



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

March 27, 1995

Via Express Mail

The Honorable John Engler
Governor
State of Michigan
State Capitol
Lansing, Michigan 48909

Re: Crane and Scott Correctional Centers

Dear Governor Engler:

On June 9, 1994, we notified you of our intent to investigate allegations of sexual abuse and other violations of the constitutional rights of the 1,100 female inmates of the Crane and Scott Correctional facilities (hereinafter "CCF" and "SCF" respectively) pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997, et seq. Through counsel, state officials refused to grant access to the facilities by our attorneys and consultants retained by the United States to assist in the conduct of this investigation. A federal court declined to grant any relief. Counsel did permit us to interview inmates during regular visiting hours in visiting room facilities but access to the physical plant as well as evaluations by consultants were never permitted. In these circumstances, we are writing to advise you of our findings, supporting facts, and recommended remedial measures.

We have concluded that various acts, practices, and other conditions at both facilities deny inmates confined there of their constitutional rights. As well, the pattern or practice of sexual abuse of women inmates by guards violates section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. § 14141).

More specifically, we find that sexual abuse of women inmates by guards, including rapes, the lack of adequate medical care, including mental health services, grossly deficient sanitation, crowding, and other threats to the physical safety and well-being of inmates violates their constitutional rights.

U.S. v. Michigan



PC-MI-008-003

I. Sexual Assaults and Other Sexual Abuse of Inmates by Guards Threaten Their Health, Safety, and Well-being.

A. Sexual Assaults.

Both CCF and SCF exclusively house female prisoners. The total population is in excess of 1,100 women. A majority of guards are male. Inmates interviewed reported a pattern of sexual abuse by both male and female guards.

Evidence in the public domain reflects that a number of guards have been investigated by the Michigan State Police for allegedly sexually assaulting or raping women inmates at these facilities. Indeed, a number of officers have been charged with at least fourth degree criminal sexual assault. Pregnancies have resulted from some of these assaults or other sexual involvement by guards with inmates. Discovery in a private civil action alleging sexual abuse by guards of women at these prisons indicates that between 1991 and 1993, at least 20 incidents of sexual assault or serious harassment have been reported. Notwithstanding the limited access permitted us by State officials to these facilities, based upon the numerous allegations and other information we have received regarding alleged sexual abuse, we have concluded that this information reflects only a small percentage of the number of sexual assaults actually occurring at the prisons. For example, an officer matter-of-factly advised us that there is frequent sexual activity between guards and inmates.

We understand that any inmate giving birth to a child during confinement is given three weeks to obtain the agreement of a family member to take custody of the child and to provide necessary care. If an inmate is unable to secure such an agreement, parental rights are terminated. Subsequently, the child is taken away from the mother and placed in foster care or for adoption. Although, based upon presently available information, we find no constitutional defect in reported practices, the state may wish to consider initiating programs similar to those available in California and other states to foster the mother-child relationship in the best interests of the child. Pursuant to these programs, the mother and child, in appropriate cases, are placed in public or private facilities in the community away from the standard prison setting until the mother has completed her sentence. These arrangements permit the child to be breast fed and to bond with the mother, circumstances generally viewed by professionals to foster the emotional and physical development of the child. Finally, we have received an allegation that Michigan state officials revoke the parole of any woman who becomes pregnant while on parole. Such acts, if true, constitute blatant sex discrimination.

Nearly every inmate we interviewed reported various sexually aggressive acts of guards. A number of women reported that officers routinely "corner" women in their cells or on their work details in the kitchen or laundry rooms and press their bodies against them, mocking sexual intercourse. Women described incidents where guards exposed their genitals while making sexually suggestive remarks. Finally, there were widespread allegations of a broad array of sexually suggestive comments by guards to the degree that such remarks are viewed as routine and of no consequence. Similar allegations were made with respect to verbal abuse.

During our interviews of inmates, we were struck by their almost universal fear of retaliation and the coercive nature of the prison environment which they described. Many sexual relationships appear to be unreported due to the presently widespread fear of retaliation and vulnerability felt by these women. As well, the apparent view by many supervisors that these sexual relationships are consensual, despite the power and control held by guards, contributes to the reluctance of women to report various sexual assaults and other incidents. Women repeatedly expressed fear that reporting a sexual assault would result in a major misconduct report and a delay in their parole. In these circumstances, inmates do not report all the sexual assaults, harassment, and other sexually abusive incidents which appear to be commonplace at both prisons.

