



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 19, 2016

The Honorable Joseph R. Biden, Jr.
President
United States Senate
Washington, DC 20510

Dear Mr. President:

Enclosed please find the report to Congress about the Department of Justice's activities pursuant to the Civil Rights of Institutionalized Persons Act during Fiscal Year 2015, as required by 42 U.S.C. § 1997f.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter J. Kadzik".

Peter J. Kadzik
Assistant Attorney General

Enclosure



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 19, 2016

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Enclosed please find the report to Congress about the Department of Justice's activities pursuant to the Civil Rights of Institutionalized Persons Act during Fiscal Year 2015, as required by 42 U.S.C. § 1997f.

Sincerely,

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Peter J. Kadzik
Assistant Attorney General

Enclosure



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 19, 2016

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

Dear Mr. Leader:

Enclosed please find the report to Congress about the Department of Justice's activities pursuant to the Civil Rights of Institutionalized Persons Act during Fiscal Year 2015, as required by 42 U.S.C. § 1997f.

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May 19, 2016

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

Dear Mr. Leader:

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Office of the Assistant Attorney General

Washington, D.C. 20530

May 19, 2016

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Madam Leader:

Enclosed please find the report to Congress about the Department of Justice's activities pursuant to the Civil Rights of Institutionalized Persons Act during Fiscal Year 2015, as required by 42 U.S.C. § 1997f.

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Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 19, 2016

The Honorable Harry Reid
Minority Leader
United States Senate
Washington, DC 20510

Dear Mr. Leader:

Enclosed please find the report to Congress about the Department of Justice's activities pursuant to the Civil Rights of Institutionalized Persons Act during Fiscal Year 2015, as required by 42 U.S.C. § 1997f.

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**Department of Justice Activities
Under the
Civil Rights of Institutionalized Persons Act
Fiscal Year 2015**

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I. Introduction and Overview

Congress recognized the need to protect the rights of those residing in public institutions and passed the Civil Rights of Institutionalized Persons Act (CRIPA) in 1980. CRIPA authorizes the Attorney General to investigate conditions at certain custodial institutions operated by or on behalf of state or local governments to determine whether violations of the Constitution or federal law exist. The institutions include juvenile justice facilities, adult jails and prisons, nursing facilities, and facilities for individuals with psychiatric or developmental disabilities. CRIPA enforcement has been delegated to the Department of Justice's Civil Rights Division, and is handled by the Division's Special Litigation Section.

The Division is authorized to remedy a pattern or practice of unlawful conditions that deprives individuals confined in the facilities of their constitutional or federal statutory rights. As required by the statute, the Division engages in negotiation and conciliation efforts and provides technical assistance to help jurisdictions correct deficient conditions. If these efforts fail, the Division may file a lawsuit to correct the violations of rights.

The Division achieved important successes under its CRIPA authority during Fiscal Year 2015. For instance, the Division expanded one investigation into whether prisoners were protected from prisoner-on-prisoner violence and use of force by staff to consider whether prisoners were also being detained without legal authority. The Division then issued detailed findings about constitutional deficiencies on all aspects of the investigation. The Division also continued its focus on eradicating custodial sexual abuse. The Division settled two cases regarding both staff-on-prisoner and prisoner-on-prisoner sexual abuse in two women's prisons. The Division vigorously enforced settlements to vindicate the rights of individuals protected by those two decrees. The Division continued to engage in broad community outreach to ensure

that stakeholders' concerns are reflected in its enforcement efforts. Finally, the Division has been involved in policy initiatives that advance the civil rights of those protected by CRIPA.

In Fiscal Year 2015, the Division entered into six settlement agreements or consent decrees to address institutional constitutional deficiencies, and issued one findings letter to address violence against prisoners and unlawful detention in a county jail.¹ The Division also initiated two new CRIPA investigations and expanded the focus of two existing CRIPA investigations. At the end of Fiscal Year 2015, the Division had active CRIPA matters and cases involving 150 facilities in 27 states, the District of Columbia, the Commonwealth of Puerto Rico and the Territories of Guam 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 institutions are attached.

