



U.S. Department of Justice

Civil Rights Division

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Special Litigation Section - PHB
950 Pennsylvania Avenue, NW
Washington, DC 20530

OCT 27 2008
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CIVIL RIGHTS DIVISION
U.S. DEPARTMENT OF JUSTICE

October 22, 2008

VIA FIRST CLASS MAIL AND FACSIMILE

Cheryl A. Green
County Attorney
Erie County
69 Delaware Avenue
Buffalo, NY 14202

RE: Investigation of the Erie County Holding Center and the
Erie County Correctional Facility

Dear Ms. Green:

We write in response to your October 6, 2008, letter requesting the that United States take steps to preserve electronic and paper documents relative to our investigation of the Erie County Holding Center ("ECHC") and the Erie County Correctional Facility ("ECCF"). As is the United States' standard practice, we have taken such steps given the possibility of contested litigation in this matter.

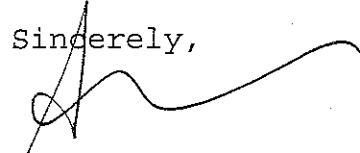
However, we must clarify that the United States has not yet determined that contested litigation under the Civil Rights of Institutionalized Persons Act ("CRIPA"), 42 U.S.C. § 1997 is necessary in this matter. Prior to such a decision, and 49 days prior to commencing court action, CRIPA requires that the United States notify Erie County of a pattern or practice of unconstitutional conditions in the facilities, the facts giving rise to the conditions, and the minimum measures necessary to remedy the alleged pattern or practice. See 42 U.S.C. § 1997b(a)(1). As you are aware, our investigation of ECHC and ECCF is ongoing. While it is unfortunate that the County refused to cooperate with our investigation, we will complete the investigation and notify you of our findings in due course.

Nevertheless, because litigation is a possibility in the matter, we request that you honor the same document preservation responsibilities outlined in your October 6 letter. In addition, we attach a copy of our January 30, 2008, document request

detailing material in your possession that we believe is relevant to the investigation and any potential contested litigation. Please note, that we attach this document to provide ongoing guidance on the documents relevant for preservation, rather than preservation of only those documents falling under the date ranges included in the letter.

We look forward to completing our investigation and working with you to resolve this matter. Should you wish to discuss this matter further, or to schedule a meeting, please feel free to contact me at [REDACTED].

Sincerely,



Shanetta Y. Cutlar
Chief
Special Litigation Section

cc: Terrance P. Flynn
United States Attorney
Western District of New York