



The Commonwealth of Massachusetts General Court

November 24, 2023

Attorney General Andrea Campbell
Civil Rights Division
Office of the Massachusetts Attorney General
1 Ashburton Place, 20th Floor
Boston, MA 02108

RE: Investigation Needed to Ensure the DOC's Compliance with the CJRA

Dear Attorney General Campbell,

In 2018, after a deliberate and considered legislative process that heeded the public's call for transformative change, Massachusetts passed the Criminal Justice Reform Act (CJRA). This law, among other important reforms of our justice and carceral systems, mitigates the harm and isolation that restrictive housing units¹ impose by codifying the right to essential human needs of communication,² health,³ education,⁴ and personal growth.⁵ We, the undersigned legislators, still take great pride knowing that the CJRA extends these basic human rights to those solitary cells of

¹ The CJRA defines restrictive housing as "a housing placement where a prisoner is confined to a cell for more than 22 hours per day." G.L. c. 127 §1.

² The rights of visitation and communication for individuals in restrictive housing cannot be diminished for disciplinary reasons for more than a 15-day period. G.L. c. 127, § 39(b)(iii).

³ Those held in restrictive housing must have the "same access to canteen purchases and privileges to retain property in a prisoner's cell as prisoners in the general population at the same facility..." Such canteen access may not be restricted for disciplinary purposes for a period exceeding 15 days. G.L. c. 127 § 39(b)(viii).

⁴ Individuals held in restrictive housing for a period of more than 30 days must be provided vocational, educational, and rehabilitative programs to the maximum extent possible consistent with the safety and security of the unit and good time credit towards reducing their underlying prison sentence for participation in programs at the same rates as the general population. 103 CMR 423.13(n).

⁵ By mandating placement reviews at certain times during an incarcerated person's stay in restrictive housing, the CJRA cements pathways back to less restrictive general population units. These minimum procedural protections mandate that the Department of Correction (DOC) does not confine individuals in restrictive housing for disciplinary purposes beyond a six-month period. After that, the DOC may only hold an individual in restrictive housing if necessary to manage an unacceptable risk to safety and such risk must be reassessed and reaffirmed every 90 days by means of a multidisciplinary placement review, in which the incarcerated individual in question must be given an opportunity to participate. *See* G.L. c. 127 §§ 39B, 39B(b), 39B(c). The CJRA also requires that people held in non-disciplinary restrictive housing receive periodic reviews to determine eligibility for release every 90 days or shorter periods, G.L. c. 127 §§ 39B.

incarceration, the furthest corners of our Commonwealth. And after many conversations with you, we know that you share this commitment to preserve and protect these rights for us all.

Today, we write to express our urgent concern that the CJRA - and the human rights it protects - is being flouted by the Department of Correction (DOC). Our concerns relate to the conditions of the newly developed Secure Adjustment Unit IV (SAU) at Souza-Baranowski Correctional Center (SBCC). Like you, we have received a letter (the hunger strikers' letter) signed by nine individuals housed in the SAU that outlines the conditions they are facing. Many of us met via zoom earlier this fall with two of these men. And some of us had additional conversations about the SAU's present conditions with lawyers and advocates who are connected to those incarcerated there. All of these communications illuminate our fear that the CJRA has not been upheld in the SAU. Allegations include indefinite confinement to some kind of "cell" (whether indoor or outdoor) for approximately 24 hours a day, a lack of placement reviews, restrictive conditions that weaponize communications and canteen rights, lack of access to sufficient rehabilitative programs including ones that allow for the earning of good time credit, and - shockingly - violent, retaliatory assaults against those who have voiced their concerns about the SAU's conditions. These allegations pose numerous violations of the CJRA and also need to be considered for violations of civil rights laws and our State Constitution.

It is important to note that many of our offices have already approached the DOC to inquire about the SAU. When asking about these units, the rules that govern them, and how they compare to the Disciplinary Detention Unit (DDU) at MCI-Cedar Junction - which was officially closed in June and housed many of those now in the SAU - the DOC gives an overly simplistic response: they no longer operate restrictive housing units. In the DOC's estimation, the SAU is not governed by the CJRA because those incarcerated there are given 3, not 2, hours per day of "out of cell time." However, 1.5 of those hours are spent alone in an empty, small, outdoor caged cell and the other 1.5 of those hours are spent seated at a table indoors with both feet shackled to the floor and one hand shackled to the table. This is not "out of cell time" as contemplated by the CJRA. Additionally, and based on our conversations with incarcerated persons and others, it appears that the day-to-day experience of the SAU is as restrictive, or even more restrictive, as the now decommissioned DDU. As the hunger strikers' letter notes, the "SAU amounts to indefinite segregated confinement" and its conditions "mirror[...] those previous [r]estrictive [h]ousing [u]nits" like the "DDU [which] was shut down... for its harsh conditions." Indeed, individuals in the SAU have heard DOC personnel refer to the SAU as the "new DDU." Based on the alleged conditions on the ground and these statements - and contrary to the DOC's own protestations - they are still operating restrictive housing units today via the SAU. This gives rise to a grave concern: the DOC is not upholding its statutory obligations imposed upon them by the Legislature in 2018.

Further investigation independent of the DOC is needed to evaluate the conditions of the SAU and whether they comply with the law. While many of us visit prisons and meet with incarcerated individuals regularly, we believe additional oversight is needed because of the gravity of these concerns. We respectfully request - along with the hunger strikers in the SAU and other organizations and advocates involved in this space - that the Attorney General's Office provide much needed

oversight by investigating the SAU. The promise of the CJRA - that human dignity is available to all who reside in the Commonwealth - depends on it.

We would welcome the opportunity to continue discussing this issue with you. Thank you for your consideration and for all that you do in service and furtherance of the Commonwealth.

Sincerely,

Sen. James B. Eldridge
Middlesex & Worcester District

Sen. Liz Miranda
Second Suffolk District

Sen. Patricia D. Jehlen
Second Middlesex District

Rep. Mike Connolly
26th Middlesex District

Rep. Carmine Lawrence Gentile
13th Middlesex District

Rep. Russell E. Holmes
6th Suffolk District

Rep. Samantha Montaña
15th Suffolk District

Rep. Steven Owens
29th Middlesex District

Rep. Lindsay N. Sabadosa
1st Hampshire District

Rep. Margaret R. Scarsdale
1st Middlesex District

Rep. Danilo A. Sena
37th Middlesex District

Rep. Erika Uytterhoeven
27th Middlesex District