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

A. Complaints Filed

1. Nunez v. City of New York (Rikers Island)

In December 2014, the Division and the United States Attorney for the Southern District of New York filed a complaint-in-intervention in Nunez v. City of New York to address conditions of confinement in New York City jails on Rikers Island. Nunez v. City of New York, No. 11 CIV. 5845 LTS JCF, (S.D.N.Y. filed Dec. 11, 2014). The Nunez lawsuit involves allegations that the city has engaged in a pattern or practice of violating the constitutional rights of young prisoners, and that the city's deliberate indifference to these constitutional rights has

¹ The full text of these agreements and the findings letter can be found at the Division's website at <http://www.usdoj.gov/crt/split/index.html>.

caused these prisoners serious physical, psychological, and emotional harm. The Department's complaint-in-intervention focuses on use of force by staff, prisoner-on-prisoner violence, and the use of punitive segregation. After filing the intervention motion, the Division and the United States Attorney's Office joined ongoing settlement negotiations in Nunez. By the end of the fiscal year, the parties had concluded their negotiations and submitted a proposed Consent Agreement to the court for approval.²

B. Resolution of Investigations

1. Topeka Correctional Facility

On December 22, 2014, the United States and the State of Kansas entered into a memorandum of agreement to address our 2012 CRIPA findings that prisoners at the Topeka Correctional Facility for women were subject to sexual abuse in violation of their constitutional rights. The agreement contains detailed safeguards to ensure women prisoners' sexual safety, and requires a monitor to oversee implementation of the agreement and to issue compliance reports every six months.

2. Muscogee County Jail

In January 2015, the Division entered into a new agreement that focuses on the remaining areas of noncompliance in the long-standing consent decree concerning conditions at the Muscogee County Jail in Georgia. United States v. Col. Cons. City/Cty. Gov. et al., No. 4:99-cv-132, (M.D. Ga. Jan.16, 2015) (memorandum of agreement regarding the Muscogee County Jail). The new agreement focuses on mental health and medical care and strengthens the remedies necessary to correct the ongoing deficiencies. The new agreement also adds specific outcome and quality improvement measures that were not in the original consent decree. The investigation focused on the areas of security, medical and mental health care, suicide

² The agreement was approved by the court on October 22, 2015, after the close of FY 15.

prevention, and environmental health and safety, and found serious constitutional deficiencies in all areas. On September 30, 1999, a federal district court approved and entered a consent agreement to correct these conditions. The January 2015 agreement expands that decree by adding crucial safeguards for prisoners with serious mental illness, including landmark restrictions on the use of solitary confinement.

3. Clover Bottom Developmental Center

Also in January 2015, an exit plan was approved that resolves United States v. Tennessee, et al., No. 3:96-cv-1056 (M.D. Tenn. filed Nov. 15, 1996), longstanding litigation concerning conditions of care in the Clover Bottom Developmental Center and Greene Valley Developmental Center, and the right those Centers' residents to receive services in the most integrated setting appropriate to their needs. The plan brings to fruition improvements in respite care, individual support planning, and other areas. It also provides for oversight of individuals' transition to community living during any planned facility closures.³

4. Leflore County Juveniles

In May 2015, the Division and Leflore County, Mississippi, reached a court-enforceable settlement agreement to resolve the Division's 2011 investigation into conditions at the Leflore County Juvenile Detention Center, in Greenwood, Mississippi. United States v. Leflore Cty., Miss., No. 4:15-cv-00059-NBB-JMV (N.D. Miss. Jun. 18, 2015) (order granting joint motion for entry of settlement agreement). The investigation found deficiencies in numerous areas, including the use of force and restraints, protections against abuse, suicide prevention and use of solitary confinement. The agreement, approved by the court on June 18, 2015, is designed to improve security and conditions at the Juvenile Detention Center. Leflore County committed to

³ The last individuals at Clover Bottom moved to the community on November 19, 2015, after the close of FY 15. All individuals at Greene Valley are anticipated to move to the community by June 2017.

numerous reforms to protect children in its care from abuse and self-harm, to improve its security and emergency preparedness, and to improve its medical and mental health care. Leflore County also pledged to end the use of solitary confinement as a form of discipline and to limit solitary confinement to a cool-down period not to exceed one hour.

5. Julia Tutwiler Prison for Women

In May 2015, the Department filed a complaint and settlement agreement in United States v. Alabama to protect prisoners at the Julia Tutwiler Prison for Women in Wetumpka, Alabama, from sexual victimization by correctional officers. United States v. Alabama, et al., No. 2:15cv368-MHT (M.D. Al. filed May 28, 2015). The agreement, which the court entered as a consent decree on June 18, 2015, resolves the Division's claim that Tutwiler subjected its women prisoners to a pattern and practice of sexual abuse in violation the Eighth Amendment of the U.S. Constitution. United States v. Alabama, et al., No. 2:15cv368-MHT (M.D. Al. Jun. 18, 2015) (judgment entering consent decree).