B. Pat-down Searches of Women Inmates are Unduly Intrusive, Constitute Sexual Abuse, and Unjustified Invasions of Privacy.

CCF and SCF officers abuse women inmates during pat-down searches by routinely touching all parts of the woman's body, including fondling and squeezing their breasts, buttocks, and genital areas in ways not justified by legitimate security needs. Indeed, we note that many searches are conducted after women have dressed in their nightgowns in the evening.

We also received numerous allegations that women with larger breasts, individuals who resist sexual liaison with guards, and those perceived by officers as "weak" are consistently subjected to unduly invasive pat-down searches not justified by any legitimate security concern. Indeed, officers have "quotas" for such searches. Such quotas may serve to increase the number of unnecessary pat-down searches and exacerbate both opportunities for and actual sexual abuse. We have concluded that pat-down searches in the manner and circumstances described above violate the constitutional rights of inmates.

C. Improper Visual Surveillance.

Numerous women inmates reported improper visual surveillance of women by guards. Officers routinely stand outside the cells

of individual prisoners and watch them dress or undress, stand in the shower areas and observe showers and use of toilet facilities. Male maintenance workers stand and watch women inmates who are naked or in various states of undress as well -- all on a regular basis without legitimate need. Although some degree of surveillance is necessary to ensure reasonable security, the degree and kind of surveillance employed by many guards at these facilities goes well beyond legitimate security needs. We are unaware of any effort to accommodate the legitimate privacy interests of inmates.

D. Urinalysis Procedures.

The prisoners at CCF and SCF are routinely subjected to urinalysis to determine drug usage. Women at SCF are required to strip naked and urinate into a cup while an officer bends down in front of the prisoner, placing her face only inches from the crotch area. When numerous women are to be tested, the procedure is conducted in the shower area, where, due to lack of proper sanitation procedures, women are required to stand barefoot in the urine of other women. Finally, several women indicated that the urine samples are not properly safeguarded and specimens are left unattended in an area accessible to both inmates and officers. Lack of security in this area calls the results of such tests unnecessarily into question. These procedures require substantial modification.

II. Recommended Remedies for Sexual Assaults and Abuse.

A. All sexual assaults and other sexual abuse must be eliminated immediately. Standards must be developed defining all prohibited behaviors. Policies and procedures must be developed to require the reporting of any suspected sexual abuse, the conduct of a full, impartial investigation of all such incidents in a complete and timely manner, including any findings in writing, and the imposition of appropriate discipline, including termination, of any employee found to have engaged in sexual abuse. No inmate may be disciplined for reporting alleged sexual abuse.

B. Sexual contact between guards and inmates should be strictly prohibited. Other remedies may include steps to identify the paternity of any child born to an inmate during confinement where there is any allegation that impregnation took place during confinement by a guard; identified fathers to pay child support; such payments to be deducted from their salaries.

C. The practice of revoking paroles of women who become pregnant while on parole must cease.

D. Pat-down searches must be conducted in a professional manner and shall be no more intrusive than necessary to ensure

appropriate security. Standards must be developed to govern the conduct of pat-down searches and they shall be conducted only when justified by reasonable security interests.

E. Surveillance and observation practices shall fully comport with professional standards. Guards, individual maintenance workers, and other visitors shall not be permitted to stand and watch inmates while naked, showering, or using toilet facilities. All surveillance practices shall be limited to those reasonably justified to ensure security. Reasonable accommodations must be made to protect the legitimate privacy interests of inmates.

F. Urinalysis shall be conducted consistent with professional standards in a manner that does not degrade prisoners and is fully consistent with health and sanitation standards.

G. A comprehensive, professionally-based training program shall be established and implemented to train guards with respect to professional behavior and conduct in the administration of a correctional facility for women. Such training shall include, but not be limited to, education regarding sexual abuse and harassment, procedures for the reporting and investigation of suspected sexual abuse, disciplinary procedures and penalties, surveillance of women prisoners, and other aspects of prisoner administration which present opportunities for the potential sexual abuse of women. Women should be provided training programs to fully acquaint them with prohibited sexual harassment and abuse.

