

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30217  
LANSING, MICHIGAN 48909

**BILL SCHUETTE**  
ATTORNEY GENERAL

December 18, 2014

Margo Schlanger  
University of Michigan Law School  
ACLU Headquarters  
2966 Woodward Avenue  
Detroit, MI 48201

Re: Conditions at Women's Huron Valley Correctional Facility

Dear Ms. Schlanger:

Your letter of November 19, 2014 to Michigan Department of Corrections (MDOC) Director Dan Heyns has been referred to me for reply. In accordance with Mr. Heyns' earlier request, you have provided MDOC with the names of inmates who allegedly endured "retaliation" for complaining about conditions of confinement for themselves and other inmates at the Women's Huron Valley Correctional Facility (WHV). With this information, the MDOC has been able to fully investigate their complaints. Please note that retribution against prisoners for presenting concerns or grievances they have is strictly prohibited by MDOC policy (PD) and procedure, including PD 02.03.109 "Discriminatory Harassment", PD 03.03.130 "Humane Treatment and Living Conditions for Prisoners," PD 04.05.110 "Use of Force," PD 04.05.112 "Managing Disruptive Prisoners," PD 05.03.116 "Prisoners' Access to the Courts," the MDOC's Prison Rape Elimination Act (PREA) Manual, and PD 03.03.140 "Prohibited Sexual Conduct Involving Prisoners."

Regarding your FOIA request, the MDOC reports that after it sent its initial FOIA response to you on July 11, 2014, there were discussions between you and the Department's FOIA staff regarding whether you wanted to narrow the scope of your request and the ensuing cost for the copies if the scope was narrowed. These discussions had the unfortunate effect of delaying the copying and reviewing of the documents. The Department mailed the documents responsive to your request on Monday, December 8, 2014 and has waived the copying fees pursuant to your request.

The Department has reviewed the recommendations for a "path forward" noted in your correspondence. Please know that the Department expends a great deal of time and resources screening and monitoring all inmates in its custody, including health screenings and assessments under PREA on all prisoners. This extensive screening and monitoring is particularly focused on mentally ill and developmentally disabled prisoners. WHV's conditions of confinement and its use of segregation are equally well managed and carefully considered. The Department's practices conform to well-established national standards and have withstood rigorous judicial and Department of Justice review. Moreover, the MDOC continues to work in concert with the U.S. Department of Justice, which it has worked with from 2010 to present, to review its practices and policies and ensure continued appropriate medical and mental health care is provided to WHV prisoners. In fact, the Department is currently working to schedule the Department of Justice to visit WHV in January 2015 to continue its efforts in this regard.

Although you assert that pleas for assistance by Prisoner Observation Aides (POAs) have gone unheeded by MDOC staff, you have not provided any information or facts to substantiate your allegations. The MDOC takes the program seriously and would not use POAs if it did not intend to listen to them. And, although the death of Sabrie Alexander #929754 was tragic, her situation was distinctly different from the circumstances surrounding Darlene Martin #156093. The MDOC reviews the case of each prisoner based on the facts relative to that specific prisoner.

You also suggest the Department completely do away with housing prisoners in segregation. Although that option is not viable, the Department already has active diversion placement programs in place for male and female prisoners with mental illness, which it uses when necessary and appropriate. One such example is the Kent Observation Proposal (K-OBS), a pilot program at WHV that commenced September 10, 2014. In summary, WHV prisoners with urgent or emergent mental health referrals being placed on observation status by custody mental/physical health and/or who have serious health care issues requiring medical services that are unavailable in the segregation unit will not be housed in segregation. Instead, these prisoners will be placed in K-OBS, Residential Treatment Program (RTP) observation, inpatient observation, or a medical infirmary cell. Unless their placement is overridden by the Warden/Deputy Warden due to extraordinary safety and security concerns requiring the prisoner's retention in segregation, these prisoners' misconduct processing, if any, or segregation classification will be suspended for 72 hours to allow for collaborative assessment by health care, mental health, and custody staff to determine the appropriate level of care and placement that will meet the prisoner's needs, as well as health care and management's requirements.

Your letter also asserts that you “continue to hear reports of retaliation against POAs who are sharing information about the abuses they observe.” You allege that [REDACTED] and [REDACTED] somehow were inappropriately “fired from their POA jobs” but you do not provide any facts leading up to their termination. The POA assignments are earned assignments. That is, no prisoner has a right to the assignment. The POA assignment requires specific training and a written agreement and understanding by the prisoner of the rules required to be a POA. The MDOC reports the following reasons for each prisoner’s removal from her POA assignment:

- [REDACTED] – Ms. [REDACTED] was removed from her assignment on August 2, 2014 because she was found by custody staff sitting down at a prisoner’s door, where she was not assigned, having a conversation with another prisoner. Ms. [REDACTED] was assigned to observe prisoner [REDACTED] and talked prisoner [REDACTED] the relief porter, into switching assignments with her. This change in assignment was not authorized by staff.
- [REDACTED] – Ms. [REDACTED] began working as a POA on March 5, 2014. On July 11, 2014, WHV Inspector Howard learned that Ms. [REDACTED] improperly shared confidential information about prisoners she had observed with persons other than staff or a relieving POA. POA Rules and Procedures, which Ms. [REDACTED] received on April 8, 2014, prohibit a POA from sharing observational information with unauthorized persons and is grounds for immediate removal from the job. Because Ms. [REDACTED] did not comply with the confidentiality requirements of the POA assignment, she was removed as a POA on July 16, 2014.
- [REDACTED] – Ms. [REDACTED] was verbally counseled on July 6, 2014 because she failed to report to her POA assignment. Ms. [REDACTED] was asked if she needed to change her shift for the POA assignment and she declined to change shift. Then, Ms. [REDACTED] was called for a POA assignment on August 20, 2014. However, she refused to go to her assignment, stating that she was “sick.” Staff observed Ms. [REDACTED] on August 20 and 21, 2014 appearing in good health. She was up and moving around the unit and was out in the yard. This was the second time that Ms. [REDACTED] failed to report to her POA assignment, which resulted in her termination from her position on August 21, 2014.

As you can see from the information above, each of the POAs was removed from her assignment for violating the rules of the program. The Department takes its POA

Margo Schlanger  
Page 4  
December 18, 2014

program seriously and strives to not only provide a meaningful job for the POA, but to also provide a needed service to the prisoner being observed. To that end, the Department cannot continue to employ prisoner aides that abuse and disobey the rules of the POA program.

Thank you for your concern for the inmates confined at the Women's Huron Valley Correctional Facility.

Sincerely,



James E. Long  
Assistant Attorney General  
Corrections Division  
(517) 335-7021

JEL:kjs

cc: Dan Heyns, Director, Michigan Department of Corrections  
Paul Smith, Governor's Legal Counsel  
Daphne Johnson, Administrator, Office of Legal Affairs  
Millicent Warren, Warden, Women's Huron Valley Correctional Facility  
Cheryl Groves, Manager, Policy and FOIA

2014-0097493-A CORR-GA ACLU ADA (WHV)\Ltr Schlanger 121814