The agreement comprehensively addresses the causes of the abuses uncovered by the Division's investigation. Tutwiler must ensure sufficient staff to safely operate Tutwiler and supervise prisoners, prevent staff from unnecessarily viewing prisoners who are naked or performing bodily functions, educate prisoners and train staff, and provide effective means for reporting and investigating allegations of sexual abuse. An independent monitor will evaluate Tutwiler's progress towards meaningful reform and assist Tutwiler's compliance efforts.

6. Los Angeles County Jails

In August 2015, the Division and Los Angeles County entered into a supplemental, court-enforceable agreement to address unresolved issues from a 2002 memorandum of agreement. United States v. Cty. of Los Angeles, et al., No. CV 15-5903 (C.D. Cal. Aug. 5, 2015) (joint

motion to approve settlement agreement regarding the Los Angeles County Jails). The new agreement, entered as a consent decree by the court on September 3, 2015, focuses on suicide prevention and mental health care at the Jails, and extends remedial measures of a private settlement agreement to fully resolve the Division's CRIPA investigation regarding mistreatment of prisoners with mental illness and the use of excessive force against prisoners at all of the Jails. An independent monitor will assess compliance and report on the implementation of the comprehensive agreement.

III. Prison Litigation Reform Act

The Prison Litigation Reform Act (PLRA), 18 U.S.C. § 3626, enacted on April 26, 1996, covers prospective relief in prisons, jails, and juvenile justice facilities. The Division has incorporated the PLRA's requirements in the remedies it seeks regarding improvements in correctional and juvenile justice facilities.

IV. Compliance Evaluations

During Fiscal Year 2015, the Division monitored 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
Clover Bottom Developmental Center, Greene Valley Developmental Center and Harold Jordan Center	<u>United States v. Tennessee</u> , 3:96-1056	M.D. Tenn. 1996
Centro de Servicios Multiples Rosario Bellber	<u>United States v. Commonwealth of Puerto Rico</u> , 99-1435	D.P.R. 1999
Beatrice State Developmental Center	<u>United States v. Nebraska</u> , 08-08CV271-RGK-DL	D. Neb. 2008
Abilene State Supported Living Center; Austin State Supported Living Center; Brenham State Supported Living Center; Corpus Christi State Supported Living Center; Denton State	<u>United States v. Texas</u> , A-09-CA-490	E.D. Tex. 2009

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		
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B. Facilities for persons with mental illness:

Facility or Facilities	Case or Agreement	Court/Date
Connecticut Valley Hospital	<u>United States v. Connecticut</u> , 3:09-CV-00085	D. Conn. 2009
Kings County Hospital Center	<u>United States v. Kings County, New York</u> , CV-10-0060	E.D.N.Y. 2010
Delaware Psychiatric Center	<u>United States v. Delaware</u> , 1-11-CV-00591	D. Del. 2011

C. Nursing facilities:

Facility or Facilities	Case or Agreement	Court/Date
Maple Lawn Nursing Home	<u>United States v. Marion County Nursing Home District</u> , 2:13-CV-00026	E.D. Mo. 2013

D. Juvenile justice facilities:

Facility or Facilities	Case or Agreement	Court/Date
Bayamon Detention Center; Centro Tratamiento Social Bayamon; Centro Tratamiento Social Humacao; Centro Tratamiento Social Villalba; Centro Tratamiento Social Guayama; Guali Group Home; and Ponce Detention and Social Treatment Center for Girls	<u>United States v. Commonwealth of Puerto Rico</u> , 94-2080 CCC	D.P.R. 1994
Los Angeles County Juvenile Camps	2009 Settlement Agreement	N/A
Lansing Residential Center; Louis Gossett, Jr. Residential Center; Tryon Residential Center; and Tryon Girls Center	<u>United States v. New York</u> , 10-CV-858	N.D.N.Y. 2010
Leflore County Juvenile Detention Center	<u>United States v. Leflore County, Mississippi</u> , 4:15-cv-00059	N.D. Miss. 2015

