



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 11, 2020

The Honorable Michael R. Pence
President
United States Senate
Washington, DC 20510

Dear Mr. President:

We are pleased to submit the enclosed report to Congress as required by 42 U.S.C. § 1997f concerning certain activities of Department of Justice during Fiscal Year 2019 with regard to the Civil Rights of Institutionalized Persons Act. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Very truly yours,

A handwritten signature in black ink that reads "Mary Blanche Hankey".

Mary Blanche Hankey
Deputy Assistant Attorney General

Enclosure



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Office of Legislative Affairs

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August 11, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

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The Honorable Charles E. Grassley
President Pro Tempore
United States Senate
Washington, DC 20510

Dear Mr. President:

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The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Dear Mr. Leader:

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August 11, 2020

The Honorable Charles E. Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Senator Schumer:

We are pleased to submit the enclosed report to Congress as required by 42 U.S.C. § 1997f concerning certain activities of Department of Justice during Fiscal Year 2019 with regard to the Civil Rights of Institutionalized Persons Act. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

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August 11, 2020

The Honorable Steny Hoyer
Majority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Leader:

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August 11, 2020

The Honorable Kevin O. McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Congressman McCarthy:

We are pleased to submit the enclosed report to Congress as required by 42 U.S.C. § 1997f concerning certain activities of Department of Justice during Fiscal Year 2019 with regard to the Civil Rights of Institutionalized Persons Act. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

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**Department of Justice Activities
Under the
Civil Rights of Institutionalized Persons Act
Fiscal Year 2019**

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I. Introduction and Overview

The Civil Rights of Institutionalized Persons Act (CRIPA), enacted in 1980, protects the constitutional and federal statutory rights of people confined to residential institutions, including facilities for persons with mental illness or intellectual and developmental disabilities, nursing facilities, prisons, jails, and juvenile facilities, run by or on behalf of state or local governmental entities. The Department of Justice's Civil Rights Division (Division), Special Litigation Section is charged with CRIPA enforcement.

The Division is authorized to open an investigation upon reasonable belief that individuals confined in a covered residential institution may be subjected to a pattern or practice that deprives them of their constitutional or federal statutory rights.¹ When the investigation has concluded, the Division informs the jurisdiction, in writing, of the results of its investigation. If an investigation reveals evidence of a pattern or practice that deprives individuals of their constitutional or federal statutory rights, the Division will identify the conditions that cause the deprivations, the facts that support its assessment, and the minimum remedial measures that may remedy the deprivations. The Division then engages in negotiation and conciliation efforts and provides technical assistance to help jurisdictions correct the identified conditions. Only if these efforts fail may the Division institute a civil action for equitable relief necessary to correct the violations of rights.

The Division achieved important successes pursuant to its CRIPA authority to protect the rights of vulnerable people in residential institutions during Fiscal Year 2019. Three new CRIPA investigations opened. In addition, the Division terminated two CRIPA cases, and closed four CRIPA investigations. At the end of Fiscal Year 2019, the Department had active CRIPA

¹ CRIPA protects only constitutional rights in jails and prisons.

matters and cases involving 110 facilities in 14 states, the Commonwealth of Puerto Rico, and the Virgin Islands.

The Division is also charged with providing information regarding the progress made by the Bureau of Prisons and the Department of Veterans Affairs toward meeting existing standards and constitutionally guaranteed minimums for such institutions pursuant to Section f(5) of CRIPA. Statements from both of these federal agencies are attached.

II. Filing of CRIPA Complaints and Resolution of Investigations and Lawsuits

The Division did not file a CRIPA complaint or enter into a settlement to resolve a CRIPA investigation or lawsuit in Fiscal Year 2019.

In June 2019, the Division filed a Statement of Interest² in Georgia Advocacy Office v. Jackson, No. 1:16-cv-1634 (N.D. Ga.), a case regarding conditions in a county jail, to bring the court's attention to recent positions taken by the United States concerning the standards for evaluating restrictive housing³ of prisoners with serious mental illness under the constitution and Title II of the Americans with Disabilities Act (ADA).

III. Prison Litigation Reform Act

The Prison Litigation Reform Act (PLRA), 18 U.S.C. § 3626, enacted in 1996, covers prospective relief in prisons, jails, and juvenile justice facilities. The Division has has

² The Division files Statements of Interest pursuant to 28 U.S.C. § 517, which states: "The Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States."

³ The Division has used the term "restrictive housing" (elsewhere sometimes referred to as solitary confinement, segregation, or isolation) to describe any type of detention that involves three basic elements: removal from the general prisoner population, whether voluntary or involuntary; placement in a locked room or cell, whether alone or with another prisoner; and inability to leave the room or cell for the vast majority of the day, typically 22 hours or more. See, e.g. Eric S. Dreiband, *Notice Letter Regarding Conditions of Confinement at the Hampton Roads Regional Jail*, Dept. of Justice 4 n.3, (Dec. 19, 2018), <https://www.justice.gov/opa/press-release/file/1121221/download>

incorporated the PLRA’s requirements in the remedies it seeks regarding improvements in correctional and juvenile justice facilities.

