soon after the logs were started, the warden was suspended for misrepresenting the numbers, and corrections officers demanded his ouster and pushed for stronger action to protect them from MRSA.

In January 2005, the warden was replaced and a new jail director, Robert Balicki, was named. A policy to isolate infected inmates was adopted, but persistent overcrowding defined how well it was applied.

Unsanitary conditions

DiFelice landed in the jail in April 2005. For 40 days, his home was a three-story brick building attached to the courthouse in Woodbury. Built 20 years ago, the jail often exceeds its capacity of 225. In 2005 and 2006, for example, the average was 313.

Although the MRSA outbreak had taken place two years earlier, DiFelice said, no one told him about the infection or instructed him in how to protect himself. He said he quickly had noticed the boil on his cell mate.

"What is that thing?" DiFelice said he had asked. The cell mate said that he had a cream to treat it, and that he sometimes got gauze from the nurse to try to keep it covered.

MRSA spreads through skin-to-skin contact, contaminated items and surfaces. A general lack of cleanliness contributes, according to the Centers for Disease Control and Prevention. At the jail, the conditions for contagion were often ideal.

DiFelice said he draped his towel across the rail of his cell mate's bunk because the cell lacked hooks. When he was assigned to clean the showers, he said, there was often a shortage of bleach.

"Slimy and nasty," he said of the showers. "Sometimes we were told to just give them a few squirts to clean them, or to just use dish soap when there was no bleach."

The New Jersey Department of Corrections noted several lapses during annual inspections in 2005 and 2006. One inspection, in December 2005, noted that inmates did not receive the required allotment of clean bedding and towels.

Inmates also were not given a rules handbook, which informs them how to get medical services, according to the inspectors. DiFelice was asked to sign a document stating he had received the handbook when he arrived, he said, even though officers had not provided him one because none were available. In 2006, inspectors cited the jail for failing to have records showing that indigent inmates received hygienic supplies, such as soap and toothpaste, as required.

Under New Jersey law, corrections facilities have 60 days to respond to citations and are reinspected within six months. When inspectors returned each of the last two years, the jail was in compliance except for the continued overcrowding, a common problem in jails.

Balicki, the director at the jail, said the deficiencies noted by state inspectors had been a result of the jail's not having the proper documentation. "We don't have these documents in our back pocket when the inspector arrives," he said.

Officers were unaware

Warfield's precautions have kept MRSA from spreading to his family. Other corrections officers have been less fortunate. Three have infected their spouses.

Robert A. Greenberg, a lawyer in Cherry Hill who represents those three corrections officers and two others, said the impact of MRSA went beyond the medical. "They're ashamed, and in many cases they're shunned," he said of the officers.

Greenberg faulted the county for failing to inform the officers of the problem and not addressing it promptly. Corrections officers, he said, were unaware of the signs of MRSA or its consequences.

"They didn't know," Greenberg said. "They thought it was just a pimple or a boil – and passed it on to their spouses by direct contact."

Even after the jail identified MRSA as a threat in 2003, the infection persisted. Michael A. Collins was infected in 2004 while serving six months for violating parole. He said jail officials had ignored his complaints about a painful sore for three days.

"My leg blew up like a hot-air balloon, and it turned blue, yellow, orange and green," said Collins, 36, of Franklin, a plaintiff in the lawsuits. He underwent three operations to excise an infection that bored deep into his muscle. He now walks with a cane.

The persistence of MRSA at the jail has pitted the union representing the corrections officers against jail administrators. Union officials accuse the jail of not doing enough and contend that MRSA remains a threat, while jail officials say their monitoring has significantly reduced the rate of infection. The antagonism is rooted in part in the early confusion of MRSA and the fact that the infection spread to officers and their spouses.

Sgt. Joseph Hetzel, who was vice president of Lodge 97 of the Fraternal Order of Police during the 2003 outbreak, said jail officials refused to admit there was a problem. When officers became infected and learned the truth from their doctors, they informed jail officials but were ignored, Hetzel said.

"Some people were just given a cream for their boils and were told they'd be OK," said Joseph Marano, a Westmont lawyer who represents several former inmates and one corrections officer.

The union said measures implemented by the jail after the 2003 outbreak were insufficient. Only when sued did jail officials begin isolating inmates with MRSA, but quarantine is often difficult because of overcrowding and inconsistent practices, Hetzel said.

Sgt. Eugene Caldwell, president of the Gloucester County Corrections Sergeants Association, said the county could still be a lot more aggressive. "Our biggest fear is getting the disease and bringing it home to our families," he said. "They need to take the problem more seriously."

His union, which represents 16 officers at the jail, is advocating for procedures established at federal and state corrections facilities, including immediate medical attention for inmates who exhibit a boil and a routine examination of their cell mates.

Union officials also said that the jail had reduced the number of cultures that are taken - such tests are the only way to confirm MRSA - and that inmates with boils were treated with the antibiotic Bactrim and tested only if the boils persisted.

Balicki, the jail's director, said measures had reduced MRSA cases. "There's hysteria about MRSA," he said. "We're not the breeding ground people think we are."

Though cell mates of infected inmates are not checked, their cells are immediately disinfected, Balicki said. Sick inmates are seen within 72 hours, and inmates with a boil can get prompt attention by notifying an officer, he said.

Balicki said cultures cost \$87 apiece - too prohibitive, he said, to order routinely. They are ordered only if inmates have a sore that is draining or won't respond to antibiotics, he said, adding that inmates sometimes served short sentences and were released before results come back.

Health experts, however, say cultures are critical to verify infection, identify the bacterial strain, and choose the proper medication. In federal prisons, if two or more inmates have the same strain, it is deemed an outbreak and the facility is disinfected and other inmates are examined.

Preparing for trial

The current lawsuits, filed in U.S. District Court in Camden, have been consolidated for discovery purposes. They could go to trial next year.

The complaints name as defendants Gloucester County, the Board of Chosen Freeholders, the Department of Correctional Services, the county Sheriff's Office, Prison Health Services Inc., and individual jail directors and wardens, among others.

