



U.S. Department of Justice

Civil Rights Division

*United States Attorney's Office
District of Massachusetts*

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November 17, 2020

VIA FEDERAL EXPRESS

The Honorable Charles D. Baker
Governor of the Commonwealth of Massachusetts
Massachusetts State House
24 Beacon Street
Office of the Governor
Boston, MA 02133

Re: Notice Regarding Investigation of the Massachusetts Department of Correction

Dear Governor Baker:

The Civil Rights Division and the United States Attorney's Office for the District of Massachusetts have completed the investigation into the conditions of confinement at the Massachusetts Department of Correction ("MDOC"), conducted under the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997. Consistent with the statutory requirements of CRIPA, we provide this Notice of the alleged conditions that we have reasonable cause to believe violate the Constitution. We also notify you of the supporting facts giving rise to, and the minimum remedial measures that we believe may remedy, those alleged conditions.

After carefully reviewing the evidence, we conclude that there is reasonable cause to believe that conditions at MDOC violate the Eighth Amendment of the U.S. Constitution. Specifically, we have reasonable cause to believe that MDOC fails to provide constitutionally adequate supervision to prisoners in mental health crisis; fails to provide adequate mental health care to prisoners in mental health crisis; and uses prolonged mental health watch under restrictive housing conditions, which violates the constitutional rights of prisoners in mental health crisis.¹

¹ The Department's investigation was also opened to investigate: (1) whether MDOC violates the constitutional rights of prisoners who have serious mental illness, or who are otherwise at risk of serious harm from restrictive housing, by placing them in restrictive housing for prolonged periods of time; and (2) whether MDOC violates the constitutional rights of geriatric and palliative care prisoners by failing to provide them with adequate medical care. The Department is closing its investigation of geriatric and palliative medical care and restrictive housing other than the restrictive housing on mental health watch.

We thank the Massachusetts Department of Correction, Commissioner Carol Mici, and all of the Superintendents and staff of MDOC facilities for accommodating our investigation and providing access to MDOC facilities, staff, documents, data, and prisoners. We hope that we can continue to collaborate on a mutual resolution of the issues raised in this Notice.

We are obligated to advise you that 49 days after issuance of this Notice, the Attorney General may initiate a lawsuit under CRIPA to correct the alleged conditions we have identified if MDOC officials have not satisfactorily addressed them. 42 U.S.C. § 1997b(a)(1).

We hope, however, to resolve this matter through a more cooperative approach and look forward to working with Superintendent Mici and MDOC leadership and staff to address the violations of law we have identified. The lawyers assigned to this investigation will therefore contact MDOC to discuss options for resolving this matter amicably. Please also note that this Notice is a public document that will be posted on the Civil Rights Division's website.

If you have any questions regarding this correspondence, please call Steven H. Rosenbaum, Chief of the Special Litigation Section, at (202) 616-3244, or Jennifer Serafyn, Chief of the Civil Rights Unit at the United States Attorney's Office for the District of Massachusetts, at (617) 748-3188.

Sincerely,

s/Eric S. Dreiband

Eric S. Dreiband
Assistant Attorney General
Civil Rights Division

s/Andrew E. Lelling

Andrew E. Lelling
United States Attorney
District of Massachusetts
United States Department of Justice

cc: John Melander
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Superintendent Douglas DeMoura, MCI-Cedar Junction

Superintendent Sheila Kelly, MCI-Concord

Superintendent Dean Gray, Souza-Baranowski Correctional Center

Superintendent Nelson Alves, MCI-Norfolk

Superintendent Thomas Neville, Boston Pre-Release Center & Lemuel Shattuck Hospital
Correction Unit

Superintendent Stephen Kennedy, Bridgewater State Hospital

Superintendent Lisa Whelan, MASAC at Plymouth

Superintendent David Duarte, Massachusetts Treatment Center

Superintendent Kristie Ladouceur, MCI-Framingham

Superintendent Michael Rodrigues, MCI-Shirley

Superintendent Matthew Divris, North Central Correctional Institution

Superintendent Sheila Kelly, Northeastern Correctional Center

Superintendent Stephen Kennedy, Old Colony Correctional Center

Superintendent Sergio Servello, Pondville Correctional Center

Superintendent Kristie Ladouceur, South Middlesex Correctional Center

Attachment: Investigation of the Massachusetts Department of Correction