IV. Compliance Evaluations

At the end of Fiscal Year 2019, the Division was monitoring compliance with CRIPA consent decrees, settlement agreements, and court orders designed to remedy unlawful conditions in numerous facilities throughout the United States. These facilities are:

A. Facilities for persons with developmental disabilities:

Facility or Facilities	Case or Agreement	Court/Date
Centro de Servicios Múltiples Rosario Bellber	<u>United States v. Puerto Rico</u> , 99-1435	D.P.R. 1999
Abilene State Supported Living Center; Austin State Supported Living Center; Brenham State Supported Living Center; Corpus Christi State Supported Living Center; Denton State Supported Living Center; El Paso State Supported Living Center; Lubbock State Supported Living Center; Lufkin State Supported Living Center; Mexia State Supported Living Center; Richmond State Supported Living Center; Rio Grande State Supported Living Center; San Angelo State Supported Living Center; and San Antonio State Supported Living Center	<u>United States v. Texas</u> , A-09-CA-490	E.D. Tex. 2009

B. Juvenile justice facilities:

Facility or Facilities	Case or Agreement	Court/Date
Centro Tratamiento Social Villalba; and CTS Ponce	<u>United States v. Puerto Rico</u> , 94-2080 CCC	D.P.R. 1994
Leflore County Juvenile Detention Center	<u>United States v. Leflore County, Mississippi</u> , 4:15-cv-00059	N.D. Miss. 2015

C. Jails:

Facility or Facilities	Case or Agreement	Court/Date
Orleans Parish Jail	<u>Jones & United States v. Gusman</u> , 2:12-cv-00859	E.D. La. 2008
Grant County Detention Center, Kentucky	2009 Settlement Agreement	N/A

Facility or Facilities	Case or Agreement	Court/Date
Oklahoma County Jail and Jail Annex, Oklahoma	2009 Settlement Agreement	N/A
Erie County Detention Center and Holding Facility	<u>United States v. Erie County, New York</u> , 09-CV-0849	W.D.N.Y. 2009
Lake County Jail	<u>United States v. Lake County, Indiana</u> , 2:10-CV-476	N.D. Ind. 2010
Miami-Dade County Detention	<u>United States v. Miami-Dade County, Florida</u> , 1:13-CV-21570	S.D. Fla. 2013
Miami-Dade County Detention	2013 Settlement Agreement	N/A
Los Angeles County Jails	<u>United States v. County of Los Angeles, California and Los Angeles County Sheriff</u> , 2:15-cv-05903	C.D. Cal. 2015
Westchester County Jail	2015 Settlement Agreement	N/A
Hinds County Adult Detention Center; Jackson City Detention Center; the Work Center; Henley-Young Juvenile Justice Center	<u>United States v. Hinds County, Mississippi Board of Supervisors</u> , 3:16-cv-00489	S.D. Miss. 2016

D. Prisons:

Facility or Facilities	Case or Agreement	Court/Date
Golden Grove Correctional and Adult Detention Facility	<u>United States v. Virgin Islands</u> , 86-265	D.V.I. 1986
Julia Tutwiler Prison for Women Correctional Facility	<u>United States v. Alabama</u> , 2:15cv368	M.D. Ala. 2015

V. Termination of CRIPA Cases

In Fiscal Year 2019, two CRIPA cases terminated. On October 16, 2018, in United States v. Piedmont Regional Jail Authority (E.D.Va.), the court entered an order of dismissal after the court monitor determined that the Authority had come into and maintained compliance with all provisions of a 2013 Consent Decree, which concerned medical and mental health care at the Piedmont Regional Jail in Farmville, Virginia.

On July 3, 2019, in United States v. Columbus Consolidated City/County, Georgia (M.D. Ga.), the court granted the parties joint motion seeking final dismissal of this case, which concerned security, medical and mental health care, suicide prevention, and environmental health

and safety at the Muscogee County Jail in Columbus, Georgia. The parties' motion was based on the jail having come into and sustained compliance with a 1999 Consent Decree and a 2015 Memorandum of Agreement.

VI. New CRIPA Investigations

Three CRIPA investigations opened during Fiscal Year 2019. In October 2018, the Division opened an investigation of the conditions of confinement in 17 prisons operated by the Massachusetts Department of Correction. The investigation focuses on the issues of restrictive housing, and geriatric and palliative medical care.

In October 2018, the Division opened an investigation of the conditions of confinement at the San Luis Obispo County Jail in San Luis Obispo, California. The investigation was initially opened to focus on the Jail's use of restrictive housing for prisoners with mental illness, the provision of medical and mental health care, and, under the ADA, access to the Jail's services, programs and activities for inmates with mental illness. In July 2019, the Division expanded this investigation to additionally examine the Jail's ability to protect prisoners from excessive force by staff.