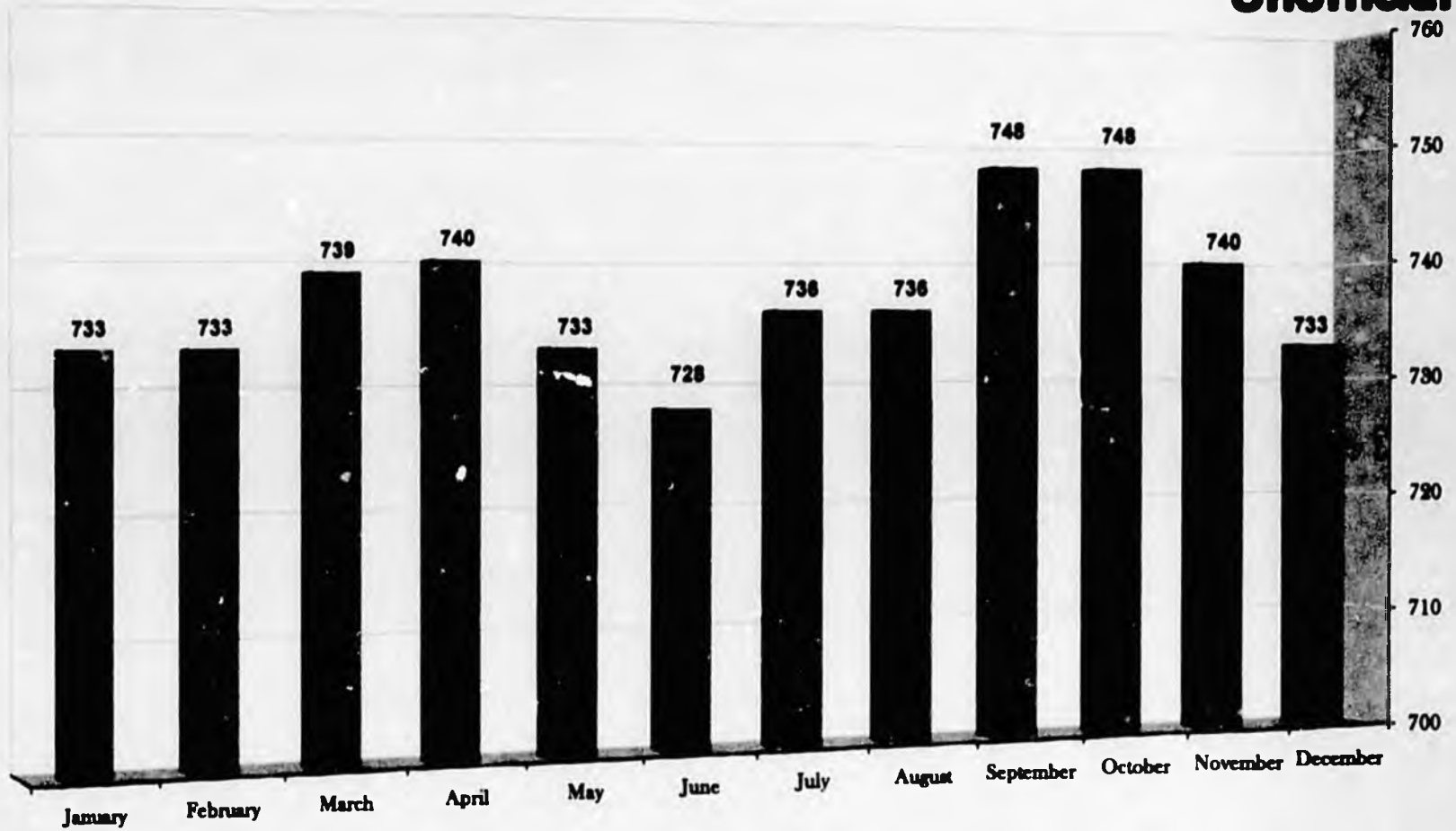
Lawyers for the inmates said current conditions at the jail were providing them with a steady stream of potential clients. Derek J. Layser, another attorney in the litigation, said he had 10 cases under review. "We're getting calls from inmates who say it takes five days to see a doctor," Layser said.

