

Public Report

Ombudsman Investigation

Department of Corrections, Health and Rehabilitation Services

Ombudsman Complaints 2023-02-0638, 2023-05-1181, 2023-07-1600

February 26, 2024 (updated March 3, 2024)

Ombudsman J. Kate Burkhart provides this public report on the investigation of ombudsman complaints 2023-02-0638, 2023-05-1181, and 2023-07-1600 about the Department of Corrections (DOC) pursuant to AS 24.55.200.

Introduction

The Ombudsman opened this systemic investigation after complaints were made to our office by two inmates at Goose Creek Correctional Center (GCCC). On March 2, 2023, we notified the Division of Health and Rehabilitation Services (HARS) of the first complaint.¹ The first complainant alleged that, among other issues, he had seen the dentist at GCCC three times for teeth that needed fillings, but the dentist refused to fix his teeth and insisted they needed to be extracted. We notified DOC that our office had not determined the scope of our investigation and requested additional information.

After reviewing our previous investigation and report issued in January 2021 ([ombudsman complaint 2019-07-0115](#)), we noted that approximately 21.8% of the inmate population at GCCC was on a dental waitlist back then. We requested information about the current dental waitlists at GCCC, as well as the total number of patients who received services from a dentist at GCCC in calendar year 2022. HARS reported that the dentist at GCCC provided services to 1,020 individuals in calendar year 2022. As of March 27, 2023, there were 229 patients on the GCCC dental waitlist, including 70 patients who had submitted Request for Interview (RFI) forms still awaiting triage.

¹ AS 24.55.140 requires, “if the ombudsman decides to investigate a complaint, the ombudsman shall notify the agency of the intention to investigate unless the ombudsman believes that advance notice will unduly hinder the investigation or make it ineffectual. Notice given under this section may be oral or written, at the discretion of the ombudsman.” See Email from Jacob Carbaugh, Assistant Ombudsman, to Dr. Robert Lawrence, DOC Chief Medical Officer, and Adam Rutherford, Then-Acting Director of DOC Health and Rehabilitation Services (March 2, 2023).

While evaluating this information, we received, and notified HARS about, a second complaint. The second complainant alleged he had been without dentures since being incarcerated, that he had been on a waitlist since March 2021, and that he experienced eating problems, inflammation of his gums, and digestion problems associated with a soft food diet.

We requested medical and dental records for both complainants. After reviewing their medical and dental records, as well as information in the Alaska Corrections Offender Management System (ACOMS), the Ombudsman determined the complaints were indicative of a systemic issue with dental care at GCCC. She initiated a systemic investigation pursuant to AS 24.55.120 and notified HARS of her decision on July 6, 2023.

On July 25, 2023, our office received a third complaint about dental care at GCCC. The third complainant alleged that that DOC refused to complete any dental work, except pulling teeth. He took issue with responses he received to his dental grievance and asserted that staff at GCCC were screening inmates' dental grievances and returning them without an investigation or refusing inmates the opportunity to appeal. He asserted that DOC does not provide any preventative dental care at GCCC, that inmates with abscessed teeth have to wait several weeks to receive any dental care, and ultimately have their teeth extracted. The third complainant did not consent to us disclosing his name to DOC to investigate his complaint until after the majority of the investigation was complete, so we did not investigate his specific allegations separate from the overall systemic allegations.

Assistant Ombudsmen Benjamin Hohenstatt, Jacob Carbaugh, and Jennifer Christensen investigated the complaint. The Ombudsman provided preliminary findings² to the agency on November 17, 2023. We hosted a consultation³ with HARS Director Travis Welch, Chief Medical Officer Dr. Robert Lawrence, and Division Operations Manager Adam Rutherford on December 21, 2023.

² It is ombudsman practice to provide agencies with a confidential investigative summary and preliminary findings, and to provide agencies an opportunity to comment and submit additional evidence for consideration by the Ombudsman, pursuant to AS 24.55.180 and 21 AAC 25.200.

³ AS 24.55.180 requires that, "Before giving an opinion or recommendation that is critical of an agency or person, the ombudsman shall consult with that agency or person. The ombudsman may make a preliminary opinion or recommendation available to the agency or person for review, but the preliminary opinion or recommendation is confidential and may not be disclosed to the public by the agency or person."

The Ombudsman provided her final confidential report⁴ with proposed recommendations, to the agency on February 6, 2024,⁵ and asked that HARS provide any response and requests for amendments to the final report by February 16, 2024.⁶ HARS Director Travis Welch provided the agency's response to the Ombudsman on February 19, 2024, with two requests for amendment to the report. The Ombudsman has made both amendments in this public report. The agency also provided notice that it has implemented one of the personnel recommendations (not included in this public report because the information is protected by the State Personnel Act (AS 39.25) and AS 24.55.160(b)). The agency provided no comment, clarification, or rebuttal of any of the evidence or analysis presented in the Ombudsman's confidential final report.

Director Welch did not respond directly to the Ombudsman's other recommendations, but commented: "Thank you very much for the work your team has put into this investigation and report. We also appreciate your team's professional and fair approach and incorporating our requested revisions. . . The remainder of the report looks good from our perspective. We appreciate the work you and your team have done to produce this report." The Ombudsman considers this response to be the agency's acceptance of all the recommendations.

Allegations

AS 24.55.150 authorizes the Ombudsman to investigate the administrative acts of an agency to find an appropriate remedy. Based on the complaints and the evidence collected during our preliminary review, we focused this systemic investigation on two distinct sets of allegations: the adequacy of dental treatment and the way inmates' RFIs and dental grievances were handled.

Allegations Related to Adequacy of Dental Treatment

Allegation 1: Unreasonable: The Department of Corrections delayed providing medically necessary dental care to inmates at Goose Creek Correctional Center.

⁴ AS 24.55.190(a) requires the Ombudsman provide a confidential report to the agency when making findings critical of the agency.

⁵ A previous version of this report incorrectly stated that the confidential final report was provided on February 5, 2024.

⁶ AS 24.55.180 and 21 AAC 25.200 afford the agency the opportunity to consult and comment on the Ombudsman's proposed recommendations. A shortened time for response was given so that this public report could be released to support the recommendations made to the agency while the FY2024 state budget is being considered by the Alaska Legislature. 21 AAC 25.200(d) provides that the Ombudsman can provide less than 30 days for an agency to respond to proposed findings and recommendations if "delay will render a remedy futile."

Allegation 2: Performed Inefficiently: Lack of staffing at Goose Creek Correctional Center has resulted in inordinate delays in dental treatment for inmates.

Allegations Related to Improper Handling of Inmate RFIs and Dental Grievances

Allegation 3: Unreasonable and Performed Inefficiently: The Goose Creek Correctional Center Dental Program staff are not responding to dental RFIs⁷ as required by Department of Corrections policy.

Allegation 4: Unreasonable: Goose Creek Correctional Center health care providers are inconsistent in their responses to dental RFIs.

Allegation 5: Unreasonable: Goose Creek Correctional Center health care providers have been instructed to discourage/stop informing inmates of their right to file grievances about their dental care.

Allegation 6: Unreasonable: Goose Creek Correctional Center dental staff investigated grievances about the Goose Creek Correctional Center dental program.

Based on a preponderance of the evidence,⁸ the Ombudsman finds all the allegations *justified*.⁹

⁷ As used in this report, the term “dental RFIs” refers to medical RFIs that are addressed to the attention of the GCCC Dental Program or that have been forwarded to dental staff. The RFI Form (Form 808.11A) is the DOC form inmates must use to attempt to informally resolve a problem or to appeal a screened grievance. Current DOC Policy 808.11 categorizes RFIs as either medical (yellow form) or general (white form). According to GCCC staff interviews, nursing staff separate medical RFIs into medical, dental, or mental health based on who the inmate directs the RFI “To” and subject of the RFI. They are then forwarded either to medical, dental, or mental health staff for further action or response.

⁸ The standard used to evaluate all ombudsman complaints is the preponderance of the evidence. This means that the evidence indicates that the administrative act complained of more likely than not happened and that the complainant’s criticism of it is valid.

⁹ We evaluate the evidence to determine whether a complainant’s criticism of an agency’s actions is valid. A complaint allegation is *justified* if the evidence establishes that the administrative act occurred and the complainant’s criticism is valid. Conversely, an allegation is *not supported* if the evidence establishes that the administrative act did not occur, or it occurred but we determined that the complainant’s criticism is not valid. An allegation is considered *partially justified* if the evidence reviewed establishes shared fault between the complainant and the agency for what occurred. A complaint is *indeterminate* if the evidence is insufficient “to determine conclusively” whether the administrative act occurred or if it occurred, whether criticism of the administrative act is valid. See Ombudsman Policy 4060.3 Findings.

Relevant Statutory, Regulatory, Policy Authority

AS 33.30.011(a)(4) and regulations promulgated pursuant to AS 33.30.011 require that DOC provide inmates with “necessary” health care services, including dental health care services. DOC policies outline the Department’s responsibilities for providing health care services to inmates and establish standards for the delivery of these services.¹⁰ The Department is responsible for ensuring “quality, accessible, and timely health care services for prisoners” and shall provide “essential health care in a timely manner”¹¹ that is comparable in quality to health care services that are available to the general public.¹² DOC Policy 807.01 II.C. requires that “the same quality of care shall be provided to sentenced and un-sentenced prisoners, unless the prisoner’s release date does not provide sufficient time for the prisoner to follow through to completion of an intervention or treatment and/or the request is non-urgent.”

DOC Policy further requires that “the Department shall ensure that essential health care services are available from other sources if the services are not available within the institutions.”¹³ DOC recognizes a prisoner has the right to receive essential health care services, including dental health care services, when a health care provider concludes that:

- a. The prisoner’s symptoms indicate a serious disease or injury;
- b. Treatment could cure or substantially alleviate the disease or injury, and
- c. The potential for harm if treatment is delayed or denied could be substantial; or
- d. Services are needed to alleviate significant pain and suffering, ...¹⁴

Only one of these criteria must be met for treatment to be considered “essential.”