E. Jails:

Facility or Facilities	Case or Agreement	Court/Date
Hagatna Detention Center and Fibrebond Detention Facility	<u>United States v. Territory of Guam</u> , 91-00-20	D. Guam 1991
Harrison County Jail	<u>United States v. Harrison County, Mississippi</u> , 1:95 CV5-G-R	S.D. Miss. 1995
Coffee County Jail, Georgia	1997 Settlement Agreement	N/A
Muscogee County Jail	<u>United States v. Columbus Consolidated City/County Gov't, Georgia</u> , 4-99-CV-132	M.D. Ga. 1999
Dallas County Jail	2012 Settlement Agreement (converted from consent decree in <u>United States v. Dallas County, TX</u> , 307 CV 1559-N)	N/A
Baltimore City Detention Center, Maryland	2007 Agreement	N/A
Oahu Community Correctional Center	<u>United States v. Hawaii</u> , CV-08-00585	D. Haw. 2008
Orleans Parish Prison	<u>Jones & U.S. v. Gusman</u>	E.D. La. 2008
Erie County Detention Center and Holding Facility	<u>United States v. Erie County, New York</u> , 09-CV-0849	W.D.N.Y. 2009
Sebastian County Detention Center, Arkansas	2008 Settlement Agreement	N/A
Grant County Detention Center, Kentucky	2009 Settlement Agreement	N/A
Oklahoma County Jail and Jail Annex, Oklahoma	2009 Settlement Agreement	N/A
Cook County Jail	<u>United States v. Cook County, Illinois</u> , 10-cv-2946	N.D. Ill. 2010
Lake County Jail	<u>United States v. Lake County, Indiana</u> , 2:10-CV-476	N.D. Ind. 2010
Robertson County Jail	<u>United States v. Robertson County</u> , 3:13-CV-00392	M.D. Tenn. 2013
Miami-Dade County Detention	<u>United States v. Miami-Dade County</u> , 1:13-CV-21570	S.D. Fla. 2013
St. Tammany Parish Jail	2013 Settlement Agreement	N/A
Piedmont Regional Jail Authority, Virginia	<u>United States v. Piedmont Regional Jail Authority</u> , 3:13-CV-646	E.D. Va. 2013
Los Angeles County Jails	<u>United States v. County of Los Angeles and Los Angeles County Sheriff</u> , 2:15-cv-05903	C.D. Cal. 2015

F. Prisons:

Facility or Facilities	Case or Agreement	Court/Date
Golden Grove Correctional and Adult Detention Facility	<u>United States v. Territory of the Virgin Islands</u> , 86-265	D.V.I. 1986
Erie County Detention Center and Holding Facility	<u>United States v. Erie County, New York</u> , 09-CV-0849	W.D.N.Y. 2009
Guam Adult Correctional Facility	<u>United States v. Territory of Guam</u> , 91-00-20	D. Guam 1991
Topeka Correctional Facility	2014 Settlement Agreement	N/A
Julia Tutwiler Prison for Women	<u>United States v. Alabama</u> , 2:15cv368	M.D. Ala. 2015

V. Termination of CRIPA Cases

In Fiscal Year 2015, the Division terminated four CRIPA cases.

A. United States v. Hawaii

In June 2015, the State of Hawaii came into compliance with a 2008 settlement agreement regarding mental health care provided to prisoners at the Oahu Community Correctional Center in Honolulu, Hawaii. United States v. Hawaii, CV-08-00585-JMS-KSC (D. Haw. filed Dec. 29, 2008). The State instituted protections for prisoners with serious mental illness, to include providing adequate assessment and treatment, and minimizing isolation.

B. United States v. Connecticut

In August 2015, the State of Connecticut achieved substantial compliance with a 2009 settlement agreement to resolve the Division's CRIPA investigation into the care and treatment of residents at the Connecticut Valley Hospital, the state's principal forensic, general psychiatric, and addictions in-patient treatment facility. United States v. Connecticut et al., 3:09-CV-00085 (D. Conn. Jan. 20, 2009) (joint motion for entry of settlement agreement). On September 10, 2013, the parties agreed that the State had achieved substantial compliance with the terms of the settlement agreement involving treatment planning, mental health assessments, psychiatric and psychological services, documentation, seclusion and restraint, suicide prevention, and

protection from harm. The State remained in partial compliance with the provisions requiring the State to ensure that each resident is served in the most integrated setting appropriate to their needs and to pursue adequate community placement for those residents who no longer require hospital care. The State has since come into substantial compliance with these two provisions.