3

January 2007 - December 2007 Staffing Counts

per Kevin Brew, DOC Special Assistant

Unofficial

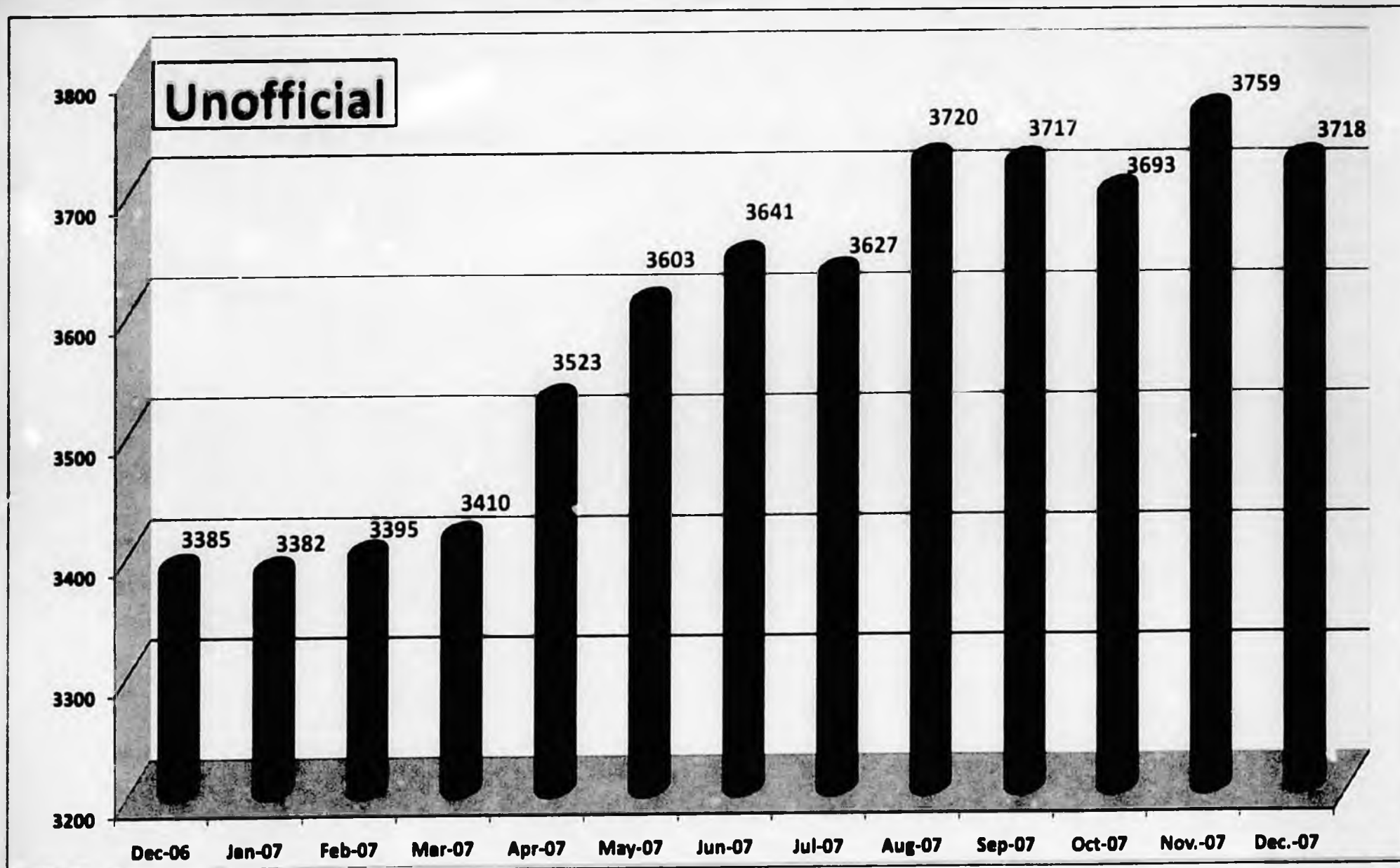


Staffing

These numbers include Officers out on Workers' Compensation and Military Duty.

4

December 2006 - December 2007 Inmate Counts



These counts are based on the average number of inmates per month, per DOC Institutional Counts.

Alaska Correctional Officers Association

5

History: Inmate Population

Cleary August 1997: 3099 Inmates

December 2006: 3385 Inmates (average)

December 2007: 3718 Inmates (average)

August 1997: 3099 Inmates

December 2006: 3385 Inmates

(Schmidt Administration takes office)

Inmate increase over 9 years: 286

December 2006: 3385

December 2007: 3718

Inmate increase (January 2007-December 2007) 333

Average yearly Inmate increase (1997 to 2006): 31.77 per year

1st year of Schmidt Administration (2007): 333 last year

Previous Administration's 9 years — 286 Inmate increase

Commissioner Schmidt's 1 year — 333 Inmate increase

Then:

August 1997: 731 Officers

Now:

December 2007: 733 Officers

6

SHIFT #2

Date:

	<u>Officer's Name</u>	Date: 11/16/06 Dayshift (5 Overtime)	Date: 11 /03/06 Nightshift (5 Overtime)	
1	Sergeant	Sgt. [REDACTED]	Sgt.	Ops
2	Supervisor	Sgt. Carter	Sgt. Carter	Module
3	Booking	Ofc.	Ofc. [REDACTED]	
4	Bravo	Ofc.	Ofc. [REDACTED]	
5	Charlie	Ofc.	Ofc. [REDACTED]	
6	Delta	Ofc.	Ofc. [REDACTED]	
7	Echo	Ofc.	Ofc. [REDACTED]	
8	Foxtrot	Ofc.	Ofc. [REDACTED]	
9	Gulf	Ofc.	Ofc. [REDACTED]	
10	Hotel	Ofc.	Ofc. [REDACTED] OT	
11	Juliet	Ofc.	Ofc. [REDACTED] OT	
12	Kilo	Ofc.	Ofc. [REDACTED] OT	
13	Lima	Ofc.	Ofc. [REDACTED] OT	
14	Mike	Ofc.	Ofc. Courtright	
15	November	Ofc.	Ofc. [REDACTED]	
16	CVR	Ofc.	Ofc. [REDACTED]	Ofc. [REDACTED] working for Ofc. [REDACTED]
17	CVR	Ofc.	Ofc. [REDACTED] OT	
18	CVR	Ofc.	Ofc.	
19	Rover	Ofc.	Ofc. [REDACTED]	
20	Rover	Ofc.	Ofc. [REDACTED]	
21	Rover	Ofc.	Ofc. [REDACTED] OT	
22	Rover	Ofc.	Ofc. [REDACTED] OT	
23	Hospital			
24				
25				
26		FTO [REDACTED]	COI [REDACTED]	Week (4) 11/02/06
27		FTO [REDACTED]	COI [REDACTED]	Week (7) 11/02/06
28		FTO [REDACTED]	COI [REDACTED]	Week (5) 11/02/06
30		FTO [REDACTED]	COI [REDACTED]	Military Leave

	Shift 4 West	05/22/08-5/28/08		
		Night Shift		
1	Mod SGT.	Sgt. [REDACTED]	[REDACTED]	
2	Booking	Ofc. [REDACTED]		
3	Rover	Ofc. [REDACTED]		
4	CVR	Ofc. [REDACTED]		
5	CVR	Ofc. [REDACTED]		
6	Bravo	Ofc. [REDACTED]		
7	Charlie	Ofc. [REDACTED]		
8	Delta	Ofc. [REDACTED]		
9	Echo	Ofc. [REDACTED]		
10	Fox	Ofc. [REDACTED]	To Nov after 2200 hrs.	
11	Gulf	Ofc. [REDACTED]		
12	Hotel	Ofc. [REDACTED]		
13	Juliet	Ofc. [REDACTED]		
14	Kilo	Ofc. [REDACTED]		
15	Lima	Ofc. [REDACTED]		
16	Mike	Ofc. [REDACTED]		
17				
18				
19				
20				
	A/L	[REDACTED]		

*Need 1
for Hospital*

7

The Rest of the Story.....

Paul Harvey

34 MORE OFFICERS....THE REALITY

Commissioner Schmidt told the press that Officers were not being honest when we stated there were fewer Officers on the floor. He went on to say that there were 34 more Officers in 2007 than in 2006.

The Facts, the Math, and the Truth

THE FACTS

Commissioner Marc Antrim began a recruitment/hiring drive at the end of his term. (See attached) This carried into December 2006 and January 2007 of the new administration. Commissioner Schmidt took credit for the last administration's hiring drive. Commissioner Schmidt arrives at his 34 more Officers by taking the average in 2006 of 703 employees and comparing it to the 2007 average of 737 employees. The Commissioner went on many radio shows. When asked directly about posts and less Officers on the floor, he kept redirecting the listeners to the 34 new Officers. He deflected answering the question while also taking credit for previous Commissioner Marc Antrim's hiring drive.