DOC Policy 807.12 requires “that to the degree that resources allow, care shall be timely and every effort shall be made to provide immediate services for emergent or painful conditions.”¹⁵ “Medically Necessary Services” are defined as “dental work required to provide the maintenance of nutrition, treatment of a condition causing pain and/or the resolution of infection.”¹⁶

¹⁰ DOC Policies and Procedures are available online at <https://doc.alaska.gov/commissioner/policies-procedures>.

¹¹ DOC Policy 807.01 III.A. and II.A. (2016).

¹² DOC Policy 807.02 VI.A.(2009).

¹³ DOC Policy 807.02 VI.C.

¹⁴ DOC Policy 807.02 VII.B.1.

¹⁵ DOC Policy 807.12 III. (2018).

¹⁶ DOC Policy 807.12 Definitions.

In 2023, DOC created a Dental and Oral Clinical Care Guide for dental staff to follow in providing dental treatment, with deference given to the treating dentist's professional judgment and decision making. Although DOC has implemented this Clinical Care Guide, **DOC Policy 807.12, created under the authority of 22 AAC 05.120, controls where incongruities exist.**

Prioritization of Dental Care

DOC Policy 807.12

DOC provides dental health care services to inmates on a priority basis according to the observed level of need and severity. Dental treatment needs are classified into three levels: Category 1 for emergency treatment; Category 2 for urgent treatment; and Category 3 for routine treatment.¹⁷ DOC Policy 807.12 explicitly requires the attending dentist to make the treatment priority decision.¹⁸

DOC Policy 807.12 Dental Scope of Services outlines three categories for prioritizing dental services:

- Category 1 is emergency treatment of seven (7) conditions — acute infection, severe swelling due to dental disease, teeth obviously requiring extraction, suspected neoplasm, trauma, tooth mobility requiring extraction, and other severe dental conditions or complications from dental treatment — explicitly identified as included in the category.¹⁹
- Category 2 is urgent treatment of four (4) conditions — decay with extensive penetration into the dentin or near the pulp of a tooth, heavy calculus causing pathology, chronic infection, and palliative or root canal therapy — explicitly identified as included in the category.²⁰
- Category 3 is routine treatment for incipient decay, third molar extractions secondary to chronic pain, oral prophylaxis when the prisoner is adherent to home

¹⁷ DOC Policy 807.12 III.

¹⁸ *See id.*

¹⁹ DOC Policy 807.12 III.A.

²⁰ DOC Policy 807.12 III.B.

care and oral-hygiene recommendations, and removable appliances and/or dentures.²¹

DOC Policy 807.12 defines a “dental emergency” as “an urgent dental problem such as: oral-facial trauma; severe infection; swelling; and/or hemorrhaging.”²²

[DOC Dental and Oral Health Clinical Care Guide](#)

The Dental and Oral Health Clinical Care Guide was created in 2023 by HARS. It has not been adopted as DOC policy. The Clinical Care Guide outlines the treatment priority levels differently from DOC policy. In the Clinical Care Guide, priority levels, from most-urgent to least-urgent, are: Emergent, Immediate (Priority One/P1), Urgent (Priority Two/P2), Routine (Priority Three/P3), and DDS Non-essential.²³

The Clinical Care Guide defines “dental emergencies” as “potentially life-threatening and requiring immediate intervention such as uncontrolled bleeding, cellulitis, or trauma.”²⁴ “Emergent” care under the Clinical Care Guide is “treatment that requires ER evaluation and treatment.”²⁵ The dentist at GCCC interprets the Clinical Care Guide priority levels to allow DOC dental staff to provide “emergent care” on-site in some situations.

The Clinical Care Guide defines Priority One (P1) “Immediate or Time-Sensitive” dental care to include “management of ongoing care or time-sensitive follow up” (P1). It also includes treatment of trauma with avulsion/luxation, suspected neoplasm (tumor or abnormal cells), “treatment required prior to critical medical procedures,” and referrals from the dental hygienist for “immediate evaluation” (P1.5).

The Clinical Care Guide defines Priority Two (P2) “Urgent” dental care to include treatment for abscesses or infections, tooth fracture with exposed pulp or soft tissue trauma, necessary extraction of symptomatic teeth, and post-operative exams (P2). Treatment for pericoronitis, “symptomatic carious lesions,” and necessary extractions of asymptomatic teeth is considered P2.5 under the Clinical Care Guide.

²¹DOC Policy 807.12 III.C.

²² DOC Policy 807.12 Definitions.

²³ DOC Dental and Oral Health Clinical Care Guide (Draft 2023) at 2.

²⁴ *Id.* at 1.

²⁵ *Id.* at 2.

The Clinical Care Guide defines “Routine” care (Priority Three/P3) as “restorative dentistry” and “appliances/dentures.”²⁶ The Clinical Care Guide defines “non-essential” dental services as “cosmetic dental services,” which are further defined as “procedures, treatments or surgeries designed to improve or enhance a prisoner’s appearance that are not reconstructive.”²⁷ It can therefore be inferred that all dental procedures, treatments, or surgeries that *are* reconstructive are considered “essential” dental services under the Clinical Care Guide.

Investigation

Preliminary Interview with DOC Chief Medical Officer

On July 18, 2023, Assistant Ombudsmen Benjamin Hohenstatt and Jacob Carbaugh spoke with DOC Chief Medical Officer Dr. Robert Lawrence to gather initial information about dental services at DOC. Dr. Lawrence shared, in general terms, that DOC has three dental teams. The first team serves inmates at Anchorage Correctional Complex, Hiland Mountain Correctional Center, and Palmer Correctional Center. The second team serves patients at GCCC. The third team is a travel team, primarily serving Spring Creek Correctional Center and Wildwood Correctional Center, with travel to Lemon Creek Correctional Center and Ketchikan Correctional Center. When needed, the travel team provides coverage elsewhere. DOC has contracts in Nome and Fairbanks for community providers to perform dental services for inmates in DOC custody.

Each DOC dental team consists of three people: a dentist, a dental assistant, and a dental hygienist. Dr. Lawrence stated DOC’s biggest struggle is recruiting and retaining dental hygienists. He described a dental hygienist’s job responsibilities as conducting exams, cleanings, and X-rays, as well as collecting RFIs and prioritizing the inmates’ RFIs for treatment. He cautioned, though, that the dentist makes the final treatment priority determination as the treating professional.

Dr. Lawrence explained that a fully staffed dental team could see approximately 12-15 patients per day, and sometimes up to 25 patients per day if the team is functioning well and there are simple procedures with no complicated issues that arise. However, without a hygienist, a dental team consisting of a dentist and a dental assistant can only see approximately 4-5 patients per day.

Dr. Lawrence attributed DOC’s struggle in hiring dental hygienists primarily to the salary difference between what DOC pays a dental hygienist versus what they can make in the community (or “private sector”). He explained that the State of Alaska conducted a salary study approximately

²⁶ DOC Dental and Oral Health Clinical Care Guide (Draft 2023) at 2.

²⁷ *Id.*

eight (8) years ago, but just as the salary study was being finalized, salaries of dental professionals began rapidly increasing. While he could not say there was a single cause for the rise in salary, the COVID-19 pandemic contributed toward staffing shortages and salary increases for dental providers. Dr. Lawrence reported that dental hygienists employed by DOC are compensated approximately one-third less than their private sector counterparts, and that GCCC has been without a dental hygienist for around two years.

Interviews of GCCC Staff

Ombudsman investigators conducted on-site interviews of GCCC staff on August 14-16, 2023, and September 4-5, 2023. We interviewed a total of 28 staff, including the former and current superintendents, an assistant superintendent, the Facility Standards Officer (FSO), security staff, medical staff, and dental staff. Investigators asked each staff member similar questions about the allegations.

Additional Evidence Reviewed

In addition to staff interviews, we also reviewed the following evidence:

- Inmate dental grievances identified through ACOMS (January 2022 to September 2023);
- Medical and dental records for the first two complainants;
- Dental waitlists provided by DOC staff on March 27, 2023 and August 15, 2023;
- The GCCC dentist's sample work calendar;
- Historical and current recruitment information for the Dental Hygienist position;
- DOC policies and procedures;
- DOC Dental Clinical Care Guide (draft version);
- Wage research for a dental hygienist (state and national comparators); and
- Selected personnel records.

Other Important Factors Considered by the Ombudsman

The Ombudsman recognizes that the level of dental services required for the inmate population exceeds the dental needs of the general population observed nationally. GCCC inmates present

with untreated dental decay at a rate of over 3.5 times the national average, decayed adult teeth at 8.5 times the national average, and having fewer teeth and fillings.

Ombudsman investigators heard concerns about the increase in the number of unsentenced inmates housed at GCCC. As of October 30, 2023, GCCC had a total inmate population of 1,298, of which 699 (or 54%) of inmates were unsentenced.

In addition to the substantial needs of the inmate population, the lack of a dental hygienist at GCCC for approximately two years has contributed significantly to the dental backlog and inability to provide adequate services. The Ombudsman is persuaded that the substantial pay discrepancy of dental hygienists working for DOC – along with the location of the worksite and the nature of the patient population – has contributed to the difficulty filling the vacant dental hygienist position.

The Department of Administration, Division of Personnel and Labor Relations recently solicited for proposals to conduct a comprehensive salary survey of Executive Branch positions.²⁸ “The project includes a study of employee compensation as related to their job class and position descriptions for the positions in the Classified and Partially Exempt service.”²⁹ The dental hygienist is listed as one of the positions to be included in the study.³⁰

The Department of Administration awarded the contract for the Statewide Salary Study to The Segal Group (Segal).³¹ The Request for Proposal (RFP) requires Segal to submit a Preliminary Report by May 20, 2024, and a Final Report by June 30, 2024.³² Even after the salary survey identifies any adjustments needed to the dental hygienist position, it is up to the Administration and Legislature to act on the Final Report. A future solution fails to address the critical deficiency that exists now.