III. Presence of Illicit Drugs.

We received numerous allegations that illegal drugs are available at both facilities in exchange for either sex or cash. Many women alleged that the source of the drugs is correctional staff. In view of the secure nature of the facility, this allegation appears serious.

IV. Recommended Measures to Eliminate the Presence of Illegal Drugs.

The presence of illegal drugs in the prison facilities and their sale for either cash or sex must be eliminated.

V. Violence.

Although significant violence in correctional facilities for women is infrequent, CCF and SCF appear to be exceptions to this general rule. Numerous women reported that violent assaults between women prisoners occur at both facilities at an alarming frequency. Guards do not routinely conduct rounds and there are

other allegations that some guards do not intervene to stop various assaults and other incidents which they observe.

Crowded conditions also serve to exacerbate tensions and promote unnecessary violence. Housing units, recreational areas, and dayrooms are all unduly crowded.

VI. Recommended Measures to Eliminate Violence.

Security and supervision of inmates must be significantly enhanced by increasing the number of qualified officers and other security personnel to reduce violence and otherwise ensure the reasonable safety of prisoners. Gross overcrowding must be promptly eliminated.

VII. Medical Care is Grossly Deficient and Fails to Meet the Serious Needs of Inmates.

A. Access to Medical Care.

The complaint voiced most often by inmates was their inability to get medical care to meet their needs. CCF and SCF use a "kite" system by which inmates request medical attention. No medical personnel affiliated with the medical units makes rounds in the housing areas. Indeed, we were advised that there are no mailboxes in the housing units where inmates can deposit their kites confidentially.

Kites are generally not responded to, if at all, in a timely manner. Routinely, the inmates are told several weeks after filing a kite that an "appointment has been scheduled" to see a nurse. If the nurse determines that the inmate needs to see a doctor, an appointment is made for this purpose still several more weeks later.

We received complaints that some inmates who appear to have legitimate medical problems submitted kites and have never received any response. For example, one inmate who complained of bleeding following a gynecological procedure had submitted kites requesting medical attention for the last six months but had, as of the date of our interview, never been placed on sick call. Yet other inmates have failed to receive any timely response. For example, one inmate filed kites for six months regarding a lump in her breast. Finally, there is no system in place to respond to medical emergencies. Indeed, we were advised that there have even been occasions where staff from a medical unit refused to come to housing areas to address genuine medical emergencies. Their response is reported to have been that a kite must be submitted.

As well, inmates who finally get to see a nurse frequently never see a doctor. Unqualified nurses are assigned to diagnose

and treat medical problems. In addition, correctional officers frequently explain inmate symptoms to nurses by telephone. The nurse, absent any examination, prescribes treatments.

Lack of access to medical care seriously threatens the health and well-being of inmates.

B. Medical Care Delivery System is Inadequate.

The failure to provide adequate medical care has resulted in harm to inmates. One prisoner who complained of chest pains for hours was finally seen by a nurse who advised the inmate to return to her cell and lie down. The diagnosis was apparently stomach gas. She was not examined and even her vital signs were not taken. She was found dead in her cell two hours later. Another inmate who was six months pregnant complained of severe cramping and heavy bleeding. A nurse refused to come to her housing unit or to have her brought to the medical unit. Several hours later the inmate's still born baby arrived. Yet another inmate hemorrhaged for two days before she was sent to a hospital for surgery.

Inmates with specialized medical needs also fail to receive adequate care. CCF and SCF fail to afford inmates adequate evaluations and ongoing monitoring of asthma, seizure disorders, high blood pressure, diabetes, and AIDS. Insulin dependent inmates reported that the medical unit consistently fails to monitor their blood sugar levels. One inmate advised us that her levels had not been checked for over six weeks. As well, special diets are not afforded as necessary. One inmate with high cholesterol and high blood pressure requested a special diet. It was not afforded. This woman later suffered a major heart attack. Many women reported that prisoners with tuberculosis and in acute stages of AIDS were not separated from other prisoners. Finally, medication practices are grossly deficient. Medications are improperly prescribed and inappropriately administered on a consistent basis. Medications are routinely prescribed absent any professional medical examination. Indeed, deficiencies in medication administration are so serious that inmates are given the wrong medication. A pregnant inmate was given psychotropic medication instead of a vitamin on at least four occasions.