The fact is that while there may be more Officers overall, the number of Officers on the floor has decreased and the number of inmates for each Officer has dramatically increased. What matters is what the Department refers to as "minimum required staffing requirements", the number of Officers actually required to be on duty to supervise inmates. Shifts at institutions have seen these "minimums" lowered while at the same time inmate overcrowding has increased. There are insufficient Officers on staff to supervise inmates and respond to critical situations safely. Overcrowded facilities are considered more volatile than un-crowded facilities.

THE MATH

34 new Officers sounds good until you do the math. There are 13 institutions (not counting the Academy and Central Transportation). Each institution has four shifts. That makes 52 shifts in all. 34 new Officers divided into 52 shifts, comes out to an average of just .6 Officers added to each shift.

THE TRUTH

As an example of the math, let's say an institution had a minimum of 19 Officers when Commissioner Schmidt took office December of 2006, and now that institution has a new minimum of 16 Officers. The truth is .6 Officers per shift does not change the fact that there are more inmates and fewer Officers. It does not change the fact that there are now 3 less Officers on the shift than before Commissioner Schmidt took office.

8

**INMATE TO OFFICER RATIO
ANCHORAGE CORRECTIONAL COMPLEX**

April 2008

ACC-E

April 2008:

of inmates = 472

Minimum staff (days) = 19

(nights) = 17

$472 \div 19 =$ **24.8 inmates per 1 officer on dayshift**

$472 \div 17 =$ **27.7 inmates per 1 officer on nightshift**

ACC-W

April 2008:

of inmates = 483

Minimum staff (days) = 18

(nights) = 16

$483 \div 18 =$ **26.8 inmates per 1 officer on dayshift**

$483 \div 16 =$ **30.1 inmates per 1 officer on nightshift**

9

QUICK GLANCE

More Officers?

Correctional Officers say *"we are down Officers"*

Commissioner Schmidt says they, Correctional Officers, *"are not being truthful"*.

The Math

$$13 \text{ Institutions} \quad \times \quad 4 \text{ Shifts} = 52 \text{ Shifts}$$

$$34 \text{ New Officers} \quad + \quad 52 \text{ Shifts} = .6 \text{ Officers}$$

.....

$$13 \text{ Institutions} \quad \times \quad 4 \text{ Shifts} = 52 \text{ Shifts}$$

$$43 \text{ New Officers} \quad + \quad 52 \text{ Shifts} = .8 \text{ Officers}$$

.....

$$13 \text{ Institutions} \quad \times \quad 4 \text{ Shifts} = 52 \text{ Shifts}$$

$$77 \text{ New Officers} \quad + \quad 52 \text{ Shifts} = 1.4 \text{ Officers}$$

(43 x 34)

1.4 More Officers per Shift

10

Maximum and Emergency Capacity of Facilities

Page 1 of 4

Policy #1208.18

Chapter: Security

Policy

- A. The Department will determine the maximum and emergency capacity of each facility using the criteria in this policy. The Department also will promulgate regulations to determine the maximum capacity of each facility in order to protect against overcrowding. These regulations will comply with the requirements in this policy.

Procedures

- A. **Maximum Capacity.** When determining the maximum capacity of a facility, the Department will measure the cell size or square footage requirements deemed appropriate for prisoners from interior wall to interior wall, including the space occupied by fixtures, beds, desks, closet space, entrance, and exits, but not including the space occupied by plumbing chases.

1. **Existing Facilities.** The Department will use the following cell size and square footage criteria when determining the maximum capacity for existing facilities:

- a. when a prisoner is locked in his or her living unit for 10 hours or less per day, the Department may assign:

- (1) no more than one prisoner to a 60 square foot or smaller cell or room;
- (2) no more than two prisoners to a 61-100 square foot cell or room;
- (3) no more than three prisoners to a 101-150 square foot cell or room; and
- (4) no more than one prisoner for every 50 square feet in a dormitory, including dayroom space, but excluding bathroom space.

NOTE: The Ketchikan facility is in compliance with this provision as long as it continues to allow prisoners from the general population modular unit into the dayroom by rotating half the prisoners out at one time in four-hour shifts.

- b. when a prisoner is locked in his or her living unit for more than 10 hours per day, the Department may assign:

- (1) no more than one prisoner to an 80 square foot or smaller cell or room;
- (2) no more than two prisoners to an 89-120 square foot cell or room. (This provision does not apply to the Ketchikan facility where the Department assigns two prisoners to 81-120 square foot rooms and provides at least 35 square feet of adjacent dayroom space per prisoner);

- (3) no more than three prisoners to a 121-180 square foot cell or room; and
 - (4) no more than one prisoner for every 60 square feet in a dormitory, including dayroom space but excluding bathroom space. (The four-bed segregation dorm in the Fairbanks facility with 59.6 square feet of space per prisoner complies with this provision).
2. **New Facilities.** The Department will use the following cell size and square footage criteria to determine the maximum capacity for new facilities:
- a. when a prisoner is locked in his or her living unit for 10 hours or less per day, the following minimum square footage requirements per prisoner apply for each cell, room, or dormitory:
 - (1) 60 square feet in a cell or room for one prisoner;
 - (2) 80 square feet in a cell or room for two prisoners;
 - (3) 140 square feet in a cell or room for three prisoners;
 - (4) no more than one prisoner for every 40 square feet in a dormitory, excluding the bathroom and the dayroom space; and
 - (5) 35 square feet of dayroom space or leisure area for each prisoner in addition to cell, room, or dormitory space.
 - b. when a prisoner is locked in his or her living unit for more than 10 hours per day, the following minimum square footage requirements per prisoner apply for each cell or room:
 - (1) 80 square feet in a cell or room for one prisoner;
 - (2) 90 square feet in a cell or room for two prisoners; and
 - (3) 150 square feet in a cell or room for three prisoners.
3. The Department will ensure that its determination of maximum capacity does not:
- a. restrict prisoners' indoor and outdoor recreational opportunities;
 - b. restrict prisoners' visitation;
 - c. result in a prisoner-to-total staff ratio exceeding 3.5 to one, and does not result in insufficient staff to deliver medical, educational, and rehabilitative services to prisoners;
 - d. exceed the facility's sewage treatment requirement or water supply;