The Ombudsman considered the geographic location of GCCC. Staff interviews yielded a common concern about the lengthy, expensive, and sometimes hazardous commute to GCCC’s remote location. Ombudsman investigators conducting interviews at GCCC experienced commute times of over 30 minutes on a predominately two-lane highway in summer driving conditions to GCCC from downtown Wasilla, and over one hour from Eagle River. While not considered a rural facility,

²⁸ See Statewide Salary Study, RFP 2024-0200-0142 / 02-111-24, issued October 12, 2023, at 13 (<https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=144224> (last visited October 25, 2023)).

²⁹ *Id.*

³⁰ *Id.* at 22.

³¹ See Corrected–Notice of Intent to Award a Contract, Department of Administration Division of Personnel & Labor Relations, reissued Nov. 30, 2023 (<https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=144969> (last visited February 5, 2024)).

³² See Statewide Salary Study, RFP 2024-0200-0142 / 02-111-24 at 26-28.

the remoteness of GCCC relative to population centers in Wasilla, Palmer, Eagle River, and Anchorage poses additional recruitment challenges, particularly when the dental hygienist position is undercompensated.

DOC has explained that correctional facilities and employees face frequent litigation brought by the population they serve. Alaska is no exception. This additional risk is unique to licensed professionals who choose to work in correctional settings over similar employment opportunities in the community. As licensed professionals, DOC medical and dental staff face the prospect of litigation and complaints to licensing boards and insurance carriers.

There are considerable obstacles to recruiting and retaining a qualified dental hygienist. However, the inability to attract qualified candidates does not relieve DOC of its duty to provide medically necessary services to people in its facilities. The evidence shows that, as an agency, DOC has failed to meet its duty to provide adequate dental care for quite some time.

In 2009, the Alaska Supreme Court acknowledged “that inordinate delays in dental treatment due to inoperative facilities or insufficient staff to handle the volume of prisoner needs may implicate DOC’s duties to prisoners.”³³ This opinion constructively placed DOC on notice that inordinate delays in dental treatment constitutes a failure to meet its legal obligations under AS 33.30.011(a)(4) and 22 AAC 05.120 to care for prisoners.

From an administrative perspective, staff are the primary “resource” of an agency. Without sufficient personnel resources, particularly dental hygienists, DOC cannot fulfill its duty to provide dental care. Until DOC offers adequate compensation to attract qualified candidates, the dental staff deficiency will perpetuate, and DOC will remain exposed to liability caused by inordinate delays in necessary treatment due to insufficient staff to handle the volume of prisoner needs.

The Ombudsman is not satisfied, based on the evidence, that the lack of a dental hygienist is the only cause for the deficiencies in the GCCC Dental Program. Interviews with GCCC management, and medical and dental staff, paint a picture of poor practice management and a lack of clinical and administrative supervision of the GCCC Dental Program.

Analysis

³³ See *Hertz v. Beach*, 211 P.3d 668 (Alaska 2009), at FN 35. The Court did not address this issue: “[b]ecause Hertz did not raise this issue, and actually removed DOC from his lawsuit by way of his amended complaint, we need not address it.”

Allegation 1: Unreasonable: The Department of Corrections delayed providing medically necessary dental care to inmates at Goose Creek Correctional Center.

We analyzed this allegation under the ombudsman standard “unreasonable,” which in an ombudsman investigation means that an agency adopted and followed a procedure in managing a program that was inconsistent with, or failed to achieve, the purposes of the program; the agency adopted and followed a procedure that denied the complainant’s valid application for a program benefit; or the agency’s action was inconsistent with agency policy and thereby placed the complainant at a disadvantage relative to all others.³⁴ The standard is applied based on the customary understanding of “unreasonable:” beyond the average person’s “common sense” or the limits of acceptability or fairness.³⁵

AS 33.30.011(a)(4) requires DOC to provide “necessary” medical services for all “prisoners in correctional facilities or who are committed by a court to the custody” of the Department. There is no distinction in the law between sentenced and unsentenced inmates’ right to necessary health care.

Medically necessary services are defined in DOC Policy 807.12 Dental Scope of Services as “dental work required for the maintenance of nutrition, treatment of a condition causing dental pain and/or the resolution of infection.”³⁶ The Clinical Care Guide was created with input from DOC dental professionals and has been in use since at least the second quarter of 2023.³⁷

The Clinical Care Guide provides a different definition for medically necessary dental services. It defines them as “dental work required to address a fractured tooth, resolve an infection, or prevent a deterioration in health due to underlying dental disease.”³⁸ Another reference to medically necessary services appears in the Clinical Care Guide’s stated goals to “support, maintain, and improve the quality of dental and oral health care for incarcerated individuals and to provide medically necessary dental care, including dental screenings and dental examinations.”³⁹

[Prioritization of Treatment for Serious Dental Conditions](#)

³⁴ See Ombudsman Policy 4040(2) definition of “unreasonable.” Revised April 2023.

³⁵ *Id.*

³⁶ See DOC Policy 807.12 Definitions.

³⁷ See Interview of Dr. Robert Lawrence, DOC Chief Medical Officer, by Assistant Ombudsmen Jacob Carbaugh and Benjamin Hohenstatt (July 18, 2023).

³⁸ See Dental and Oral Health Clinical Care Guide at 1.

³⁹ *Id.*

The definitions for “emergent” and “urgent” care, and the categorization and prioritization of care, are different in DOC Policy 807.12 (which is controlling) and the Clinical Care Guide (which provides guidance). Our analysis of how the GCCC Dental Program was providing “urgent” and “emergent” care, in the end, revealed that – however you want to categorize them – serious dental treatment needs are not being met.

DOC Policy 807.12 has remained unchanged since 2018, despite DOC committing to update the policy when the agency fully accepted the Ombudsman’s recommendation over three years ago in January 2021 (Ombudsman Complaint 2019-07-0115).⁴⁰ DOC Policy 807.12 defines Category 1 dental services:

A. Category One (1):

This category includes treatment that is emergent, and requires immediate attention. This may include:

1. Acute infection;
2. Severe swelling due to dental disease;
3. Teeth obviously requiring extraction;
4. Suspected neoplasm;
5. Trauma;
6. Tooth mobility requiring extraction; and
7. Other severe dental conditions or complications from dental treatment.⁴¹

Some of the services provided as examples of P1 “Immediate” and P2 “Urgent” dental priority levels in the Clinical Care Guide are substantially similar to Category 1 “emergent” dental services under DOC policy.⁴²

The Clinical Care Guide does not define or provide examples of “emergent” care as DOC Policy does, while establishing “Emergent” as the most acute treatment priority level. The Clinical Care

⁴⁰ See [Public Report, Ombudsman Investigation, Complaint Number 2019-07-0115 \(February 24, 2021\)](#). Recommendation 3: DOC should revise Policy 807.12, Dental Scope of Services, to include time standards for providing dental health care services to patients for each of the three treatment categories (emergency, urgent, and routine) that align with professional standards in the community.

⁴¹ See DOC Policy 807.12 III.A.

⁴² For example, DOC policy defines “teeth obviously requiring extraction” as an emergent dental treatment, while “necessary extraction of symptomatic teeth” is classified as a P2 “Urgent” priority level according to the Clinical Care Guide.

Guide gives no examples of “Emergent” priority care, only that it “includes treatment that requires ER evaluation and treatment.”⁴³

DOC Policy 807.12 III.B. describes Category 2 as “treatment that is urgent, requires early treatment,” which “may include:”

1. Decay with extensive penetration into the dentin or near the pulp of a tooth;
2. Heavy calculus causing pathology;
3. Chronic infection; and
4. Palliative or root canal therapy.

The Clinical Care Guide P2 category is used for abscesses or localized bacterial infections, tooth fractures with pulp exposure or causing soft tissue trauma, necessary extractions of symptomatic teeth, and post-operative checks.⁴⁴ The P2.5 category is used for pericoronitis (gum inflammation or infection), treatment of symptomatic lesions, and necessary extractions of asymptomatic teeth.⁴⁵ The half-steps between priority levels formalize and standardize a practice multiple DOC dentists had developed to add further distinctions in the prioritization of dental care.

As of August 15, 2023, the dental waitlist for GCCC included a total of 342 inmates categorized based on the Clinical Care Guide:

- 35 inmates on the denture waitlist,
- 130 inmates awaiting urgent treatment,
- 36 inmates awaiting routine dental care,
- 55 inmates awaiting a limited exam for a previously unprioritized complaint or change in condition, and
- 86 inmates on the “hygienist waitlist” (awaiting a cleaning).

Wait-list information shared by GCCC Dental on August 15, 2023, showed no P1 or P1.5 patients awaiting dental care. Wait-list information shared on March 27, 2023, showed one P1 patient and three P1.5 patients awaiting dental care. The Ombudsman notes, however, that the P2 “Urgent” priority patients would actually be considered Category 1 (the highest priority for treatment) under

⁴³ See Dental and Oral Health Clinical Care Guide at 4-5.

⁴⁴ See Dental and Oral Health Clinical Care Guide at 2.

⁴⁵ *Id.*

DOC Policy 807.12 III.A. if presenting with an “acute infection,” “severe swelling due to dental disease,” “teeth obviously requiring extraction,” or “other severe dental conditions.” The dentist and Dr. Lawrence both reported that patients with dental infections were seen within three days.

Triage of Dental RFIs

Inmates must request non-emergency health care services through sick call or a yellow “medical RFI.”⁴⁶ Medical RFIs are collected by nursing staff, who separate them into medical, dental, or mental health categories based on who the RFI is addressed to and the substance of the RFI. Our investigation focused on RFIs addressed or forwarded to the Dental Program.

