

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA ADVOCACY OFFICE;
M.J.; K.H., ON BEHALF OF
THEMSELVES AND OTHERS SIMILARLY
SITUATED,

PLAINTIFFS,

v.

THEODORE JACKSON, IN HIS
OFFICIAL CAPACITY AS SHERIFF OF
FULTON COUNTY; MARK ADGER, IN
HIS OFFICIAL CAPACITY AS CHIEF
JAILER; MEREDIETH
LIGHTBOURNE, IN HER OFFICIAL
CAPACITY AS MEDICAL DIRECTOR;
TYNA TAYLOR, IN HER OFFICIAL
CAPACITY AS DETENTION CAPTAIN;
PEARLIE YOUNG, IN HER OFFICIAL
CAPACITY AS DETENTION
LIEUTENANT.

DEFENDANTS.

Civil Action No.

1:19-CV-1634-WMR-JFK

STATEMENT OF INTEREST OF THE UNITED STATES

NOW COMES the United States of America, by and through the
Department of Justice, Civil Rights Division, and the United States Attorney for
the Northern District of Georgia, and files this Statement of Interest in the above-
captioned case.

The Plaintiff prisoners have challenged certain policies and practices of the Fulton County Jail system, including the prolonged isolation of women prisoners with serious mental illness, which they allege violate the Eighth and Fourteenth Amendments of the U.S. Constitution and Title II of the Americans with Disabilities Act (“Title II”), 42 U.S.C. § 12132. *See* Plaintiff’s Memorandum of Law in Support of Motion for Preliminary Injunction, Dkt. 16-1. The United States Department of Justice, Civil Rights Division (the “Division”), and the United States Attorney’s Office, Northern District of Georgia (the “U.S. Attorney’s Office”) respectfully submit this Statement of Interest to bring this Court’s attention to recent positions taken by the United States concerning the standards for evaluating restrictive housing of prisoners with serious mental illness under Title II and the Eighth and Fourteenth Amendments to the U.S. Constitution.

Specifically, the Division recently investigated the use of restrictive housing at the Hampton Roads Regional Jail (“Hampton Roads”) in Portsmouth, Virginia, pursuant to the Civil Rights of Institutionalized Person Act, (CRIPA), 42 U.S.C. § 1997b, and Title II. *See attached hereto* November 19, 2018, Investigation of the Hamptons Road Regional Jail (Portsmouth, Virginia) (hereafter “Hampton Roads CRIPA Notice”). As stated in the Hampton Roads

CRIPA Notice, a jail's practice of subjecting prisoners with serious mental illness to prolonged periods of restrictive housing under certain conditions, including the denial of access to adequate medical and mental health care, may violate the Eighth Amendment and Title II. *See Hampton Roads Notice of Investigation at pp. 1-2, 27-38.*

The United States takes no position on the fact-dependent question of whether plaintiffs' motion for preliminary injunction should be granted.

The United States has authority to file this Statement of Interest pursuant to 28 U.S.C. § 517, which permits the Attorney General to attend to the interests of the United States in any case pending in federal court. The United States has a broad interest in ensuring that conditions of confinement in state and local correctional facilities are consistent with the Constitution and federal law.

Pursuant to CRIPA, the Attorney General of the United States is authorized to institute a civil action to address "egregious or flagrant conditions which deprive [prisoners] of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing such persons to suffer grievous harm." 42 U.S.C. § 1997a(a). In addition, the Division enforces Title II, and promulgates its implementing regulations. 42 U.S.C. § 12133; 28 C.F.R. § 35.170-174, 190(e). The Division and the U.S. Attorney's Office enforce

Title II in correctional settings. 28 C.F.R. § 35.190(b) (allocating Title II implementation and enforcement authority to the Department of Justice as to “[a]ll programs, services, and regulatory activities relating to law enforcement, public safety, and the administration of justice, including correctional institutions.”) The Division has exercised the United States’ authority under CRIPA and Title II to address issues related to the restrictive housing of prisoners with serious mental illness in prisons and jails, including Hampton Roads.¹

Accordingly, the United States respectfully requests that this Court consider the legal discussion in the United States’ recent Hampton Roads CRIPA Notice as part of its consideration of the above-captioned case.

¹ CRIPA notices, settlements and consent decrees for this and other cases and matters may be found at www.justice.gov/crt/about/spl/findsettle.php.

Respectfully submitted,

BYUNG J. PAK
United States Attorney

/s/ Aileen Bell Hughes
AILEEN BELL HUGHES
Assistant United States Attorney
600 U.S. Courthouse
75 Ted Turner Drive SW
Atlanta, GA 30303
(404) 581-6000 fax (404) 581-6181
Georgia Bar No. 375505
aileen.bell.hughes@usdoj.gov

ERIC S. DREIBAND
Assistant Attorney General
Civil Rights Division

STEVEN H. ROSENBAUM
Chief
Civil Rights Division
Special Litigation Section

LAURA L. COWALL
Special Counsel
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, NW
Washington, DC 20579

Certificate of Compliance

I hereby certify, pursuant to Local Rules 5.1 and 7.1D, that the foregoing brief has been prepared using Book Antiqua, 13 point font.

/s/ Aileen Bell Hughes

AILEEN BELL HUGHES
Assistant United States Attorney

Certificate of Service

The United States Attorney's Office served this document today by filing it using the Court's CM/ECF system, which automatically notifies all parties and counsel of record.

June 20, 2019

/s/ AILEEN BELL HUGHES
AILEEN BELL HUGHES
Assistant United States Attorney