- e. adversely affect requirements for food service, medical care, rehabilitation and educational programs, or fire and life safety;
 - f. result in double-celling prisoners of high custody levels with other prisoners in a manner that creates an unreasonable risk to a prisoner or the security of the facility;
 - g. include areas not designed for prisoner housing, such as gymnasiums, hallways, dayrooms, cafeterias, etc.; and
 - h. include cells or rooms that the Department uses for temporary detention, segregation, and medical care.
- B. **Square Footage Exceptions.** Notwithstanding the square footage requirements in section A above, the Department may assign a prisoner to a living unit that does not meet these standards during the first 15 days of the prisoner's incarceration.
- C. **Rules Regarding Emergency Capacity.** An institution is at its emergency capacity if it has a population of maximum capacity plus prisoners occupying one-half of the special beds. (The Department allots special beds for temporary detention, segregation, and medical care.) The standards below apply:
1. The Department will take all reasonable steps to ensure that facilities operate at or below maximum capacity and do not reach emergency capacity.
 2. The total prisoner population in all of the Department facilities may not exceed emergency capacity for 30 consecutive days or a total of 45 days in any 90 day period.
 3. No individual facility may exceed its emergency capacity for 10 consecutive days or for a total of 30 days in any 90 day period.
 4. If the prisoner population in a facility has exceeded emergency capacity for 10 consecutive days, the Department immediately will act to reduce the prisoner population to below maximum capacity within 20 days. If this is not possible, the Department will take steps set out in the *Cleary* Final Order.¹

¹The *Cleary* Final Order provides that if the Department does not reduce the prisoner population to below maximum capacity within 20 days, the Department must present the court with a plan explaining how it will reduce the population to below maximum capacity:

- a. within 20 days whenever the prisoner population in a facility exceeds emergency capacity for 10 consecutive days and is not reduced to maximum capacity within 20 days thereafter; or when the population exceeds emergency capacity for 30 days in any 90 day period; or
- b. within 30 days if the total prison population of the Department's facilities exceeds emergency capacity for 30 consecutive days or the population exceeds emergency capacity for a total of 45 days in any 90 day period.

(The *Cleary* plaintiffs may object to the Department's plan and seek other appropriate relief.)

D. **Exceeding Emergency Capacity.** The Commissioner may approve the use of gymnasiums, hallways, and dayrooms for temporary housing when a facility exceeds its emergency capacity. In such a case, the Department may not house any prisoner in this setting for longer than 48 hours, nor may any facility use such space for temporary housing for more than five days in any given month unless the Department takes steps set out in the *Cleary Final Order*.²

ORIGINAL

Date July 9, 1995

Margaret M. Pugh
Margaret M. Pugh, Commissioner
Department of Corrections

Authority
Cleary Final Order, 3AN-81-5274 CIV, Sept. 1990

²If the Department uses these common areas longer than five days in a given month, it immediately shall present a plan to the court for bringing the population back to maximum capacity or explain why the situation will not reoccur.

11

MONEY AVAILABLE FOR OFFICERS

300 Inmates

**x \$50 Savings per
inmate**

\$15,000 Daily Savings

x 365 Days per year

\$5,475,000

Total Savings

12

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

Institution Director's Office

550 W 7th Avenue, Suite 601

Anchorage, AK 99508

Phone (907) 269-7409 Fax (907) 269-7426

November 5, 2007

Dennis Hansen
P.O. Box 3141
Seward, AK 99664-3141

Re: Suspension

Dear Mr. Hansen,

The Department has concluded its investigation into allegations that you failed to follow the Department's Policies & Procedures, specifically the Standards of Conduct (202.15) and Special Incident Reporting (104.01) when you inappropriately disclosed incorrect information about the Department to a news source after previously agreeing with your Union to do so.

Due to the seriousness of the allegations on October 25, 2007 you were placed on leave with pay and given notice that you were directed to report to a meeting Monday, October 29, 2007. As you are aware, you met with the Deputy Director of Institutions and a representative from the Division of Personnel & Labor Relations in the presence of your union business agent as well as your union business manager.

During that meeting, your union business manager disclosed that he had contacted a news source and referred that source to you as an employee willing to provide information about the union's concerns. You also disclosed that you had planned with your union to provide information about the Department to the news source as a challenge to the Department's Policies & Procedures.

In explanation, you stated that you spoke to the news source and offered only information based on your experience and personal beliefs. You also explained that while you felt management was not appropriately following up on your concerns regarding methicillin-resistant staphylococcus aureus (MRSA), you had not contacted any one in your chain of command for two years regarding those concerns.

The investigation found your explanations for why you failed to follow appropriate Department Policy & Procedure unreasonable. You admitted to clearly understanding that you would be subject to discipline for your actions. You indicated that you understood the information you provided would be sensitive in nature and of interest to the media yet, despite the gravity of your concerns you did not follow up your chain of command or exhaust appropriate channels to report those concerns to management. Instead, you colluded with your union business manager to provide information about the Department that you indicated you understood would be detrimental to the Department. Despite your explanation that your opinions and information given to the news source were your own, the average person watching the news would not be able to distinguish your statements from those of the Department.

After careful consideration, I find this matter warrants significant discipline. The Department concludes that your actions are contrary to fundamental expectations of appropriate workplace behavior and are violations of the Standards of Conduct. These behaviors violate Department Policy & Procedure 202.15, the Standards of Conduct, which include and state in part:

- Section G (1)- All official statements for public release concerning the affairs of the Department must be authorized by the Commissioner, a Director, or Designee.
- Section G (2)- In any public statement, employees will clearly distinguish between those that are positions of the Department and those that are personal views.
- Section G (3)-Employees shall not disclose confidential information (ranging from personal data concerning employees...) Employees who receive such a request for information will refer the inquiring party to the office or facility manager.

These behaviors also violate Department Policy & Procedure 104.01, Special Incident Reporting, which include and state in part:

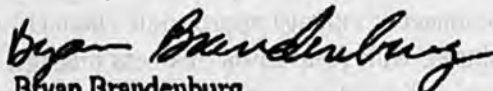
- Section VI. A- The timely and accurate reporting of incident is essential for the proper management and administration of the Department. Significant incidents occurring within the Department concerning safety and security within operational units, or that may result in media attention shall be promptly reported to Department management personnel.