C. United States v. Nebraska

In August 2015, the Division's 2008 court-enforceable settlement agreement with the State of Nebraska regarding conditions and services at Beatrice State Developmental Center, and the State's larger service system for persons with developmental disabilities, was terminated after the Division filed a joint motion with the State confirming that the State had demonstrated sustained substantial compliance with the agreement. United States v. Nebraska, No. 08CV271 (RGK) (D. Neb. Jul. 22, 2015) (joint motion to dismiss and terminate settlement agreement). The State has remedied health, safety, and welfare issues at Beatrice, and has implemented reforms that transformed its service-delivery system for people with developmental disabilities, greatly expanded and enhanced community capacity, minimized reliance on institutional services, and generally improved outcomes for people with developmental disabilities.

D. United States v. Harrison County, Mississippi

In August 2015, Harrison County came into substantial compliance with the terms and objectives of a 1995 consent decree regarding conditions of confinement in the Harrison County Jail in Mississippi. United States v. Harrison Cty. Miss., et al., No. 1:95cv5GR (S.D. Miss. Jan. 12, 1995) (consent judgment concerning the Harrison County Detention Center). Over the course of the agreement, the county improved prisoner supervision, access to the courts, and medical and mental healthcare.

VI. New CRIPA Investigations

The Division opened two new CRIPA investigations and expanded two existing CRIPA investigations during Fiscal Year 2015.

In June 2015, the Division opened an investigation of the Arkansas Department of Corrections' McPherson Unit, the state prison for women in Newport, Arkansas. The investigation focuses on whether women confined at McPherson are subjected to sexual abuse and sexual harassment by correctional staff. The investigation also examines the prison's treatment of transgender prisoners.

Also in June 2015, the Division opened an investigation of the Jefferson County Jail in Birmingham, Alabama, focusing on the treatment of juveniles. The investigation assesses allegations that juveniles at the jail are regularly housed with adults, have been the victims of physical and sexual abuse, and are routinely placed in isolation.

In December 2014, the Division expanded one aspect of its investigation of the Leflore County, Mississippi Juvenile Detention Center. The Division expanded its investigation of special education issues to include the State of Mississippi, after the State took over the County public school system, including the school at the Detention Center.⁴

On January 20, 2015, the Division also expanded its investigation of the Hinds County, Mississippi Detention Center to evaluate the improper detention of prisoners. The initial 2014 investigation addressed allegations that prisoners were not adequately protected from harm caused by prisoner violence and improper use of force. The expansion evaluated whether Hinds County detained prisoners without legal authority by failing to release them in a timely manner.

⁴ A findings letter about the special education issues at the detention center was issued on January 12, 2016, after the close of FY 15. The findings letter can be found at https://www.justice.gov/sites/default/files/crt/legacy/2011/04/14/LeFloreJDC_findlet_03-31-11.pdf

VII. Findings Letters

During the Fiscal Year, the Division issued one findings letter pursuant to Section 4 of CRIPA, 42 U.S.C. § 1997b. In May 2015, the Division issued a findings letter regarding its investigation into the Hinds County Adult Detention Center and the Jackson City Detention Center in Mississippi. The findings letter determined that Hinds County violated prisoners' constitutional rights by failing to protect prisoners from violence by other prisoners and from improper use of force by staff, and that the jail facilities detained prisoners beyond court-ordered release dates.

VIII. Investigation Closures

In Fiscal Year 2015, the Division closed its investigations into the Walnut Grove Youth Correctional Facility in Mississippi, and the Casa Del Veterano Commonwealth Veteran's Home in Puerto Rico.

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 assistance through the information provided to jurisdictions by the Division's expert consultants at no cost to state or local governments. In addition, 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 a findings letter is issued.

To ensure timely and efficient compliance with settlement agreements, the Division has

also issued numerous post-tour compliance assessment letters (and in some cases, emergency letters identifying emergent conditions) to apprise jurisdictions of their compliance status. These letters routinely contain technical assistance and best practices recommendations.