Nurses said they evaluated RFIs presenting dental issues only from a medical perspective, which typically involved placing inmates reporting symptoms of bleeding or active infection on medical sick call to be seen by a nurse, and forwarding all other issues to the GCCC Dental Program. Medical staff did not feel they had the training or experience necessary to evaluate and diagnose dental issues presented by inmates and forwarded all RFIs not identifying swelling or infection to the Dental Program without further evaluation or diagnosis. Inmates only receive a written response from nurses that their RFI was “forwarded” to the GCCC Dental Program when they were not seen by nursing staff for a dental issue presented in an RFI, with no further treatment or communication. Dental staff receive the forwarded RFIs and make a determination on treatment prioritization based on what is written in the RFI or if an inmate is placed on nursing sick call due to infection.

Prioritization and Treatment of Dental Infections

GCCC Medical staff told investigators that inmates who had previously submitted RFIs about dental problems, including pain and symptoms of infection (swelling, abscesses, inflammation, drainage) are commonly seen by medical staff during sick call. These inmates are generally treated with anti-inflammatory medication and/or antibiotics. Medical staff reported that dental staff are generally responsive to concerns brought to their attention.

Without providing specific data, medical staff reported anecdotally that they had seen an increase in the number of RFIs about dental issues. The dentist attributed increased dental issues at sick call to the lack of a dental hygienist.

⁴⁶ See DOC Policy 807.02 VII.A.2.

GCCC Medical staff recalled some instances when inmates were prescribed multiple rounds of antibiotics while waiting for dental treatment. Medical staff also recalled instances in which inmates whose RFIs had been sent to the Dental Program developed worsening symptoms while awaiting treatment. Medical staff reported that inmates would receive multiple courses of antibiotics for the same dental issue if it had gone untreated. Some shared concerns that overprescription of antibiotics could lead to antibiotic resistance among inmates. The dentist disputed that the Dental Program's practices contributed to inmates receiving multiple rounds of antibiotics while waiting for treatment.

Medical staff reported that, unless an inmate stated in their RFI to the Dental Program that they were experiencing symptoms of an active infection or bleeding, the RFI was simply entered into the medical electronic health record (EHR)⁴⁷ and the inmate would receive a response that their RFI was "Forwarded to Dental." The dentist told investigators that patients submitting RFIs to dental were seen in strict chronological order and were only moved up the waitlist due to an active infection with a prescription for antibiotics.

According to DOC Policy 807.12, "acute infection" is a Category One "emergent" dental condition which "requires immediate attention," while under the Clinical Care Guide, "abscess, or localized bacterial infection" is a P2 "Urgent" priority condition. The described process of categorically placing inmates on a chronological waitlist and only moving them up when they self-identify an active infection cannot capture all "Emergent," P1, and P2 priorities in the Clinical Care Guide.

The GCCC Dental Program has changed operating procedures to align with the Clinical Care Guide. As of August 15, 2023, four inmates were on the waitlist for P2 treatment, and 126 inmates were on the waitlist for P2.5 treatment.

Current resources only allow the GCCC Dental Program to extract teeth and fight infection. Routine exams, cleanings, fillings, and making dentures are not currently performed. If an inmate requests a routine cleaning, needs a filling to avoid conditions worsening to the point that extracting a tooth is necessary, or needs dentures, they may be added to a waitlist for the relevant procedure — procedures not being performed at GCCC. The dentist acknowledged that it is likely that long wait times for dental care mean that some inmates are experiencing worsening symptoms

⁴⁷ DOC has implemented a medical EHR for all of the health care services provided to inmates except dental care. DOC dental providers use Dentrix as the electronic health record and practice management software for the facility dental clinics, which is distinct from the medical EHR.

while waiting for treatment. One effect of long wait times for dental care is an increase in the number of inmates who request care from medical staff during sick call.

RFIs reviewed by our office and interviews with medical staff indicate that inmates who complain of dental pain are often prescribed a course of antibiotics and receive either Tylenol or ibuprofen to help manage pain. Medical staff told investigators that they routinely see inmates during sick call who had previously submitted RFIs that were sent to dental and complain of worsening dental pain or who have developed symptoms of infection, such as swelling and discharge. This is consistent with RFIs and dental records reviewed by our office.

There are many factors, including diet and oral hygiene, that affect the risk of tooth decay.⁴⁸ DOC reports that GCCC's inmate population sees rates of decay and missing teeth far greater than the national averages. Multiple medical and dental staff pointed to inmates' poor pre-incarceration dental and oral health, noting that the impact of drug use and lack of preventative hygiene is observable when they treat some inmates.

Almost all medical staff shared that inmates were regularly seen by GCCC Medical for infection control prior to being seen by any GCCC Dental staff. This is consistent with the evidence. The RFI process allowed nurses to identify infections and place inmates on sick call to be treated with antibiotics, while all RFIs were then forwarded to and chronologically prioritized by dental staff.

DOC has in effect a practice of blanket referring – or deferring – all inmate dental RFIs to nursing staff who are not properly equipped to receive communications about, evaluate, diagnose, and treat dental conditions. This practice is particularly troublesome when GCCC dental staff do not regularly respond to dental RFIs that they have been “forwarded to provider,” and rely on nursing staff to triage dental infections.

Untreated Abscess

During the consultation on December 21, 2023, Dr. Lawrence explained that the standard of care for dental abscesses is that patients are “prioritized within three days” and the GCCC Dental Program is addressing abscesses right away, or GCCC Medical is providing antibiotics to compensate for a delay seeing the dentist. The first complainant's medical and dental records show that this was not always the case.

⁴⁸ See Mayo Clinic Symptoms & Causes of Cavities, <https://www.mayoclinic.org/diseases-conditions/cavities/symptoms-causes/syc-20352892> (March 19, 2022).

The complainant submitted an RFI on November 12, 2022, reporting “bad tooth pain.” GCCC Medical responded on November 13, 2022, that he was placed on sick call. He submitted another RFI, “I have a painful tooth” on November 14, 2022. GCCC Medical responded “forward to dental” on November 15, 2022. Medical notes document a nurse visit on November 14, 2022. The complainant reported serious and persistent molar pain. The nurse documented minimal redness at the gumline and no swelling or drainage, but the tooth was tender to pressure. The nurse referred the complainant to the GCCC Dental Program and, in the meantime, provided acetaminophen, recommendations to mitigate the pain, and education on brushing and rinsing.

The nurse’s documentation on November 14, 2022, explicitly stated that there was a dental abscess. According to Dr. Lawrence’s explanation of the standard of care, the complainant should have been seen by the dentist within three days. He was not.

On November 15, 2022, the dental assistant documented that the RFI was cancelled, and the complainant was placed on a waitlist for Priority 2 care. This is concerning, as it appears that the dental assistant made the decision about what priority the complainant’s dental care was – which is contrary to DOC policy. DOC Policy 807.12 explicitly requires the attending dentist to make the treatment priority decision.⁴⁹ There is no evidence that the dentist had seen the complainant since April 2022. The categorization of the complainant as Priority 2 – when the medical records show recurring infections and the need for extractions – is not a reasonable basis for delay.

The complainant was seen by a nurse on January 10, 2023. That nurse also documented dental abscess. On January 12, 2023, the complainant was again seen by a nurse who documented gum swelling and an ulcer caused by some sort of trauma. According to DOC Policy 807.12 III.A., based on the nurse’s clinical documentation (the only information available for prioritizing his care), the complainant should have been prioritized as Category 1: “treatment that is emergent” because of acute infection, severe swelling, and trauma. Under the Clinical Care Guide, the complainant should have been considered to need “urgent” care as well.

The complainant was not seen by the dentist until January 19, 2023 – more than two months after GCCC Medical practitioners first documented a dental abscess and referred him to the Dental Program for treatment.

⁴⁹ See DOC Policy 807.12 III.

Agency Clarification

In its response on February 19, 2024, HARS provided no comment, clarification, or rebuttal of any of the detailed evidence or analysis presented in the Ombudsman’s confidential final report. On February 28, 2024, Chief Medical Officer Dr. Lawrence requested the opportunity to provide comment and clarification on the evidence discussed above. That response has been added to this report in Appendix A.

Two Years Without Dentures

The second complainant’s situation illustrates the extreme delays in providing medically necessary dental care to inmates. The complainant is unsentenced and has been in DOC custody since September 2020 awaiting trial. In March 2021, a DOC dentist conducted a dental exam at Anchorage Correctional Complex (ACC) and placed the complainant on the denture waitlist. That dentist documented telling the complainant that DOC does not usually provide prosthetics to unsentenced inmates and told the complainant to submit an RFI for dentures again if he was still in custody after a year.

The complainant submitted RFIs about receiving dentures on September 6, 2021, and October 2, 2021. Medical staff at ACC responded that the RFIs were “forwarded” to dental staff. On October 5, 2021, a nurse documented that the complainant was scheduled to see the dentist at ACC, but there is no evidence that he was seen by a dental provider at ACC except for the visit in March 2021.

On October 15, 2021, after his transfer to GCCC, the complainant submitted an RFI about dentures. GCCC Medical staff responded, “DOC does not provide dentures.” This is inaccurate, as both DOC Policy 807.12 and the Clinical Care Guide include dentures as medically necessary dental care. It is, however, true that the GCCC Dental Program did not offer the dental care associated with creating and fitting dentures.

Six weeks later, the complainant submitted an RFI about dentures, stating that he was experiencing “digestive problems” that were “complicating” his “diabetes medicine.” There is no evidence in the medical records that GCCC medical staff responded to the complaint of stomach issues or problems with his diabetes medication. The sole response on the RFI was “forwarded to dental.”

On December 28, 2021, the complainant submitted an RFI about dentures. GCCC Medical staff responded on December 30, 2021, “RFI forwarded to Dental.” On January 20, 2022, the complainant submitted an RFI about dentures. GCCC Medical staff responded that dentures “shall be provided if it is determined to be medically necessary and enough time remains on the prisoner’s sentence.”

