



U.S. Department of Justice

July 23, 2020

The Honorable Kay Ivey
Governor of Alabama
Alabama State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130

Re: Notice Regarding Investigation of Alabama's State Prisons for Men

Dear Governor Ivey:

We write to report the results of the investigation into the conditions of confinement in Alabama's State Prisons for Men (Alabama's prisons) by the Civil Rights Division and the United States Attorneys' Offices in Alabama, 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.

In October 2016, the Department opened a CRIPA investigation into the conditions in ADOC facilities housing male prisoners. The investigation focused on whether ADOC (1) adequately protects prisoners from physical harm and sexual abuse at the hands of other prisoners; (2) adequately protects prisoners from use of excessive force and sexual abuse by correctional officers; and (3) provides prisoners with sanitary, secure, and safe living conditions.

In April 2019, the Department issued a CRIPA Notice Letter to the State of Alabama providing its conclusions on the first and third areas of the investigation.¹ In that Notice Letter, the Department informed Alabama that it had reasonable cause to believe that Alabama routinely violates the constitutional rights of prisoners housed in Alabama's prisons by failing to protect them from prisoner-on-prisoner violence and prisoner-on-prisoner sexual abuse, and by failing to provide safe and sanitary conditions. The Department noted that serious deficiencies in staffing and supervision, and overcrowding, contribute to and exacerbate the constitutional violations.

¹ The Department's investigation into whether Alabama protects prisoners from excessive force and sexual abuse by correctional officers continued because the Alabama Department of Corrections (ADOC) refused to produce certain documents necessary to complete that part of the investigation. Consequently, the Department issued a subpoena and filed a petition in court to enforce the subpoena. ADOC subsequently agreed to produce many of the requested documents and the Department withdrew its petition.

The April 2019 Notice Letter did not include conclusions on whether Alabama adequately protects prisoners from uses of excessive force by staff. After carefully reviewing the evidence, we conclude that there is reasonable cause to believe that conditions in Alabama's prisons violate the Eighth Amendment to the Constitution and that these violations are pursuant to a pattern or practice of resistance to the full enjoyment of rights protected by the Eighth Amendment. Specifically, we have reasonable cause to believe that the correctional officers within the Alabama Department of Corrections (ADOC) frequently use excessive force on prisoners housed in Alabama's prisons for men. Such violations are pursuant to a pattern or practice of resistance to the full enjoyment of rights secured by the Eighth Amendment. We identified frequent uses of excessive force in 12 of the 13 Alabama prisons that we reviewed. Given the identified pervasiveness of the uses of excessive force and the statewide application of ADOC's use of force policies and procedures, we have reasonable cause to believe that the uses of excessive force occurring within Alabama's prisons give rise to systemic unconstitutional conditions. We also identified a lack of accountability in reviewing and tracking uses of force. We did not find a systemic pattern or practice of sexual abuse by staff.

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 Alabama officials have not satisfactorily addressed them. 42 U.S.C. § 1997b(a)(1). The Attorney General may also move to intervene in a related private suit 15 days after issuance of this letter. 42 U.S.C. § 1997c(b)(1)(A).

We hope, however, to resolve this matter through a more cooperative approach and look forward to working with you to address the alleged violations of law we have identified. The lawyers assigned to this investigation will be contacting ADOC to discuss this matter in further detail. Please also note that this Notice is a public document. It will be posted on the Civil Rights Division's website.

If you have any questions, please call Steven H. Rosenbaum, Chief of the Civil Rights Division's Special Litigation Section, at (202) 616-3244.

Sincerely,

/s/ Eric S. Dreiband
Eric S. Dreiband
Assistant Attorney General
Civil Rights Division

/s/ Louis V. Franklin, Sr.
Louis V. Franklin, Sr.
United States Attorney
Middle District of Alabama

/s/ Lloyd Peebles
Lloyd Peebles
Acting United States Attorney
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/s/ Richard W. Moore
Richard W. Moore
United States Attorney
Southern District of Alabama

cc: Steven T. Marshall
Attorney General
State of Alabama

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Alabama Department of Corrections

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Attachment: Section 1997b Notice