The Division also worked with the Department's Office of Juvenile Justice and Delinquency Prevention and the U.S. Department of Education to issue a December 2014 package of nonregulatory guidance on education issues in juvenile correctional facilities. As one part of this package, the Division and the U.S. Department of Education's Office for Civil Rights released a Dear Colleague Letter on the civil rights of students in juvenile justice residential facilities⁵.

X. Responsiveness to Allegations of Illegal Conditions

During Fiscal Year 2015, the Division reviewed allegations of unlawful conditions of confinement in public 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 received 6,069 CRIPA-related citizen complaint letters and 209 CRIPA-related emails during the Fiscal Year. In addition, the Division responded to 983 CRIPA-related inquiries from Congress and the White House.

In addition to investigative, litigation and enforcement activities, the Division filed a statement of interest in Diamond v. Owens, private litigation in Georgia to affirm the right of transgender prisoners to receive adequate health care. Diamond v. Owens, et al., No. 5:15-cv-50-MTT-CHW (M.D. Ga. Apr. 3, 2015) (statement of interest of the United States). The statement of interest discussed the unconstitutionality of "freeze-frame" health care policies,

⁵ The Dear Colleague Letter can be found at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-residential-facilities-201412.pdf>

such as the policy allegedly used in the Georgia Department of Corrections. These policies, the statement of interest argued, unconstitutionally prohibit treatment beyond the type of care the prisoner received in the community prior to incarceration. Through this filing, without taking a position on the merits of the allegations, the Division stated that the Eighth Amendment mandates individualized assessment and care for gender dysphoria. Immediately after the Division filed this statement of interest, the Georgia Department of Corrections changed its policy to provide for individualized assessment and care for gender dysphoria, mooted out the issue before the court.

XI. Conclusion

In Fiscal Year 2016 and beyond, the Division intends to continue aggressive investigation and enforcement under CRIPA, ensuring that settlements resulting from its enforcement efforts are strong enough to adequately address unlawful deficiencies.



U.S. Department of Justice

Federal Bureau of Prisons

Washington, DC 20534

October 26, 2015

MEMORANDUM FOR JUDY C. PRESTON, DEPUTY CHIEF
SPECIAL LITIGATION SECTION
CIVIL RIGHTS DIVISION, DOJ

FROM: *for* *Pal Lape* Steve Mora, Assistant Director
Program Review Division, BOP

SUBJECT: Response for the Attorney General's Report to
Congress for FY 2015 Pursuant to the Civil Rights of
Institutionalized Persons Act of 1997

The Bureau of Prisons appreciates the opportunity to report our actions during FY 2015 as related to the Attorney General's Report to Congress for FY 2015 Pursuant to the Civil Rights of Institutionalized Persons Act of 1997.

The following is provided for insertion into the report:

FEDERAL BUREAU OF PRISONS

The Federal Bureau of Prisons (Bureau) adheres to the correctional standards developed by the American Correctional Association (ACA), the Prison Rape Elimination Act (PREA) of 2003 (Public Law 108-79; September 4, 2003), and 28 CFR Part 115, Prison Rape Elimination Act National Standards. These standards cover all facets of correctional management and operation, including the basic requirements related to life/safety and constitutional minima, which includes provisions for an adequate inmate grievance procedure, and a zero tolerance toward all forms of sexual activity, including

sexual abuse and sexual harassment.

ACA standards have been incorporated into the Bureau's national policy, as well as the program review guidelines. Currently, 119 of the Bureau's 122 institutions, the agency's two training centers (Staff Training Academy and Management and Specialty Training Center), and the Bureau's Headquarters are accredited by the Commission on Accreditation for Corrections. The newly activated facilities in ADX, Thomson, Illinois, and USP Yazoo City, Mississippi, are preparing for their initial accreditations. FDC Miami lost accreditation; however, the facility is scheduled for accreditation in January 2016.

ACA accredited institutions are subject to interim audits by the ACA Commission to monitor standards compliance. Particular attention is given in the vital areas of inmate rights, healthcare, security, safety, and sanitation. The standards are reviewed at least annually for continued compliance, by institutional staff, through the operational review process. In addition to operational reviews, program reviews are conducted at all federal prisons in each discipline at least once every 3 years to monitor policy compliance. In FY 2015, there were 506 separate program reviews conducted by Bureau examiners which included a review of ACA standards.