On February 12, 2022, the complainant submitted an RFI about dentures. GCCC Medical staff responded, “Forwarded to the dental team.” On February 15, 2022, he received a response to his RFI from the GCCC Dental Program: “You’ve been placed on a waiting list for an evaluation at which time your denture eligibility will be determined per P&P 807.12. The waiting list is very long . . .” The complainant had already been evaluated for dentures by a DOC dentist in March 2021, and placed on the waiting list – and this was clearly documented in the medical record. There is nothing in the medical record indicating why a duplicative evaluation was needed.

The complainant asked the same question in his RFI dated February 16, 2022 – to which GCCC Medical staff responded, “to Dental.” The GCCC Dental Program responded on February 17, 2022, “Goose Creek is a different facility with a different provider.” The Ombudsman notes the lack of a clinical basis for ignoring the previous dental evaluation and decision.

The complainant submitted RFIs about dentures in July, August, and twice in October 2022. All received essentially the same response: “forwarded to dental.” The complainant did not submit another RFI about dentures until January 11, 2023 – at which point he had been on the “dentures waitlist” for nearly 2 years. GCCC Medical staff responded, “Forwarded to Dental.” A medical note entered on April 21, 2023, shows that the complainant again submitted an RFI about dentures. He received verbatim the same response from the GCCC Dental Program he received in February 2022. On April 25, 2023, the complainant submitted an RFI stating “I cannot eat a soft unhealthy diet.” GCCC Medical staff responded with “Forwarded to dental” and a referral to the medical grievance process.

On May 13, 2023, the complainant submitted an RFI stating he was experiencing gum and mouth inflammation. GCCC Medical staff responded that he was being placed on sick call, recommending salt gargle and mouthwash, and that the RFI was being sent to the Dental Program. The complainant was seen by a nurse on May 15, 2023, for mouth pain and mucositis.⁵⁰ The nurse

⁵⁰ Mucositis is an inflammation of the mucous membranes in the mouth. It can be painful and can increase the risk of infection. People who have diabetes are more likely to experience severe mucositis. See “Mucositis,” Cleveland Clinic Health Library at <https://my.clevelandclinic.org/health/diseases/24181-mucositis>.

documented no visible injury. The RFI was forwarded to the Dental Program. There is no evidence in the record that the complainant received dental care for the problem.

From the time he was placed in DOC custody until May 15, 2023, the complainant submitted 18 RFIs related to his dental health needs, and in some cases, the impact his poor oral health was having on his overall health. The dentist at GCCC never examined him. He was seen once, in March 2021, by the dentist at ACC.

Ombudsman Note: On February 20, 2024, the complainant informed the Ombudsman that he was seen by the GCCC Dental Program on February 16, 2024, to begin the process for fitting him with dentures.

Provision of Routine Dental Care

Evidence showed that inmates who requested fillings, routine care, and/or cleanings, and who filed grievances when they did not receive dental care, were consistently told by agency authorities that relief was partially granted because they were on a waitlist for such services. Grievance responses frequently cited DOC Policy 807.12 Dental Scope of Services Section III, which states “to the degree that resources allow, care shall be timely and every effort shall be made to provide immediate services for emergent or painful conditions.”⁵¹ This policy was cited by multiple DOC staff responding to inmate grievances, including the dentist at GCCC.

The dentist acknowledged during interviews that patients were being placed on waitlists for services not being provided at GCCC. They told investigators that resources currently allow the GCCC Dental Program to extract teeth and fight infections. They said that the GCCC Dental Program does not currently provide routine examinations, cleanings, fillings, or create dentures.

A member of the DOC Medical Advisory Committee (MAC), which reviews health care grievance appeals, told investigators that members of the MAC are aware of lengthy GCCC dental waiting lists and the lack of progress being made on providing certain kinds of dental care. The MAC member told investigators that knowing some inmates can expect yearslong or indefinite waits for some types of dental care can make grievance responses that state “partial relief has been granted” because an inmate is on a waitlist feels disingenuous.

Based on the preponderance of evidence, the Ombudsman finds the allegation that there are unreasonable delays in providing medically necessary dental care *justified*. Evidence reviewed

⁵¹ DOC Policy Scope of Services 807.12 III (approved June 27, 2018).

indicates that some dental care deemed medically necessary in DOC policy is beyond the GCCC Dental Program’s current capabilities, leading to intractable waits for dental care other than tooth extraction or attention prompted by medical concern.

Allegation 2: Performed inefficiently: Lack of staffing at Goose Creek Correctional Center has resulted in inordinate delays in dental treatment for inmates.

We analyzed this allegation under the Ombudsman standard “performed inefficiently.” In an ombudsman investigation, “performed inefficiently” means that an agency exceeded a time limit established by law or by custom, good judgment, sound administrative practice, or interests of the complainant or of the general public.⁵²

In interviews, GCCC management, dental staff, and medical staff universally acknowledged that delays in dental treatment are a significant challenge for health care staff. The evidence shows that it also burdens the inmates in need waiting for dental treatment. DOC management and GCCC Medical and Dental staff all cited a dental hygienist position that has been vacant for nearly two years as a cause of the limitation on the number of patients who receive dental care at GCCC, and the GCCC Dental Program’s capacity to efficiently and effectively triage patients and perform dental screenings, routine exams, and preventative care.

Agency leadership and staff told investigators that the pay currently offered for the vacant dental hygienist position is not competitive with what a dental hygienist can make in the private sector. The Alaska Department of Labor and Workforce Development reports the average wage for a dental hygienist in Alaska is \$54.70 per hour, and the median wage is \$51.41 per hour.⁵³ A dental hygienist in the 10th percentile (meaning 90 percent of their peers have higher wages) is compensated \$50.35 per hour.⁵⁴ DOC dental hygienists are classified as a Range 21 position.⁵⁵ Starting salary, Step A, for a Range 21 on the General Government Unit salary schedule is \$40.31

⁵² Ombudsman Policy 4040(14) definition of “performed inefficiently.” Revised April 2023.

⁵³ “Alaska Statewide Wages 2022, Healthcare Practitioner and Technical, Dental Hygienists,” Alaska Department of Labor and Workforce Development Research and Analysis (<https://live.laborstats.alaska.gov/wage/index.html#29>, last visited November 1, 2023).

⁵⁴ *Id.*

⁵⁵ See Class Specification for Dental Hygienist, Class Code PG0622, Division of Personnel and Labor Relations, Department of Administration.

per hour.⁵⁶ The starting wage for a dental hygienist at DOC is 26.3% less than the average starting wage of a dental hygienist in Alaska.

GCCC staff said the commute to the prison likely plays a role in difficulties filling the position. In good weather, light traffic, and amid little construction, GCCC is an approximately 40-minute drive from Wasilla,⁵⁷ roughly an hour drive from Palmer,⁵⁸ and about 85 minutes from Anchorage.⁵⁹ Staff told investigators that the commute takes longer in winter months, and that moose strikes are relatively common during the winter. DOC staff noted that in 2009, Knik-Goose Bay Road was designated by the State of Alaska as a Traffic Safety Corridor because of fatalities and major wrecks on the road.

The lack of interest in the vacant hygienist position is evident in responses to the position's posting on Workplace Alaska. As of September 25, 2023, the position had been posted five (5) times since December 2021. None of the postings resulted in more than two (2) referred applications.

GCCC was also without a dental assistant for a roughly six-week period starting in December 2022 and lasting through January 9, 2023. The time that GCCC had neither a dental hygienist nor a dental assistant contributed to delays to dental care. From December 1, 2022, through January 9, 2023, the GCCC Dental Program had only one full clinic day. Eleven (11) patients were scheduled on that day, with only six (6) seen by the dentist. Only two (2) other patients were seen during the remainder of that time. In total, the evidence shows that the dentist saw eight (8) patients over three (3) days in this roughly six-week period.

Multiple staff told investigators that they are concerned about inmates, including sentenced inmates, who are awaiting dentures because of the difficulties staff see caused by the lack of dentures and the long wait time. DOC policy states "full upper and / or lower dentures or partial dentures shall be provided if it is determined to be medically necessary and enough time remains on the prisoner's sentence to ensure fabrication and delivery of the appliance."⁶⁰ However, while a denture waitlist is maintained, the wait time is now years long, and progress is not being made on the list because of limited staff and prioritizing more urgent dental treatment needs.

Based on a preponderance of the evidence, the Ombudsman finds the allegation that lack of staffing at GCCC has resulted in delays in dental treatment for inmates *justified*. Evidence showed that a

⁵⁶ State Of Alaska GP-ASEA General Government Class 1 Salary Schedule (effective July 1, 2023), Division of Finance, Department of Administration.

⁵⁷ See Google Maps driving directions from Wasilla, Alaska, to Goose Creek Correctional Center.

⁵⁸ See Google Maps driving instructions from Palmer, Alaska, to Goose Creek Correctional Center.

⁵⁹ See Google Maps driving instructions from Anchorage, Alaska, to Goose Creek Correctional Center.

⁶⁰ See DOC Policy 807.12 IV.

long-vacant dental hygienist position, a dental assistant position that went unfilled for over a month, and inadequate overall professional dental capacity contributed to inefficiently performed duties and inordinate wait times for dental care.

Allegations Related to Improper Handling of RFIs and Dental Grievances

Allegation 3: Unreasonable and Performed Inefficiently: The Goose Creek Correctional Center Dental Program staff are not responding to dental RFIs as required by Department of Corrections policy.

Allegation 4: Unreasonable: Goose Creek Correctional center health care providers are inconsistent in their responses to dental RFIs.

We analyzed Allegations 3 and 4 together, as the allegations and evidence reviewed are interrelated. We analyzed Allegation 3 under two ombudsman standards, “unreasonable” and “performed inefficiently,” and Allegation 4 under the ombudsman standard “unreasonable.”