Officer Hansen, it is unreasonable to believe an officer with your years of experience did not understand how to use the appropriate chain of command or that you did not expect the incorrect information you disclosed to the news source to cast the Department in a negative light. The Department will not tolerate employees who have serious concerns choosing to follow up those concerns with a news source instead of to management. Your actions did not demonstrate serious concern for the welfare of fellow officers as you stated; if they had then you would have followed up with the channel to address those concerns: management. Had your concerns been valid and based on correct information, the Department would have been able to take immediate and appropriate action. Thankfully, your concerns were unfounded. Your actions indicate disrespect for the Department and for management.

The Department considered more significant discipline, but determined your union's inappropriate guidance to be a mitigating factor. Therefore, I have determined that a one week, eighty-four hour suspension is the most appropriate sanction. This suspension will start at 06:00 on Thursday, November, 8th, 2007 and end at 18:00 on Wednesday, November, 14, 2007. During that time you are not to return to the premises of the Spring Creek Correctional Center or any Department of Corrections property without scheduling an appointment.

Any future conduct of this nature will result in immediate dismissal. You are reminded of your rights under your collective bargaining unit agreement.

Sincerely,



Bryan Brandenburg
Deputy Director

cc: Garland Armstrong, Director of Institutions/Craig Turnball, Superintendent
DOP Public Protection Management Services (via fax 465-5332)
DOP Public Protection Technical Services (via fax 465-2202)
ACOA (via fax 646-2286)

ACOA Grievance 07-020
Hansen, Dennis E. (SCCC)
SSN: 560-82-3880
P.O. Box 3141, Seward, Alaska 99664-3141

Contract Provisions violated: Management's actions are in violation of the Bargaining Agreement, including Article 12 (Notice of Discipline and Discharge)

Nature of Grievance:

The Grievant's Suspension Letter states that *"The Department concludes that your (the Grievant's) actions are contrary to fundamental expectations of appropriate workplace behavior and are violations of the Standards of Conduct."* The letter then goes on to cite four specific Standards of Conduct violations. The Association takes exception to the conclusion that the Grievant's actions were contrary to the *fundamental expectations of appropriate workplace behavior* statement and to the Employer's claim that the Standards of Conduct were violated. The Association also takes exception to numerous statements throughout the Grievant's letter that have no basis in fact. The Association grieves the fact that the Grievant was punished solely for exercising his Constitutional right to free speech, and that, in punishing him for that, the Employer hopes to unlawfully restrain others who might choose to exercise their freedom of speech rights as well.

First, our disagreement with the statement; *"The Department concludes that your (the Grievant's) actions are contrary to fundamental expectations of appropriate workplace behavior and are violations of the Standards of Conduct"*. What the Grievant was disciplined for had nothing whatsoever to do with workplace behavior. It took place hundreds of miles from his workplace when he was not on duty. It involved information he gained from personal experience and from open discussions with his fellow officers. Next, we will take exception with each of the 202.15 violations cited, addressing each individually.

The Department's finding that the Grievant violated Section G (1) is without factual basis. This Standard requires that *Official* statements be authorized by the Commissioner, Director, or designee. The Grievant made no official statements, his statements were based on his own personal experience and were conveyed in response to questions he was asked while being telephonically interviewed by a reporter. He was in Fairbanks and the Reporter was in Anchorage. He made it clear to Grace Jang, the CBS 11 reporter who conducted the interview and taped the news report that he was speaking only for himself and not for the Department. Her written recollection of this is *"Before we began to interview on October 23, Dennis Hansen wanted to make sure I understood that he was speaking for himself, not as a Department of Corrections representative. He said, 'I just want to make it clear that I am not speaking for the department.'" Is the Department Management team to be held equally accountable for statements they have made that came out a bit differently than what they intended when reported in the media?*

Third, the Department's finding that the Grievant violated Section G (2) is without factual basis. This Standard requires employees to clearly distinguish between positions that are the Department's and those that are their own personal views. The Grievant met this obligation and made this perfectly clear before he answered any questions asked by CBS Reporter Jang. He was not participating in an on-camera situation and had no opportunity to convey that while directly in front of a camera.

Fourth, the Department's finding that the Grievant violated Section G (3) is without factual basis. This Standard prohibits the disclosure of confidential information without approval, and directs employees who receive such requests to refer the inquiring party up the chain of command. At no point did Reporter Jang request any confidential information, and at no point did the Grievant divulge any. The Grievant was not at his facility when this reporter contacted him and he did not know he was going to be contacted before he departed his facility for Fairbanks. He did not review any documents or data and he took none with him. He needed none, he had a painful personal experience with MRSA and he responded as an individual with recollections from personal experience. The contradiction of convicting him for releasing confidential information and then, later in his suspension letter, declaring that he released "incorrect" information is significant. It is self contradicting to claim he released confidential information and then claim it was false.

Lastly, as related to the Standards of Conduct specifically cited as reasons for disciplining the Grievant, is the Department's conclusion that he violated Policy and Procedure 104.01, Section VI, A. This standard requires the timely and accurate reporting of Special Incidents concerning safety and security or that may result in media attention. The Grievant is a Correctional Officer II. Policy and Procedure 104.01 specifically deals with Special Incident Reporting (SIR). While it is applicable to "all staff", in practice Correctional Officers II are only involved with the writing of individual incident reports that become attachments to SIRs when directed by supervisors or work leaders to do so. Correctional Officers II do not determine what situations require SIRs. The left column of the SIR form details the situations that require SIRs, categorizing them as Class A and Class B incidents. MRSA is not a Class A incident. It could, perhaps, be a Class B incident under the heading of an incident that is not listed on the form that the Superintendent or Chief Probation Officer considers to be a SIR, but that decision is pay grades above the Grievant. The Grievant did not violate Policy and Procedure 104.01. Perhaps the Employer inserted this violation while struggling to find something, anything to support the severe discipline imposed on the Grievant. Perhaps, the Employer was attempting to imply by innuendo that the Grievant made no report of his experience and that they had no knowledge MRSA existed or that the Grievant had contracted it. The fact is, the onset of MRSA can be very insidious and it is often difficult to diagnosis; one does not go home realizing "today I caught MRSA". The fact is the Grievant contracted it in July and was not fully aware of what he had until sometime in August, at which time he did notify the employer by submitting an Injury Leave Request. The fact is the Employer had all the knowledge needed and knew, or should have known, that inmates and staff were being exposed to MRSA and negligently failed to provide appropriate guidance. The Employer failed to respond to the Grievant's

situation or to MRSA information provided to them by the Association in July. The Grievant did his part - the Employer did not!