PREA audits for federal institutions began on August 20, 2013, with 33 audits conducted at stand alone institutions or complexes in FY 2014, and 35 audits conducted at stand alone institutions or complexes in FY 2015. Also, there are 30 PREA audits scheduled for FY 2016 which will ensure at least 1/3 of the Bureau's federal institutions are audited each year for the first three years to determine compliance with each PREA standard.

The Bureau utilizes a medical classification system that identifies each inmate's medical and mental health needs, along with the forensic needs of the court. Additionally, the Bureau assigns inmates to facilities (identified as Care Levels 1 through 4) with appropriate in-house and community health care resources. All Care Level 2, 3, and 4 institutions are required to be accredited by The Joint Commission on Accreditation of Healthcare Organizations. Currently, all 79 sites are accredited by The Joint Commission.

If you require additional information, please contact Kevin Pistro in my office at (202)598-0910.

VA



U.S. Department
of Veterans Affairs

General Counsel
Washington DC 20420

NOV - 5 2015

Judy C. Preston, Acting Chief
Special Litigation Section Civil Rights Branch
U. S. Department of Justice
601 D Street, N.W.
Washington, D.C. 20004

RE: Information for inclusion in the Attorney General Report to Congress
on the Civil Rights of Institutional Persons Act (42 USC 1997f)

Dear Ms. Preston:

Thank you for the opportunity to submit a contribution to the Attorney General's Report to Congress pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA). The Department of Veterans Affairs believes we meet all existing promulgated standards for CRIPA and, in so doing, ensure the constitutionally guaranteed rights of our patients and residents. The enclosed information is provided for inclusion in your report.

Sincerely yours,

A handwritten signature in cursive script that reads "Leigh A. Bradley".

Leigh A. Bradley
General Counsel

Enclosure

DEPARTMENT OF VETERANS AFFAIRS

The Department of Veterans Affairs (VA) has multiple ongoing programs to protect the civil rights of patients in its facilities. VA regulations published at 38 C.F.R. 17.33 identify the rights of patients. All patients are advised of these rights on their admission to a facility. The statement of patients' rights is required to be posted at each nursing station, and all VA staff working with patients receive training regarding these rights. *Id.* at 17.33(h).

The applicable regulations set forth that the specified patients' rights "are in addition to and not in derogation of any statutory, constitutional or other legal rights." *Id.* at 17.33(i). The regulations set forth specific procedures for VA to follow when restricting any rights, *id.* at 17.33(c), and establish grievance procedures for patients to follow for any perceived infringements of rights. *Id.* at 17.33(g). In addition to the regulations, the Veterans Health Administration (VHA) has issued a directive prohibiting discrimination based on race, color, national origin, limited English proficiency, age, sex, handicap, or as reprisal. VHA Directive 1019, *Nondiscrimination in Federally-Conducted and Federally-Assisted (External) Programs* (May 23, 2013).

VA further protects patients' civil rights through its program of hiring individuals to serve as Patient Advocates. The purpose of VA's Patient Advocacy Program is "to ensure that all veterans and their families, who are served in VHA facilities and clinics, have their complaints addressed in a convenient and timely manner." VHA Handbook 1003.4, *VHA Patient Advocacy Program*, paragraph 3 (September 2, 2005). The Advocates assist patients in understanding their rights and represent them in the enforcement of those rights. VA also facilitates the representation of patients by external stakeholders, including, but not limited to, veterans service organizations and state protection and advocacy systems, which seek to represent patients in VA facilities. *Id.* at paragraph 8.

In addition, patients are also protected by VA regulations requiring the full informed consent of patients or, where applicable, their surrogates, before any proposed diagnostic or therapeutic procedure or course of treatment is undertaken. 38 C.F.R. 17.32.

VA believes the receipt of high-quality medical care is the right of all patients, and takes action to achieve its provision through a number of internal mechanisms. VA operates ongoing active peer review programs designed to discover and correct problems in the provision of care. Additionally, pursuant to Presidential Executive Order 12862 (1993) which requires patient surveys and use of the resultant feedback to manage agency operations, patients are periodically surveyed to determine their satisfaction with the health care provided to them. Also, the VA Office of the Inspector

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General and the VA Office of the Medical Inspector conduct investigations of complaints concerning the quality of health care. All of these mechanisms serve to protect the civil rights of patients in facilities operated by VA.

(VA participates in two grant-in-aid programs with the states, to provide construction and renovation funds and to provide per diem payments for care of eligible veterans in State homes; however, these homes are not Federal facilities).