

Memorandum

U.S. v. Michigan



PC-MI-008-001



AEP:MHN:SYB:LJW:drb

DJ 168-37-28

Subject

Proposed Investigation of the Crane Correctional Facility and the Scott Correctional Facility, Coldwater and Plymouth, Michigan

Date

MAY 27 1994

To

Deval L. Patrick  
Assistant Attorney General  
Civil Rights Division

From:

Arthur E. Peabody, Jr.  
Chief  
Special Litigation Section

Recommendation

We recommend the initiation of an investigation into the conditions of confinement at the Crane Correctional Facility (CCF) in Coldwater, Michigan, and the Scott Correctional Facility (SCF) in Plymouth, Michigan, pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. Section 1997 et seq.

The information we have obtained suggests that prisoners confined at CCF and SCF are subjected to conditions which violate their constitutional rights. The allegations reported include the failure of the State to afford the prisoners protection from harm resulting in serious injuries due to sexual assaults and lack of adequate medical care, including inadequate pre-natal and mental health care.

Sources of Information

We have obtained information from a variety of sources regarding the conditions of confinement at CCF and SCF. Deborah LaBelle, a private attorney, forwarded to us two civil complaints filed in state court on behalf of prisoners at SCF alleging that the treatment of the prisoners at SCF is deplorable. We have since conducted several telephone interviews with her as well as with Lisa Glacier, a private attorney, and Patrick Priest, Esq., Hervey Jenkins, Esq., JaDonna Young, and Serena Gordon with Prison Legal Services, all of whom furnished information regarding the conditions at the prisons.

Background

Crane Correctional Facility and Scott Correctional Facility are medium security prisons for women. The average daily

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population at CCF is 650, and the average daily population at SCF is 860. 1/

Convicted prisoners are protected by the Eighth Amendment's proscription against cruel and unusual punishment. Rhodes v. Chapman, 452 U.S. 337 (1981); also see Wilson v. Seiter, 111 S.Ct. 2321 (1991).

### Discussion

#### Sexual Assaults and Other Abuse

Our source advises that approximately 80% of the correctional officers employed at CCF and SCF are male. 2/ Reportedly, most of the guards were formerly employed at male prisons and have received no training on the issue of cross-gender supervision since their employment at the women facilities. Moreover, male guards are reportedly on duty in sole control of the female prisoners in all areas of the housing units, including shower and toilet areas. Indeed, there are reportedly no management practices in effect to limit the risks of sexual assaults by male correctional officers on female prisoners.

We have received numerous allegations that the prisoners at CCF and SCF are sexually assaulted by correctional officers. In one instance, a prisoner was allegedly raped by an officer while he was in her room conducting a shakedown. 3/ After the prisoner made her allegations, the officer reportedly admitted to the State Police to having had sexual intercourse with the prisoner. 4/ In another instance, a prisoner was allegedly coerced and forced to perform oral sex and to engage in sexual intercourse with a correctional officer. 5/ The officer continued to rape the prisoner throughout a nine month period.

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1/ Senate Committee Probes Sex Abuse at Women's Prisons, United Press International Wire Service, Jan. 6, 1993.

2/ Telephone Interview with Deborah LaBelle, Esq. (Feb. 23, 1994); Telephone Interview with Patrick Priest, Esq. (Mar. 9, 1994); Telephone Interview with Serena Gordon, (Mar. 9, 1994); Telephone Interview with JaDonna Young (Mar. 10, 1994).

3/ Ann Sweeney, Sexual Assaults Reported in Michigan Women's Prisons, The Detroit News, Jan. 6, 1993.

4/ Id.; Internal Memorandum to Clayton D. Burch, State of Michigan Ombudsman from Christopher O. Olden, Field Investigator, Re: Scott Correctional Facility Overfamiliarity with Prisoners, Oct. 5, 1992.

5/ Barker, Stacy vs. Michigan Dept. of Corrections, No. 93-306063 (Mich. filed Feb. 26, 1993).