So far this grievance has focused on the unsupportable conclusion that severe discipline was warranted because the Employer falsely concluded the Grievant violated four specific sections of policy and was guilty of inappropriate workplace behavior. The Association must also respond to several of the many patently and outrageously false statements the Employer wrote in the Grievant's Letter of Suspension. The totality of the incorrect conclusions drawn by the Employer combined with numerous false, inaccurate, and intentionally contentious statements speaks eloquently to the Employer's bias and the focused agenda that prevailed throughout this investigation. The investigation, the conclusions arrived at, and the discipline imposed violates all reasonable definitions of just cause.

Policy and Procedure 202.15 requires that Department employees "...shall be truthful and forthright in their statements and communications regarding other employees..." Almost every disciplinary notice refers to this requirement and issues a warning that "...failure to do so will be considered dishonesty and is also grounds for discipline up to and including immediate dismissal," as did the Grievant's notice. In a similar manner, almost every hearing starts with a reminder of this responsibility. Perhaps overlooked during this particular discipline process is the fact that these requirements are binding upon everyone involved in the process, not just upon the person being interviewed. There is no "management pass" setting a lesser standard for Management. The Grievant's Suspension Letter contains numerous false statements and attributes them to statements made during the investigative interview: statements that are not contained in the recorded or transcribed record of the hearing. It is unreasonable to believe that so many false and misleading statements could accidentally be made by such well educated Administrators in such positions of great responsibility and trust.

The Grievant's letter contains the statement that "...your business manager disclosed that he had contacted a news source and referred that source to you as an employee willing to provide information about the union's concerns". That is false, is not what occurred, and is not supported by records of the hearing. The fact is that KTVA reporter Grace Jang contacted the Association and asked if the Association had knowledge of MRSA incidents in Correctional Facilities or other information on MRSA. We provided her with copies of the New Jersey MRSA video and the Federal Bureau of Prisons guidelines that we shared months ago with Management. In the course of discussing what we knew and believed, she asked if there might be Correctional Officers she could interview. That led to contact being established between her and the Grievant. The facts are considerably different than the letter represents them to be. The final words of that same sentence are "...willing to provide information about the union's concerns". This is another misrepresentation that does not relate to anything the Association or Grievant stated that was recorded during the hearing. The fact is that the Grievant was willing to discuss his concerns and personal experience as a victim of MRSA that he contracted while working in a Correctional Facility. However, the Employer is correct that the Association is concerned and we do not understand why the Employer has not

been concerned. Departments of Correction elsewhere across the nation have been very concerned and have responded by educating inmates and staff and by instituting comprehensive guidelines.

The very next sentence in the Suspension Notice contains the false statement: "You also disclosed that you had planned with your union to provide information about the Department to a news source as a challenge to the Department's Policies and Procedures". One needn't be a rocket scientist to discern the Employer's reason for including this statement: however it has no basis in fact. I have a fair recollection of what was said at the hearing and do not recall it, I read the transcript five times and cannot find it. I listened to the tape and did not hear it. Regardless of what the Employer wishes others to believe, wishing does not make it so. There was no "disclosure" of any planned challenge of the Department's Policies and Procedures and there is no factual basis to say otherwise. The Suspension Letter contains other falsehoods and innuendos, but we shall end the discussion having highlighted two of the most glaring examples. There will no doubt be a forum to discuss all of them at a later date.

During the Investigative Hearing the Grievant asked several times if the Department believed Department Policy superseded his right to free speech. That was not answered at the time it was asked, but it was answered by the disciplinary action that has been imposed. An eighty-four hour suspension has been imposed as a result of the Grievant exercising his constitutionally protected freedom of speech right. To impose this discipline the Employer has attributed meaning that does not exist to its Policy and Procedure and represents falsehood as fact in spite of what is a matter of record. The Employer's plummeting credibility has dropped about as low as it can go.

When did this occur? November 5, 2007

Relief Sought: The grievant should have his discipline reversed and should be made whole in every way, including having all pay, benefits, allowances and anniversary dates corrected to what they would have been had discipline not been imposed, and having all reference to this incident purged from all of his files.

State of Alaska
Grievance Form continuation sheet
Bargaining Unit: ACOA
Represented by the Alaska Correctional Officers Association (ACOA)
Contract Year: July 1, 2006-June 30, 2009

RECEIVED
DEC 18 2007
ACOA

Name of Grievant: Dennis Hansen
Union Case #: ACOA 07-020
State Case #: 08-C-183

13. Remarks: The Grievant alleges that the Department of Corrections violated Article 12 (Notice of Discipline and Discharge) of the collective bargaining agreement (CBA) when it suspended the Grievant. The union has not provided any facts or evidence that the actions taken were in violation of the CBA nor did it offer any information as how the CBA was allegedly violated.

Due to the seriousness of the allegations the Grievant was placed on approved leave with pay and was directed to a meeting Monday, October 29, 2007 in the presence of his union representative to provide him with the opportunity to offer facts, information, and mitigating circumstances.

The Grievant's statements regarding the Department of Corrections were not approved by the Department and the Grievant made no reasonable effort to address his concerns with the Department before taking them to the media. The Grievant acknowledged that he knew his statements to the media were meant for public release and that those statements would be detrimental to the Department. Because the Grievant's statements regarding the rate of MRSA infection were incorrect, the public perception of the Department and its operations was negatively impacted. While he stated that he was not speaking for the Department, the unauthorized disclosure of incorrect and biased information was harmful to the Department.

The Grievant's claim that he did not release confidential information is unreasonable; the Grievant released information he believed was correct regarding medical information about other Department employees. In addition, when the news source contacted him he did not refer the source to his supervisor or chain of command.

The Department takes the health and safety of everyone in facilities very seriously and takes measures to protect people from infections like MRSA; while it is regrettable that he contracted MRSA, his experience was relatively rare and he was provided time off and medical attention.

14. Decision: The decision to suspend the Grievant was based on facts and evidence the employer reasonably believes to be true. There has been no violation of the CBA; therefore, the grievance is denied.

13

"There are lies, damn lies, and statistics."