DOC Policy 808.03 Prisoner Grievances requires that inmates must try to resolve an issue informally before filing a grievance. This includes grievances about medical and dental care. There are two ways they can attempt to informally resolve a dental issue: (1) face-to-face communication with DOC staff and, if that fails, (2) submitting an RFI. If the response to an RFI does not resolve the issue, they can then file a formal grievance.

DOC Policy 808.11 requires that DOC staff respond to medical RFIs within seven (7) working days. If more than seven (7) working days are required for a response, employees are expected to explain to an inmate the reason for the delayed response either in person or in a written reply:

III. Handling Medical Request for Interview (RFI) Forms:

The following factors shall be taken into account when developing procedures for the handling of Canary yellow medical *Request For Interview Forms* (Attachment A): ...

F. The employee reply to an RFI may be delivered verbally or in writing. When the reply is delivered verbally it shall be noted on the medical *Request For Interview Form* (Attachment A) prior to filing.

Employees shall aim to reply to medical RFIs within seven (7) working days from the date the medical *Request For Interview Form* (Attachment A) is received. When

more than seven (7) working days is needed for a reply, employees should explain the reason for the delayed response in their reply to the prisoner.⁶¹

During staff interviews, medical staff reported that they were tasked with collecting, reviewing, and forwarding dental RFIs to the dental staff. However, they also are expected to make the initial response to the dental RFIs, which some staff objected to because they are nurses, not dentists. Medical staff told investigators that when they receive RFIs addressed to the Dental Program, there is little information available to them to include in a response to the inmate because of difficulties accessing dental care information (which resides in Dentrix, to which nursing staff do not have access), an inability to share dental waitlist information, and a lack of dental training.

After nursing staff review a dental RFI to identify any medical problems requiring a follow-up appointment with a medical provider, they respond by writing on the form what action they took in response to the RFI. Once nursing staff scan the dental RFIs into the medical EHR, the dental assistant will review them and the patient's medical chart. Several nursing staff members expressed uncertainty as to whether dental staff responded to the RFIs once nursing forwarded them to dental staff. They were also unclear about any final action taken by dental staff in response to a forwarded dental RFI.

The dental assistant helps to prioritize the RFIs. If a sick-call event or appointment was not scheduled by the nursing staff after the initial review of a dental RFI, the patient is placed on the waitlist to be seen by the dentist. If medical staff prescribed antibiotics for a patient during the sick-call appointment, the patient is moved up on the dental waitlist.

There are several different waitlists available on the EHR: a dental RFI waitlist, a denture waitlist, an urgent treatment waitlist, a routine care waitlist, and a hygienist waitlist. Nursing staff reported not knowing how to access waitlists. The dentist reported that "all the waitlist information is on TechCare, the medical EHR. Any dental sickcall is viewable within the patient chart as well as general sickcall lists." They also stated that the nursing staff do not schedule dental appointments and nursing staff "don't have to know our schedule."

Nursing staff do not have access to the dental schedule, and accessing the waitlists on the EHR would not confirm a scheduled dental appointment. Based on our review of the waitlists provided to our office on March 27, 2023, the lists confirm the inmates who have been added to a waitlist, but not whether they have a dental appointment scheduled.

⁶¹ DOC Policy 808.11 III.F.

In RFI responses reviewed by our office, responses that simply stated “Forwarded to dental” were common. Several of the dental RFIs we reviewed during this investigation do not appear to have been responded to by anyone from the GCCC Dental Program, but only by nursing staff. There were only a handful of RFIs we reviewed that were responded to by the dental assistant. Another identified concern is that, in reviewing the complainants’ dental records, there are several references to RFIs being “cancelled” or “consolidated” by the dental assistant, but we could not verify that the inmate ever received an in-person or written response by dental staff to their RFIs after they were “cancelled” or “consolidated.”

When nursing staff initially respond to the dental RFIs, they generally respond timely (within 1-3 working days). However, sometimes the nursing staff’s responses are inconsistent or do not clearly respond to a patient’s concern.

The dentist explained that they consider any RFI responses from medical staff stating “forwarded to Dental” to be a sufficient response. The Ombudsman disagrees. This defeats the purpose of the RFI process, the only system available to inmates to obtain information from dental staff. If dental staff do not provide a response to an inmate’s RFI, this fails to achieve the purpose of the RFI process and deprives inmates of the ability to informally resolve their grievance.

The evidence also suggests that, even when the dental RFIs are forwarded to dental staff for further handling or response, dental staff did not consistently provide a response to inmates. As described above, DOC Policy 808.11 requires that DOC staff respond to medical RFIs within seven (7) working days or explain the reason for the delay to the inmate either in person or in writing. Dental staff told investigators that if a specific question is raised or a response from dental is requested, they will attempt to respond to RFIs. However, the dentist said in other instances, they consider “forwarded to dental” a sufficient response. This creates a situation where patients receive conflicting information based on who responds to the RFI and when they respond.

Based on a preponderance of the evidence, the Ombudsman finds these allegations *justified*. The evidence shows that dental RFIs are not routinely responded to by dental staff. The evidence also shows that there was an unreasonable variance in the RFI responses made by GCCC health care staff to inmates. Inmates often received no substantive information about their request for dental care. Responses that did have information included conflicting — or even inaccurate — information.

Allegation 5: Unreasonable: Goose Creek Correctional Center health care providers have been instructed to discourage/stop informing inmates of their right to file grievances about their dental care.

We analyzed this allegation under the Ombudsman standard “unreasonable.” DOC Policy 808.03 establishes an internal grievance and appeal system that allows inmates to file grievances about alleged actions violating DOC regulations, statutes, policies, or procedures stated in the prisoner handbook.⁶² Grievable actions include health care, and health care is defined in policy as including dental.⁶³

Some responses to RFIs seeking dental care that were reviewed by ombudsman investigators informed inmates of their ability to file a grievance if the inmate was displeased with a dental decision. However, other RFI responses did not include this information. In interviews, some medical staff recalled conversations or emails that left them with the impression that informing inmates of their right to grieve the response (or lack of response) to a dental RFI had been discouraged.

Evidence showed that the dentist sent an email on December 20, 2022, requesting that staff not talk about GCCC Dental Program staffing because they did not want a “surge” in grievances or dental complaints. The dentist explained to ombudsman investigators that the email was sent to discourage staff from discussing dental staffing with inmates. However, multiple medical staff said they perceived this email as discouraging communications between nurses and inmates that might lead to dental grievances. The dentist denied intending to discourage grievances.

Based on a preponderance of the evidence, the Ombudsman finds the allegation that medical staff were instructed not to inform inmates of their right to file grievances about dental care to be ***justified***. Evidence reviewed shows that medical staff who collect and respond to RFIs seeking dental care reasonably believed that the dentist had asked them not to notify inmates of their right to grieve dental decisions, and on at least two occasions, the dentist communicated the undesirability of dental grievances to medical staff.

The Ombudsman considers this allegation to be ***resolved***. Dr. Lawrence, on December 21, 2023, informed the Ombudsman that he had provided coaching and supervision on this matter.

⁶² See DOC Policy 808.03 V.I.E “Scope of a Grievance.”

⁶³ See DOC Policy 808.03 V.F: “Health care includes the fields of medical, dental, psychiatric, and mental health.”

Allegation 6: Unreasonable: Goose Creek Correctional Center dental staff investigated grievances about the Goose Creek Correctional Center dental program.

We analyzed this allegation under the Ombudsman’s “unreasonable” standard.

Filing a health care grievance is subject to the same procedures as a non-health care grievance under DOC policy, but staff responsibilities for health care grievances are different. After a health care grievance is received, the FSO, in consultation with health care staff who are not involved in the subject of the grievance, must decide if the grievance should be screened or resolved.⁶⁴ If a health care grievance is not screened or easily resolved, the FSO must assign and forward the grievance to the Institutional Health Care Officer through the facility manager for investigation and response.⁶⁵ However, if the grievance is against the Institutional Health Care Officer, the FSO must ask the Anchorage Central Office Health Care Administrator to assign an impartial investigator.⁶⁶

If an inmate is dissatisfied with the response to their grievance, they may, within two working days of receiving the decision, file an appeal. If an appeal is filed, the FSO must forward the grievance appeal and copies of the grievance and relevant medical records to the MAC, and the Health Care Administrator must assign an impartial investigator.⁶⁷ Within 10 working days of receiving the grievance, the assigned investigator must investigate the matter and provide the MAC with a written statement of findings and recommendations.⁶⁸ Within five (5) working days of receiving the investigator’s findings and recommendations, the MAC must issue a written decision, which is sent to the inmate through the FSO.⁶⁹ The MAC’s decision is DOC’s final administrative action on health care grievances.⁷⁰

Grievances reviewed by our office showed that, on multiple occasions between February 15, 2023, and July 6, 2023, the facility dentist investigated grievances about the GCCC Dental Program. The dentist told investigators that they investigate dental grievances, but only grievances that do not specifically name them. This is consistent with the grievance responses reviewed by our office. However, scheduling dental care and prioritization of care, which were the primary subjects of the

⁶⁴ See DOC Policy 808.03 VII.B.1-2.

⁶⁵ See DOC Policy 808.03 VII.B.2.

⁶⁶ See DOC Policy 808.03 VII.2.c.

⁶⁷ See DOC Policy 808.03 VII.B.3.b.1-2.

⁶⁸ See DOC Policy 808.03 VII.B.3.b.3.

⁶⁹ See DOC Policy 808.03 VII.B.3.b.4-5.

⁷⁰ See DOC Policy 808.03 VII.B.3.b.8.

grievances reviewed by our office, are the dentist's responsibility.⁷¹ This means that the dentist should not have been assigned nor should they have investigated grievances about decisions they made and classifications for which they are responsible.