Reportedly, the deputy would enter the prisoner's locked cell during the night. The assaulting guard, as well as other supervising guards, allegedly threatened the prisoner with loss of privileges if she reported the assaults. 6/ In another instance, a prisoner was raped by a correctional officer during the night. 7/ Reportedly, the officer continued to rape the prisoner throughout a one month period. In still another instance, a prisoner alleges that she had consensual sex with an officer, who then boasted to her of affairs with 13 other female prisoners. 8/ Our sources indicate that significant problems of this nature continue to date.

Some of the sexual assaults have resulted in pregnancies. Indeed, while neither CCF nor SCF allows conjugal visits, 25 prisoners are, or have become, pregnant in the past year. 9/

Additionally, it is alleged that guards at CCF and SCF routinely sexually assault prisoners under the guise of security checks. Guards routinely conduct full-hand searches rather than "brush-touch" security checks of breast and genital areas of the prisoners. 10/ Indeed, guards routinely watch prisoners during their showers and subsequently conduct "security checks", including full-hand searches, immediately after the prisoners'

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6/ Id.

7/ Billups-Hein, Charlene vs. Michigan Dept. of Corrections, No. 93-306062 (Mich. filed Feb. 26, 1993).

8/ Ann Sweeney, Sexual Assaults Reported in Michigan Women's Prisons, The Detroit News, Jan. 6, 1993.

9/ Telephone Interview with Deborah LaBelle, Esq. (Mar. 14, 1994).

10/ Telephone Interview with Deborah LaBelle, Esq. (Feb. 23, 1994); Telephone Interview with Serena Gordon (Mar. 9, 1994); Telephone Interview with JaDonna Young, (Mar. 10, 1994).

showers. 11/ Prisoners that object to such searches are cited for refusal to comply with a direct order. 12/

In addition to the sexual assault allegations, we have received numerous allegations involving practices of "over-familiarity" by the correctional officers towards the prisoners at CCF and SCF.

Between 1989 and 1992, the Department of Corrections has fired 20 officers for "over-familiarity" with prisoners at CCF and SCF. 13/ Reportedly, SCF is investigating, or has investigated over 30 allegations of over-familiarity between male correctional officers and female prisoners, from October, 1991 to May, 1993. 14/ Although twelve of these incidents have already resulted in disciplinary action, problems of over-familiarity continue to exist. 15/

Allegations of over-familiarity include reports of goods, such as nail polish and cigarettes, being exchanged for sex, sexually explicit letters written by officers to prisoners, money placed in prisoners' accounts by officers, and improper phone calls placed by guards to the residences of prisoners' families. 16/ Moreover, it is alleged that 10 guards held a wild "coming

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11/ Caselaw supports the proposition that such cross-gender body searches of female prisoners constitute "infliction of pain" for purposes of an Eighth Amendment analysis. Jordan v. Gardner, 986 F.2d 1521, 1526 (9th Cir. 1993); also see Ellison v. Brady, 924 F.2d 872, 879 (9th Cir. 1991), a Title VII discrimination case in which the court concluded that because women are disproportionately victims of rape and sexual assaults, women have a stronger incentive to be concerned with sexual behavior.

12/ Telephone Interview with Deborah LaBelle, Esq. (Feb. 23, 1994); Telephone Interview with Serena Gordon, (Mar. 9, 1994).

13/ Eric Freedman, State Prison Officials Vow Not to Tolerate Abuse of Inmates, The Detroit News, Jan. 8, 1993.

14/ Defendants' Response to Interrogatories propounded by Plaintiff in Billups-Hein v. Michigan Dept of Corrections, No. 93-206062 (filed Feb. 26, 1993), Defendants' Response to Interrogatory No. 4.

15/ Id.; Telephone Interview with Deborah LaBelle, Esq. (Mar. 14, 1994).