Mark Twain

49 HEARINGS – A SIGN OF PROFESSIONALISM. NOT CORRUPTION

Commissioner Schmidt informed all Alaskans on T.V., radio, and newspaper that the 96% "No-Confidence" vote was in response to him "cleaning up" the Department of Corrections. As evidence of his good deeds and the corruption of Correctional Officers, he pointed out that he had initiated 49 "Internal Investigations".

The Facts, the Math and the Truth

The Facts

There were **not** 49 "Internal Investigations". There were 49 "Hearings" or "Investigative Hearings", usually called "Administrative Investigations". There were no cloak and dagger "Internal Investigations", covertly conducted to uncover corruption. The first time anyone heard the term "internal investigation" was when the Commissioner held his press conference after ACOA's ballot count of the "No-Confidence" vote.

Yes, there were 49 hearings. There were 46 the year before and December '06 was a transition month between administrations. The average is 50-55 per year. Contrary to Commissioner Schmidt's distorted assertions, the hearings conducted his first year were *not* about corruption. Such hearings were simply workplace meetings that for the most part dealt with minor issues regarding work performance, easily correctable misunderstandings, or often for false inmate allegations. These meetings did not necessarily lead to discipline. These hearings were routine management/employee inquiries and interactions common to any employer or agency. They were not "internal investigations" to clean up the Department, as the Commissioner has misrepresented them to be. For the record, there were no hearings involving allegations of contraband, drugs, or corruption.

The Math

Alaska has 13 Correctional facilities, not counting the Academy or Central Office. 49 "Hearings" divided by 13 work-sites comes to 3.7 "Hearings" per year per institution. There is currently an average of 56 Officers per institution (730 Officers divided by 13 work-sites). Take any office or workplace that has 50 plus employees and imagine the boss having to call only 3-4 employees into his office to discuss some aspect of their job performance during the entire year. That does not always mean that those 3.7 times a year are for discipline; it may simply be to ask job or performance-related questions. It is not a sign of corruption. Commissioner Schmidt took a below-average annual hearings statistic on the annual number of hearings and manipulated it to demonize all Correctional Officers. The purpose of this well-planned misinformation campaign is to deflect attention away from under-staffing, unsafe policies, and mismanagement.

The Truth

The truth is 49 hearings is not an indication of a corrupt Department. Commissioner Schmidt's words to the press were well-calculated to shift blame from him to his employees. There is an old saying, "there are lies, *damn* lies, and statistics". Joe Schmidt used a statistic to take a group of Officers with one of the best records in the nation to portray them as a bunch of corrupt individuals in need of his reforms. The Commissioner attacked his own membership to deflect away from himself and his adversarial leadership. In 2005, Alaska Correctional Officers received the National Institute of Ethics (NIE) Integrity Certification. 49 workplace hearings are not a sign of a corrupt group of employees; it is a sign of professionalism.

QUICK GLANCE

49 Hearings in 2007

SIGN OF CORRUPTION or PROFESSIONALISM

49 hearings

+ 13 work-sites

3.7 hearings per work site a year

730 Officers

+ 13 work-sites

56 Officers per work-site *

(* Average number of Officers per facility)

**3.7 Workplace Hearings per year per
institution**

(Average of only 3.7 Workplace Hearings per 56 Officers a year)

A hearing does not necessarily mean discipline. It can be a meeting about an incident, job performance, or question about some part of the job. When there is discipline, the vast majority is minor. Not one of the 49 hearings involved any type of corruption.

Imagine you are the manager for an office/business with over 50 employees and you only had to question, *not discipline*, but question four of your employees in an entire year.

14

“A half truth is a whole lie.”

Yiddish Proverb

4 TERMINATIONS. NOT WHAT IT SEEMS

Commissioner Schmidt stated that he had terminated four Officers¹. He offered this up as proof that he was holding Officers accountable, implying that he was cleaning up corruption within the ranks. The Commissioner went on to state that the Association was attacking him due to “cleaning up” the Department, not safety concerns.

The Facts, the Math, and the Truth

THE FACT

There were four terminations. But the Commissioner failed to mention that three of these four terminations were overturned, two by arbitrators and one by the State. The one termination that was not overturned is now going to court due to the Director’s testimony being found “not credible” by an arbitrator² in a subsequent arbitration and another manager’s recanting testimony. Along with three of four terminations being overturned, there were three other disciplines and all of those were overturned. That makes six of seven disciplines that have been adjudicated and overturned. ACOA has also won the only arbitration dealing with a contract violation, during his administration.

THE MATH

One termination cost the State \$110,594.77, another cost \$94,580.47, and another over \$20,000³. The fourth termination could cost the State even more. That case is headed to litigation. The testimony by the Director of Institutions was found “not credible” in a subsequent arbitration on the exact same issue. If a Correctional Officer was found to be “not credible” by management, he would be fired.

THE TRUTH

Four terminations are not a sign of reform; they are a sign of mismanagement that may cost the State of Alaska almost **a quarter of a million dollars**.

¹ 4/23/08, Radio: KUDO-1080 AM, Cutting Edge with CC, Commissioner stated. “...four resulted in termination”

² Arbitrator Howell L. Lankford, in his November 26, 2007 decision in his case number 162, stated, “The Department argues that the disciplinary decision makers – the top managers of the Department – did not know of _____’s union involvement. But the ___ Superintendent testified that he knew _____ was the Shift Representative of the Association. And the testimony that the Director of Institutions did not know of _____’s union involvement was not credible.” ...

³ According to information provided through Labor Relations.

QUICK GLANCE

4 TERMINATIONS

Sgt. Elde (Dismissal overturned by Arbitrator)

\$ 94,580.47	Base Salary
Plus \$\$\$	Overtime Costs
Plus \$\$\$	Arbitrator's fees

\$94,580.47 Plus \$\$\$ Plus \$\$\$

Sgt. Galvano (Dismissal overturned by Arbitrator)

\$ 89,438.77	Base Salary
10,700.00	Overtime Costs
10,456.00	Arbitrator's fees

\$110,594.77

Officer Schneider (Dismissal overturned by State Officials - LGR)

\$ 20,000.00	Base Salary – 5 months pay
1,020.00	Arbitrator's fees

\$ 21,020.00

Officer Hovey (Director's testimony found later to be "not-credible")

Plus \$\$\$	Court costs
Plus \$\$\$	Settlement/Award

Approximately

\$200,000.00

PLUS \$ PLUS \$ PLUS \$ PLUS \$ PLUS \$ PLUS \$

15