The dentist pointed out that "the GCCC dental staff does not determine assignment of investigation." This is true. The FSO assigns grievances to investigators. That, however, does not mean that the agency is not responsible for ensuring that DOC staff follow DOC Policy 808.03 and ensure that inmate grievances are reviewed objectively by a neutral member of staff.

The Ombudsman notes that, just three (3) weeks after receiving the Ombudsman's preliminary findings critical of the investigation of grievances about the GCCC Dental Program in violation of DOC Policy, the facility dentist investigated another grievance.

Based on the preponderance of evidence, the Ombudsman finds the allegation that GCCC dental staff unreasonably investigated dental grievances contrary to DOC policy *justified*. The evidence reviewed indicates that, while the dentist avoided investigating grievances that specifically named them, they investigated grievances about decisions that they made and matters that are their responsibility.

⁷¹ See DOC Policy 807.12 VII. "The scheduling of prisoners for dental treatment shall be determined by the attending dentist in coordination with the institution's security staff. Prioritization of appointments shall be made by the attending dentist based on the Dental Classification System defined in Procedures section III below." Section III: "At the initial dental review, each prisoner shall be classified into one of three (3) treatment categories. Establishing priorities for dental care is not a replacement for professional dental judgment but is intended as a guide for providing dental care. The decision as to the category shall be made by the attending dentist and may be impacted by the length remaining on a prisoner's sentence."

Recommendations

Recommendation 1: The Department of Corrections should finalize and share the Dental Clinical Care Guide with all medical and dental staff, and the Goose Creek Correctional Center superintendents. Once finalized and distributed, the agency should host a briefing for all relevant staff to ensure their understanding of the guide and its implementation.

On August 23, 2023, DOC accepted and agreed to implement this recommendation, indicating that facility security staff would be included in the briefing.

Recommendation 2: The Department of Corrections should request funding to hire an additional dedicated dental team at Goose Creek Correctional Center.

DOC should employ or contract with a sufficient number of qualified dental professionals for GCCC to ensure that the agency is meeting its legal obligation to provide medically necessary dental services in a timely manner and consistent with community dental health care practice and standards. During the informal consultation, Dr. Lawrence indicated that, if GCCC had another dental team at the facility (dentist, dental hygienist, dental assistant), this second dental team could focus on providing dental care to unsentenced inmates, including performing an initial dental exam/evaluation within 90 days of admission to GCCC, as required by DOC policy when resources allow. Data compiled by GCCC Dental in 2019 and shared during our investigation indicate that the disease burden of GCCC's population requires capacity to deliver dental care that exceeds what a single team can provide.

During our investigation, both HARS management and GCCC staff said that GCCC was designed with the intent of housing two full dental teams. No improvements are needed to the physical structure of the dental clinic, but additional equipment (dental chair, instruments and supplies, computers and electronic health record access, etc.) will be needed. DOC estimates that initial equipment purchase and set up costs will range from \$108,382 to \$193,888. Salary costs for a dentist, dental hygienist, and dental assistant will range from \$365,000 to \$510,000 to start. Ongoing salary and operational costs for the second dental team at GCCC will range from \$390,000 to \$548,000. The Ombudsman recommends that DOC seek an increment in the FY25 budget for \$700,000, and include ongoing costs in future agency budgets.

Recommendation 3: The Department of Corrections should designate additional security staff to serve as medical rovers for the dental clinic.

During the informal consultation, DOC HARS management indicated that having an additional medical rover could help increase the number of inmates who could be escorted to the dental clinic to be seen by the dentist. The rover is the member of security staff who alerts an inmate that they have a dental appointment. In the case of inmates who have been placed in segregation, the rover may also be the staff member who escorts the inmate to their appointment. HARS management said an increase in personnel in GCCC Dental could reasonably result in the need for additional security staff so that dental could operate as efficiently as intended.

The Ombudsman recognizes that DOC, like most if not all state agencies, is experiencing difficulties recruiting and retaining qualified staff. However, if the lack of a medical rover is a significant barrier to providing the dental care DOC is required to provide, then the agency should address that deficit. The two officers serving as medical rovers at GCCC are in positions classified as Correctional Officer 2. A Correctional Officer 2 is a range 13 position, so the estimated cost of salary and benefits would be approximately \$84,000 for the first year, depending on the officer's experience prior to hire.⁷²

Recommendation 4: The Department of Corrections should negotiate a Letter of Agreement to hire a dental hygienist at a higher rate of pay pending the outcome of the statewide salary review project.

The evidence shows that the lack of a dental hygienist at GCCC for approximately two years contributed significantly to the dental backlog and inability to provide timely medically necessary services. Likewise, the substantial pay discrepancy of dental hygienists working for DOC – along with the location of the worksite and the nature of the patient population – has contributed to the difficulty filling the vacant dental hygienist position. Therefore, the Ombudsman recommends that DOC seek a Letter of Agreement (LOA) to allow for hiring a qualified and experienced dental hygienist at a competitive rate of compensation.

State agencies have historically had the ability to hire employees at a higher rate of pay by using an LOA. If DOC found a prospective dental hygienist who would accept a position at only the 10th percentile of wages, DOC could negotiate an LOA to begin at Step G (\$49.29) or J (\$51.34) on the General Government Unit bargaining unit pay scale. However, the Governor's Chief of Staff, Tyson Gallagher, informed all Commissioners in August 2023 that LOAs were temporarily but immediately paused.⁷³ Until LOAs are reinstated, DOC is without this tool to offer dental

⁷² See ACOA Correctional Officers Unit Salary Schedule 100, effective July 1, 2023.

⁷³ See Email from Tyson Gallagher, Governor's Chief of Staff, to all State of Alaska Commissioners (August 11, 2023).

hygienists a competitive wage. However, there is no evidence that DOC sought to utilize LOAs to support recruitment for the vacant dental hygienist position before August 2023.

The Ombudsman is aware that LOAs have been approved by the current administration as recently as January 2024. During the January 26, 2024, testimony of James Stinson, Director of the Office of Public Advocacy, to the Senate Judiciary Committee, Senator Kiehl expressed pleasure that a Letter of Agreement had been used for a pay increase for Public Guardian positions at the agency within the last few weeks.⁷⁴ There is no reason DOC cannot be granted a similar LOA to fill undercompensated dental hygienist positions.

While the Department of Administration solicited for proposals to conduct a comprehensive salary survey of all Executive Branch positions, including a dental hygienist, in 2023, a final report is not due until June 30, 2024.⁷⁵ Likewise, it will take additional action by DOA and the Legislature to act on any recommendations in the final report. Accordingly, the Ombudsman recommends that DOC negotiate an LOA now while waiting for the results of the statewide salary review to address a critical need for a dental hygienist at GCCC.

Recommendation 5: The Department of Corrections should hire a Chief Dental Officer to supervise and manage the agency's dental program statewide.

HARS leadership explained during the consultation meeting that a Chief Dental Officer could provide the supervision and management that we identified was lacking in this investigation. The Ombudsman agrees and recommends that DOC work with the Department of Administration and Office of Management and Budget to create a new position of DOC Chief Dental Officer. Based on how the DOC Chief Pharmacist is compensated, the cost of the Chief Dental Officer position is estimated to be \$270,000 per year for a dentist with at least five years of experience prior to hire.

The Ombudsman also recommends that DOC provide in the job class specifications for the new position that the incumbent have significant administrative experience along with clinical experience. The Chief Dental Officer's required prior experience should include:

- coordinating day-to day clinical functions of a dental practice;

⁷⁴ See Testimony of James Stinson, Director, Office of Public Advocacy, to Senate Judiciary Committee Information Hearing by the Office of Public Advocacy on Public Guardianship (January 26, 2024) at 1:43 p.m. (located at: https://www.akleg.gov/basis/Meeting/Detail?Meeting=SJUD%202024-01-26%2013:30:00#tab2_4).

⁷⁵ See Request for Proposals Statewide Salary Study RFP 2024-0200-0142/02-111-24 (issued Oct. 12, 2023) at 28 (available online at <https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=212912>, last visited October 25, 2023).

- setting, monitoring, and reporting on practice objectives as they relate to patient care;
- managing work schedules of direct reports and support staff;
- participating and advising in personnel matters, such as staffing plans, recruitment and hiring, performance management, and discipline;
- developing and implementing a quality assurance/continuous quality improvement program;
- providing clinical supervision; and
- creating and managing practice or program budgets.

The Ombudsman further recommends that the Chief Dental Officer (as well as the Chief Medical and Mental Health Officers) have regular meetings with facility superintendents to ensure that their direct reports are meeting the needs and expectations for medically necessary treatment at each facility.

Recommendation 6: The Department of Corrections should clarify the dual supervision model for health care staff to facility superintendents.

DOC provided a spreadsheet that outlines the dual supervision model for health care providers in facilities.⁷⁶ The foundation is that:

Facility Medical Staff will administratively report to the Superintendent. Clinical supervision and direction will remain the responsibility of HARS staff. Non-medical staff may not override clinical decisions. Medical staff may not override security decisions.⁷⁷

The structure provided by DOC makes clear that dentists and dental hygienists are not subject to the dual supervision model.⁷⁸ This makes it difficult for superintendents to address concerns with their performance, despite being part of the facility staff. For this reason, the Ombudsman made the recommendation for frequent and ongoing collaboration between HARS leadership and superintendents in supervision of facility-based dentists.

⁷⁶ “Dual Supervision Structure HARS DOI 2020,” provided by Division Operations Manager Adam Rutherford on January 12, 2024.

⁷⁷ *Id.*

⁷⁸ *Id.* The Dual Supervision Structure provides that only mental health clinicians, registered nurses, physician assistants and advanced nurse practitioners, and health care support staff are “facility-specific staff under Shared Supervision.” Dentists, dental hygienists, physicians, psychiatrists, pharmacy staff, travel nurses, and non-permanent practitioners all report exclusively to HARS.