16/ Eric Freedman, State Prison Officials Vow Not to Tolerate Abuse of Inmates, The Detroit News, Jan. 8, 1993; Defendants' Response to Interrogatories propounded by Plaintiff in Billups-  
(continued...)

out" party in a bar for one prisoner when she was released from prison, allegedly indicating an over-familiar relationship during the prisoner's incarceration. 17/

#### Due Process

Reportedly, CCF and SCF fail to afford prisoners due process. Prisoner grievances are routinely rejected as improper and without merit, thus subjecting prisoners to discipline for filing a grievance without merit. 18/ Prisoners are therefore, discouraged from filing grievances. 19/

Prisoners are particularly discouraged from filing grievances against the guards. Such a grievance, if found without merit, is deemed interference with administration, a major misconduct resulting in a loss of good time. 20/ Significantly, grievances against guards which allege sexual assaults are routinely viewed as questions of credibility, one in which the guard's credibility outweighs that of the prisoner.

Prisoners are further discouraged from filing grievances against guards because no steps are taken to provide protection from the guard once a prisoner has filed the grievance. 21/ In one instance, a prisoner who filed a grievance reporting that she was raped by a specific correctional officer was chastised by prison officials and told to leave the officer alone. Subsequently, the guard, who was aware of the grievance filed against him, was allowed to continue to solely guard the housing area where the grievant prisoner lived. 22/

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16/(...continued)

hein v. Michigan Dept of Corrections, Defendants' Response to Interrogatory No. 4.

17/ Eric Freedman, State Prison Officials Vow Not to Tolerate Abuse of Inmates, The Detroit News, Jan. 8, 1993.

18/ Telephone Interview with Deborah LaBelle, Esq. (Feb. 23, 1994).

19/ Telephone Interview with JaDonna Young (Mar. 9, 1994); Telephone Interview with Serena Gordon (Mar. 10, 1994); Telephone Interview with Deborah LaBelle, Esq. (Mar. 14, 1994).

20/ Telephone Interview with Deborah LaBelle, Esq. (Mar. 14, 1994).

21/ Id.

22/ Id.

Medical Care

Medical care provided at CCF and SCF is allegedly grossly inadequate. The decision to provide access to medical attention is at the discretion of the correctional officers. 23/ Our information indicates that prisoners are arbitrarily denied access to medical treatment entirely, or in a timely manner, on a routine basis. 24/ In one instance, a prisoner suffered blinding headaches and double vision for 14 days. 25/ One of her pupils was fixed and dilated, indicating the need for immediate, emergency medical attention. She remained in this state for 4 days and then died of a brain hemorrhage. 26/ Her repeated requests for medical attention were ignored. Another prisoner requested medical treatment for 6 months regarding rectal bleeding and rectal skin discharge. 27/ Only after enduring severe debilitating pain did she receive medical treatment. It was then discovered that the prisoner had a malignant tumor the size of a grapefruit in her colon. She is reportedly undergoing radiation treatments. 28/

Further, prison officials fail to properly isolate prisoners with communicable diseases. In one instance, a prisoner who believed she had TB waited several months before her request for TB testing was granted. 29/ The prisoner allegedly tested positive for TB and had developed bacteria in her colon as a result of the lack of medical attention. At no time was the prisoner properly isolated from the general population. In another instance, a prisoner housed in the general population,

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23/ Telephone Interview with Hervey Jenkins, Esq. (Mar. 9, 1994); Telephone Interview with Lisa Glacier, Esq. (Mar. 14, 1994); Telephone Interview with Deborah LaBelle, Esq. (Mar. 14, 1994).

24/ Telephone Interview with Patrick Priest, Esq. (Mar. 9, 1994); Telephone Interview with Serena Gordon (Mar. 9, 1994); Telephone Interview with Lisa Glacier, Esq. (Mar. 14, 1994).

25/ Telephone Interview with Serena Gordon (Mar. 9, 1994); Telephone Interview with Lisa Glacier, Esq. (Mar. 14, 1994); Telephone Interview with Deborah LaBelle, Esq. (Mar. 14, 1994).

26/ Telephone Interview with Serena Gordon (Mar. 9, 1994); Telephone Interview with Lisa Glacier, Esq. (Mar. 14, 1994).