Medical specialty consultations are inadequate. Inmates in need of specialty consultations do not receive them at all or on a timely basis. Moreover, when they are received there is no followup to see that the specialist's recommendations are followed or fully implemented. In a particularly egregious case, we understand that one inmate, following surgery for a tumor, is still changing the dressing on her leg which has not healed and has swollen to four times its normal size -- yet no specialist has examined this inmate. Another inmate was required to wait several months to see a neurologist for severe headaches

following the birth of a child. Finally, dental services are grossly inadequate.

Medical recordkeeping fails to comport with generally accepted professional standards. Records are not accurate and are not used by medical professionals in making judgments with respect to medical care for individual inmates. Many prisoners indicated that when they were seen by medical staff, the staff was unaware of their medical history. In addition, numerous prisoners told us that they were not advised of the results of their medical tests or even their medical diagnosis. Indeed, several prisoners have filed state freedom of information requests to obtain information from their own medical records.

Medical care at CCF and SCF fails to meet any known acceptable medical standards and is totally deficient.

C. Mental Health Care is Dangerously Inadequate.

CCF and SCF fail to provide adequate mental health care to inmates. Mental health care is so grossly deficient that there is no real attempt to provide mental health services. Psychiatrists routinely prescribe medication for all mental health complaints -- inmates are told to simply "sleep it off."

In a very disturbing incident, it is alleged that staff failed to intervene to avert an inmate's successful suicide attempt even as other women screamed for assistance. Apparently the housing officer reported that she would look into the matter during her next round in the housing area. By then the inmate was dead by hanging. Moreover, it is reported that inmates who indicate that they are suicidal are not taken seriously or are placed in punitive segregation. Finally, disturbed inmates are maintained in the general population without adequate supervision.

The lack of adequate mental health services is unacceptable and jeopardizes the health and safety of inmates.

D. Lack of Adequate Staffing Results in Inadequate Medical Services.

Medical staffing at CCF and SCF is deficient at all levels. SCF has no full-time physician and has not had one for a protracted period of time. There are insufficient nurses, psychiatrists and medical specialists. In addition, many of the present staff appear not to be adequately trained or able to perform their professional responsibilities.

VIII. Recommended Measures to Afford Adequate Medical and Mental Health Care.

A. Develop and update medical care delivery system. Reorganize, staff, and otherwise professionalize the delivery of medical and mental health services. Adopt a system of access to medical services which results in the timely delivery of needed medical services and affords emergency, acute, chronic, and routine medical care on a professional basis. Prioritize improvements in the care afforded to pregnant women.

B. Prohibit the involvement of correctional guards in all areas of the provision of medical care; ensure that appropriate professionals triage inmates in need of care on a basis which fully comports with generally accepted medical standards.

C. Ensure the provision of appropriate medical specialty services.

D. Develop a mental health care delivery system consistent with the requirements of paragraph 1, above. Ensure that suicidal inmates are properly cared for and supervised; prohibit the placement of suicidal inmates in segregation units; ensure that psychiatric services comport with generally accepted mental health standards.

E. Immediately provide adequate medical coverage and significantly improve medical staffing in all areas.

IX. The Prisons Have Unsanitary Conditions Which Pose a Direct Threat to the Health of Prisoners.

A. General Sanitation.

The general state of sanitation in both prisons is grossly inadequate. Pest control is poor and ineffective as roaches and rodents are ubiquitous throughout the facilities, including cooking and dining areas. At CCF flies are particularly rampant.

Air circulation and ventilation are inadequate as well. Air is stagnant and full of stale cigarette smoke. Further, both facilities lack adequate and sanitary facilities for drinking water. Administrators at CCF have issued memoranda advising inmates not to drink the water and require pregnant inmates to drink only bottled water. Other prisoners are required to purchase bottled water -- or drink the water administrators apparently have found unsafe.

These conditions violate constitutional standards.

B. Cell Sanitation and Crowding.

Cell sanitation in both facilities is extremely poor and prison officials fail to provide inmates with materials necessary to clean their cells. Numerous prisoners reported that their cells, shower, and toilet areas smell "like a sewer."