Recommendation 7: The Department of Corrections should complete implementation of the electronic health record and Dentrix integration/interface to ensure that medical staff have access to dental staff's notes.

Division Operations Manager Rutherford advised that this project is currently in process, and is approximately 6-8 months from completion. The integration will result in the transfer of dental notes from Dentrix to the EHR, allowing DOC medical staff to review any dental entries without separately accessing Dentrix.

As part of this recommendation, HARS should also provide training on accurate and timely electronic documentation for the support of coordination of care. Medical notes in Dentrix are cryptic. The dentist's notes in the EHR did not always provide information about the encounter that corresponds with the Dentrix entry. Another DOC dentist informed Assistant Ombudsman Benjamin Hohenstatt on January 26, 2024, that they do not document directly in the electronic health record. Instead, they are currently charting with paper and pencil and scanning the notes into the record.

Both complainants' cases show the importance of coordination of care between primary care, dental care, and in some cases, mental health care providers. Effective and consistent use of an electronic health record will support that coordination of care. The current way dental staff use the electronic health record does not. For this reason, the Ombudsman recommends that HARS provide training – and clear expectations – for dental staff's use of the electronic health record once the interface is implemented.

Recommendation 8: The Department of Corrections should secure contract dentists and dental hygienists to provide medically necessary dental care to inmates on the waitlist at Goose Creek Correctional Center.

The Department is obligated by law to provide for inmates' medically necessary health care, and to secure outside care when facility-based practitioners cannot provide the needed services. The Ombudsman recommends that, until such time as the Department implements Recommendation 2, the agency contract with qualified dentists and dental hygienists to provide dental care at Goose Creek Correctional Center. The Ombudsman further recommends that, in order to attract qualified providers, DOC indemnify any dental practitioner who contracts to provide services in a DOC facility (reducing the risks of litigation and costs of malpractice insurance for those contractors).

Recommendation 9: Redacted

This recommendation is related to supervision and performance management and has been redacted to comply with the State Personnel Act and AS 24.55.160(b). The agency has implemented this recommendation.

Recommendation 10: The Department of Corrections should provide training on proper handling and investigation of medical grievances to the Facility Standards Officer and Institutional Health Care Officer at Goose Creek Correctional Center.

The investigation showed that the FSO assigned grievances about the GCCC Dental Program to the facility dentist rather than to the Institutional Health Care Officer as required by DOC Policy 808.03 VII.B. The FSO is required to consult “with health care staff that is not involved in the subject of the grievance” when deciding whether to screen a medical grievance or move it forward through the process.⁷⁹ This ensures an objective review of the facts alleged by the inmate in their grievance. If the grievance is not screened or resolved, the FSO then “shall assign and forward the grievance to the Institutional Health Care Officer through the facility manager for investigation and response.”⁸⁰

DOC Policy 808.03 V.G. defines the “Institutional Health Care Officer” as the “chief departmental health care officer in the correctional facility.” In multiple cases, and as recently as November 2023, the FSO assigned dental grievances to the facility dentist to investigate. Thus, the Ombudsman recommends that the agency provide additional training and guidance to the FSO and the GCCC Institutional Health Care Officer so that inmates grieving issues related to their dental needs and care receive an objective and fair review according to DOC Policy 808.03.

On February 7, 2024, the GCCC Superintendent committed to implementing this recommendation.

Recommendation 11: The Department of Corrections should secure capital funding to ensure that the dental clinic at Anchorage Correctional Complex – West can be reopened as soon as possible.

Over half of the inmates housed at GCCC on October 30, 2023, were unsentenced. HARS Leadership all commented on the impact that the unsentenced population’s dental needs were having on the GCCC Dental Program. Given that many of the unsentenced people moved to GCCC come through ACC, there is an opportunity to address their dental needs there. During the

⁷⁹ DOC Policy 808.03 VII.B.2.a.

⁸⁰ DOC Policy 808.03 VII.B.2.b.

consultation meeting on December 21, 2023, HARS Leadership explained that only one of the two dental clinics at the Anchorage facility is operational. DOC initially had capital funds allocated to bring the ACC-West clinic back into operation, but then reallocated those funds for a more critical project. As a result, inmates arrive at GCCC without having had the oral screening or dental examination within 90 days of admission to DOC custody as required by DOC Policy 807.12 II. This increases the demand for services from the GCCC Dental Program.

Division Operations Manager Rutherford shared that the estimated cost to make the repairs needed to bring the ACC-West dental clinic into compliance with regulatory and dental standards would be \$350,000. The Ombudsman recommends that DOC prioritize securing and expending capital funds to reopen that dental clinic as soon as possible.

Recommendation 12: The Department of Corrections should implement the recommendations the agency accepted in Ombudsman Investigation 2019-07-0115.

The Ombudsman reiterates her prior recommendations 1-3 from Ombudsman Investigation 2019-07-0115. These were previously accepted by DOC HARS, but have not yet been fully implemented:

Recommendation 1: The Department of Corrections should conduct an audit of its Dental Services Program to identify system deficiencies and gaps in resources that are preventing the timely delivery of necessary dental care and request the funding necessary to procure this service.

Recommendation 2: The Department of Corrections should create an action plan to reduce the number of inmates currently waitlisted for dental health care services and decrease wait times for treatment.

In September 2020, DOC accepted Recommendations 1 and 2 and agreed that an audit of its Dental Services Program was needed to effectively assess and evaluate the provision of dental services within DOC and determine the scope of system deficiencies and gaps. The audit findings and recommendations would then guide DOC in implementing program improvements to remedy the identified system deficiencies and gaps and assist the Department in achieving its overall program objective of providing inmates with adequate, consistent, and timely access to quality dental health care services.

Recommendation 3: The Department of Corrections should revise Policy 807.12, Dental Scope of Services, to include time standards for providing dental health care

services to patients for each of the three treatment categories (emergency, urgent, and routine) that align with professional standards in the community.

In September 2020, DOC accepted this recommendation and agreed to revise DOC Policy 807.12 to include specific timeframes for providing dental health care services to inmates for each of the three treatment categories. DOC Policy 807.12 has not been updated since June 27, 2018.

Conclusion

The Ombudsman appreciates DOC leadership’s candor, cooperation, and contribution during this investigation and their commitment to resolving the problems identified in this report. Likewise, we appreciate the cooperation and assistance of GCCC staff we contacted during this investigation.

The Ombudsman recognizes that providing dental (and all other) health care services in the correctional system presents numerous challenges: the high level of need among inmates, increased demand due to prison population growth and aging, shortages in health care staff, difficulties recruiting and retaining health care professionals, rising costs of providing health care, and the State of Alaska’s budgetary constraints. However, DOC has a legal obligation to “maintain health” and “provide necessary medical services for prisoners in correctional facilities or who are committed by a court to the custody of the commissioner.”⁸¹ That obligation is not being met by the GCCC Dental Program. The Ombudsman’s recommendations are designed to support DOC as it works to resolve inmates’ lack of access to timely medically necessary dental care at GCCC.

⁸¹ AS 33.30.011(a)(3)(B) and AS 33.30.011(a)(4)(A).

Appendix A – Division of Health and Rehabilitation Services Clarification, February 29, 2024



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Corrections

HEALTH AND REHABILITATION SERVICES
550 West 7th Avenue, Ste. 1800
Anchorage, Alaska 99501
Main: 907.269.7300
Fax: 907.269.7310
Email: robert.lawrence@alaska.gov

02/29/2024

Alaska State Ombudsman
PO Box 113000
Juneau, Alaska 99811

RE: PUBLIC OMBUDSMAN REPORT, DEPARTMENT OF CORRECTIONS, HEALTH & REHABILITATION SERVICES, 2023-02-0638, 2023-05-1181, and 2023-07-1600

On February 27, 2024, Dr. Robert Lawrence, DOC Chief Medical Officer, contacted the Ombudsman regarding a significant error published on page 17 and 18 of the Public Ombudsman Report. In the Analysis section of the report, the Ombudsman summarizes the investigation of a complainant by stating, *"The nurse's documentation on November 14, 2022, explicitly stated that there was a dental abscess. According to Dr. Lawrence's explanation of the standard of care, the complainant should have been seen by the dentist within three days. He was not."* The report further states, *"The complainant was not seen by the dentist until January 19, 2023 – more than two months after GCCC Medical practitioners first documented a dental abscess and referred him to the Dental Program for treatment."* Dr. Lawrence concluded that this summary contains a misinterpretation of the medical and dental records.

On February 29, 2024, the Ombudsman invited the Department of Corrections (DOC) to submit a formal clarification which would be added as an appendix to the report.

The Department of Corrections Division of Health and Rehabilitation Services submits the following clarification:

- 1) The medical and dental records show that the complainant referenced on pages 17 and 18 of the Public Ombudsman Report was never diagnosed with a dental abscess.
- 2) A nondental oral infection suffered by the complainant was identified by DOC nursing on January 10, 2023 and was treated by a DOC health practitioner on January 12, 2023.
- 3) DOC conveyed these findings to the Ombudsman during a consultation on December 21, 2023.
- 4) The nurse's documentation on November 14, 2022 explicitly documents that the assessment was dental pain, not a dental abscess. The nurse used a form titled "Dental Pain or Abscess" in order to activate a nursing protocol. The nurse used a separate progress note titled "Dental Pain" and specified in the note that the evaluation was for pain in a top left molar with no signs of an active infection.
- 5) The DOC has identified no cases where the department delayed providing medically necessary dental care to an incarcerated individual with an emergent dental condition.

The Department of Corrections greatly appreciates the Ombudsman's attention to detail during this investigation and submits this clarification in the interest of maintaining an accurate record.

Sincerely,

A handwritten signature in black ink, appearing to read 'Travis Welch', with a long horizontal flourish extending to the right.

Travis Welch

Director

Division of Health and Rehabilitation Services