27/ Telephone Interview with Patrick Priest, Esq. (Mar. 9, 1994); Telephone Interview with Serena Gordon (Mar. 9, 1994).

28/ Id.

29/ Telephone Interview with Serena Gordon (Mar. 9, 1994).

suffered from meningitis for nearly one week prior to receiving medical treatment and housing isolation. 30/ In yet another instance, a prisoner's request for medical attention was denied for 4 weeks. It was later discovered that the prisoner had hepatitis. Prison officials also allegedly failed to properly isolate this prisoner from the general population. 31/

Reportedly, when prisoners are granted medical attention, medical treatment and examinations are routinely performed by unqualified medical personnel. 32/ Rarely do patients receive medical treatment from a medical doctor. Moreover, medical staff reportedly routinely disregard follow-up procedures prescribed for prisoners by off-site clinics. 33/ In one instance, a prisoner who suffered a fractured elbow while in the prison failed to receive proper medical care. Prison medical staff allegedly failed to provide any medical treatment at all. The prisoner's elbow is reportedly beyond repair and the prisoner has lost the use of her arm. 34/

These allegations suggest that the staff at SCF and CCF is both indifferent to and unable to meet the serious medical needs of inmates confined at the jail.

#### Pre-Natal Care

We have received allegations that numerous women at CCF and SCF have suffered miscarriages as a result of the lack of prenatal care. In one instance, a prisoner who was 7 months pregnant, began bleeding and suffered severe abdominal pain. She was repeatedly told for several hours by prison medical staff that this was a normal occurrence and that she should stop bothering the guards. 35/ The prisoner suffered a

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30/ Telephone Interview with Lisa Glacier, Esq. (Mar. 9, 1994).

31/ Telephone Interview with Serena Gordon (Mar. 9, 1994).

32/ Telephone Interview with Patrick Priest, Esq. (Mar. 9, 1994); Telephone Interview with Hervey Jenkins, Esq. (Mar. 10, 1994); Telephone Interview with Lisa Glacier, Esq. (Mar. 14, 1994).

33/ Telephone Interview with Serena Gordon (Mar. 9, 1994); Telephone Interview with Deborah LaBelle, Esq. (Mar. 14, 1994); Telephone Interview with Lisa Glacier, Esq. (Mar. 14, 1994).

34/ Telephone Interview with Serena Gordon (Mar. 9, 1994); Telephone Interview with Lisa Glacier, Esq. (Mar. 14, 1994).

35/ Telephone Interview with Deborah LaBelle, Esq. (Mar. 14, 1994).

miscarriage. In another instance, a prisoner received no pre-natal care at any time during her pregnancy. 36/ While she carried the baby full term, the baby was still-born.


Mental Health

Reportedly, CCF and SCF fail to afford prisoners proper suicide prevention and crisis intervention for serious mental illness. Allegedly, a prisoner must effectuate a suicide attempt to gain access to a psychiatrist. 37/ Moreover, housing units designated for "suicide watch" are reportedly used for general housing. 38/ Thus, suicide prone prisoners are housed among the general population. In one instance, a prisoner, diagnosed as suicidal, was double bunked in a general population cell and started a fire in an attempt to kill herself. 39/ Prison officials were required to evacuate the prisoners in the surrounding housing units for 6 hours.

Conclusion

In sum, the information obtained suggests serious, life threatening conditions at the Crane Correctional Facility and the Scott Correctional Facility. These conditions implicate the constitutional rights of prisoners confined to this facility and merit investigation. If you approve, please sign the attached notice letter.

Attachment

Approved: 

Disapproved: \_\_\_\_\_

Comments:

*Art - Pls give the USAs a call before you send the ltr.*



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36/ Id.

37/ Telephone Interview with Serena Gordon (Mar. 9, 1994); Telephone Interview with Deborah LaBelle (Mar. 14, 1994).

38/ Telephone Interview with Serena Gordon (Mar. 9, 1994).

39/ Id.