Plumbing is likewise deficient and requires substantial repair. Lavatories and showers are in a state of disrepair and lack adequate hot and cold water. The number of showers and toilets is inadequate to meet the needs of prisoners. At CCF, over 50 women use two showers and only five toilets. At SCF, over 90 women use four showers and eight toilets. These facilities are inadequate.

C. Food Sanitation Practices.

Food preparation facilities and sanitation practices represent a threat to the health of inmates. There is rampant roach infestation in all dining and food preparation areas and, in general, they are filthy as well. It is reported that SCF has been cited by the State Health Department for failing to meet appropriate health standards. Further, it is alleged that the facilities do not prepare a sufficient amount of food to serve to inmates and that the food listed on the menu is rarely served to all inmates. Finally, laundry sanitation practices are deficient.

X. Recommended Remedies to Ensure Appropriate Sanitation Throughout the Facilities.

A. Clean both facilities to ensure compliance with health and safety standards; eradicate vermin and implement an effective pest control program; and implement an effective preventive maintenance program.

B. Clean all cells; provide supplies to inmates to maintain general cleanliness of cells; provide adequate hot and cold water; renovate facilities to provide additional toilets, showers, and other such facilities for use of inmates; improve laundry facilities.

C. Clean all kitchen and dining areas and ensure that all aspects of food preparation, serving, and storage fully comport with generally recognized health standards.

XI. Systematic Denials of Due Process.

Numerous inmates reported that they are routinely subjected to summary punishment. Such punishments range from placement in disciplinary segregation to the issuance of misconduct "tickets."

Officers are able unilaterally to issue such tickets which are of significance because of their impact in, inter alia, denying parole. Such procedures violate fundamental notions of due process. See, e.g., Wolff v. McDonnell, 418 U.S. 539, 555-6. (1994).

We note that several pieces of our legal correspondence addressed to inmates have been returned to us apparently opened by institutional administrators. Since the mail was returned because no inmate number was listed on the envelope, it appears this legal correspondence was opened outside the presence of the inmate. These acts are illegal and should be prohibited. Legal mail may only be opened in the presence of the inmate to whom it is addressed.

As well, inmates appeared to have little confidence in the grievance system presently in effect in the facilities. Inmates are required to attempt to informally resolve problems prior to filing a grievance. This means that the inmate must of necessity confront the officer allegedly involved. This requirement has the purpose, intent or effect of intimidating the inmates and discouraging the filing of grievances. Many inmates who actually file grievances never receive a response.

Finally, we were profoundly disturbed to be informed that various prisoners have received written reprimands for various acts labeled "damage to state property." For example, prisoners who become sunburned have been rebuked for damaging state property. It is reported that one prisoner who at Halloween painted a small cobweb on her face was likewise cited for damaging state property. These allegations speak for themselves.

XII. Recommended Remedies to Afford Due Process.

A. Disciplinary practices must comport with constitutional standards; present practices must be modified to reflect currently accepted professional standards; prohibit any disciplinary practice which equates an inmate with state property.

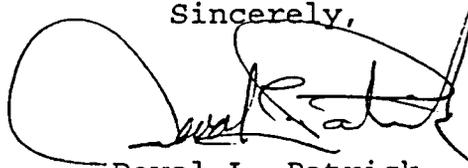
B. Institute an objective and reasonable grievance system.

Pursuant to CRIPA, the Attorney General may institute a lawsuit to correct deficiencies of the kind identified in this letter 49 days after appropriate officials have been notified of them. 42 U.S.C. § 1997b (a)(1). Due to the limited access you granted our representatives to examine the very serious allegations which are the focus of this investigation and the complete denial of access for consultants in corrections, these findings have been made without the kind of comprehensive on-site review contemplated by CRIPA. In view of this intentional lack of cooperation by Michigan state officials, we have, of

necessity, drawn negative inferences from the limited information we were able to obtain in these circumstances. I urge you to take the issues and findings raised here seriously and to respond promptly.

Although I regret that we have begun to work with each other in this matter on this basis, I hope and trust that in the future we can resolve these issues in a cooperative manner.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval L. Patrick". The signature is fluid and cursive, with a large initial "D" and "P".

Deval L. Patrick
Assistant Attorney General
Civil Rights Division

cc. The Honorable Frank Kelley
Attorney General
State of Michigan

The Honorable David Edick
Assistant Attorney General
State of Michigan

Ms. Joan Yukins
Warden
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