In December 2018, the Division and the opened an investigation of the conditions of confinement at Hawthorne Cedar Knolls in Westchester County, New York, Geller House, in Staten Island, New York, and Kaplan House, in New York, New York, all operated by the Jewish Board for Family and Children's Services (Jewish Board).⁴ These facilities are operated under contracts with New York City, and are subject to oversight by the State of New York. The investigation focuses on whether the Jewish Board provides youth at these facilities with adequate treatment and protects them from harm.

⁴ After the Hawthorne facility closed, the investigation continued into this facility's successor, Cedar Knolls House in the Bronx, New York.

VII. CRIPA Notice Letters Pursuant to 42 U.S.C. § 1997b(a)(1)

In December 2018, the Division issued a CRIPA notice letter about conditions at the Hampton Roads Regional Jail in Portsmouth, Virginia. The Division concluded that there is reasonable cause to believe that the Jail fails to provide constitutionally adequate medical and mental health care to prisoners, and places prisoners with serious mental illness in restrictive housing for prolonged periods of time under conditions that violate the Eighth and Fourteenth Amendments to the Constitution. The Department also concluded that the Jail's restrictive housing practices discriminate against prisoners with mental health disabilities in violation of the ADA.

In February 2019, the Division issued a CRIPA notice letter about conditions at the Boyd County Detention Center in Cattlesburg, Kentucky. The Division concluded that there is reasonable cause to believe that this facility routinely subjects prisoners to excessive force through the use of chemical agents, electronic control devices, and restraint chairs, and routinely violates prisoners' rights to bodily privacy through its use of restraint chairs, in violation of the Fourth, Eighth and Fourteenth Amendments to the Constitution.

In March 2019, the Division issued a CRIPA notice letter about conditions in Alabama's 13 prisons for men. The Division concluded that there is reasonable cause to believe that Alabama routinely fails to protect prisoners in these facilities from prisoner-on-prisoner violence and prisoner-on-prisoner sexual abuse, and fails to provide safe conditions, in violation of the Eighth Amendment to the Constitution.

VIII. Investigation Closures

In Fiscal Year 2019, the Division closed four CRIPA investigations. In March 2019, the Division closed its investigation of the McPherson Unit ("McPherson") of the Arkansas

Department of Corrections (“ADC”) in Newport, Arkansas. The Division recognized Arkansas’ implementation of recommendations the Division offered during the investigation to protect prisoners at this facility from sexual abuse.

In June 2019, the Division closed its investigation of the Harris County Jail in Houston, Texas. The Division recognized a variety of remedial efforts, including: substantial increases in staffing; physical plant renovations to facilitate medical privacy; significant improvements in chronic care, treatment planning, suicide prevention, and quality assurance programs; upgrades to medical records and information management systems; revised policies and practices governing use of force; the creation of a diversion program to keep persons with mental illness out of the jail; and reforms to keep prisoners with mental illness out of restrictive housing.

In June 2019, the Division closed its investigation of the State of Mississippi’s compliance with the Individuals with Disabilities Education Act at the Leflore County Juvenile Detention Center in Greenville, Mississippi.⁵ The Division recognized the significant reforms undertaken by the State to ensure that youth at this facility who are eligible for special education and related services are properly identified, that the facility promptly obtains youths’ educational records, and that the facility provides youth with a free appropriate public education.

In September 2019, the Division closed its investigation of the Sonoma Developmental Center in Eldridge, California, after the State of California closed this facility.

IX. Technical Assistance

Where federal financial, technical, or other assistance is available to help jurisdictions correct deficiencies, the Division advises responsible public officials of the availability of such aid and arranges for assistance when appropriate. The Division also provides technical

⁵ The Division continues to enforce compliance with a 2015 Consent Decree with Leflore County regarding safety and security issues at this facility.

assistance through the information provided to jurisdictions by the Division's expert consultants at no cost to state or local governments. During the course (and at the conclusion) of investigatory tours, the Division's expert consultants often meet with officials from the subject jurisdiction and provide helpful information regarding specific aspects of their programs. These oral reports permit early intervention by local jurisdictions to remedy highlighted issues before the conclusion of the investigation.

To ensure timely and efficient compliance with settlement agreements, the Division has also issued post-tour compliance assessment letters to apprise jurisdictions of their compliance status. These letters also routinely contain technical assistance and remedial recommendations.

X. Responsiveness to Allegations of Illegal Conditions

During Fiscal Year 2019, the Division reviewed allegations of unlawful conditions of confinement in public residential facilities from a number of sources, including individuals who live in the facilities, relatives of persons living in facilities, former staff of facilities, advocates, concerned citizens, media reports, and referrals from within the Division and other federal agencies. The Division responded to 3,199 CRIPA-related citizen complaint letters and 159 CRIPA-related emails during the fiscal year. In addition, the Division responded to 170 CRIPA-related inquiries from Congress and from writers directing their inquiries to the President.

XI. Conclusion

In Fiscal Year 2020 and beyond, the Division intends to continue to enforce CRIPA to identify and remedy unlawful conditions that harm individuals in residential institutions run by or on behalf of state or local governmental entities.