

Eastern Regional Office of the U.S. Commission on Civil Rights

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NEW HAMPSHIRE ADVISORY COMMITTEE URGES GOVERNOR AND LAWMAKERS TO REMEDY THE EQUAL PROTECTION VIOLATIONS

WASHINGTON, DC – The New Hampshire Advisory Committee to the U.S. Commission on Civil Rights encourages state elected officials to remedy the civil rights violations identified in its 2011 report, “Unequal Treatment: Women Incarcerated in New Hampshire’s State Prison System.” In that report, the Advisory Committee concluded that “there are grave disparities between programs provided to incarcerated men and women that warrant action by the state’s policymakers and political leaders to end its unequal treatment of incarcerated women.”

Background: On October 17, 2011, the Advisory Committee issued its findings and recommendations based on its two-year investigation into allegations of sex-based disparities in the provision of basic programs and services within New Hampshire’s penal system. The investigation included public briefings, tours of correctional facilities, and interviews with prisoners, correctional officials, community advocates, and other knowledgeable individuals.

Based on its investigation, the Advisory Committee determined that New Hampshire’s Department of Corrections (DOC) faced a nearly insurmountable challenge in meeting many of the important needs of its female inmate population. The Advisory Committee concluded that the cramped, antiquated, and ill-equipped Goffstown facility prevented correctional officials from providing vocational training services, quality family visitation opportunities, access to outdoor programs, and treatment for serious mental health conditions at a level that even remotely approximated the comparable services and opportunities available to male offenders in New Hampshire’s correctional system.

The Advisory Committee noted that the state government repeatedly refused to heed the advice of its own correctional officials and those with expertise in the field to fix the problem, ignoring the social, economic, and human costs that attend these disparities.

The Advisory Committee found the conditions of Goffstown Prison required immediate and sustained corrective action and that it was “past time for the state to take immediate steps to close the Goffstown prison and provide a facility that eliminates the inexcusable disparities that exist between the treatment of men and women in the state’s correctional system.”

Since the release of the Advisory Committee report, a class action lawsuit was filed in August 2012, against the state of New Hampshire, alleging that the constitutional rights of all the state’s female inmates are violated daily. The lawsuit, similar to the Advisory Committee’s report, cites the failure of the state to provide women prisoners in New Hampshire with the same treatment, services, pay, and housing as the state’s male prisoners. In November, a state audit concluded that the failure “to provide equivalent services” to women inmates puts the state at risk not only of legal action but also jeopardizes their rehabilitation. Numerous newspaper columns have documented the failures of the women’s prison.

Not surprisingly, New Hampshire is one of only a few states where the recidivism rate for women is higher than for men.

The problem at Goffstown prison is not new. In 1987, in a lawsuit brought by women inmates, the First Circuit upheld a lower court finding that the state was violating the equal protection rights of the women and ordered the state to build an in-state facility for women. In response, the state leased the current facility on a temporary basis. It is important to note that this facility was abandoned by Hillsborough County as insufficient for a county jail. Goffstown was not intended as a long-term facility.

And just this month, the Concord Monitor published an article with the headline: “State: We don’t have to treat male and female inmates completely equal.” In that same article, and consistent with the Advisory Committee’s findings, officials in the Department of Corrections lament the refusal of the state to provide the DOC with the necessary funds to remedy the problem.

Thirty years after the complaint was filed by female inmates, and over 25 years since the First Circuit agreed with the ruling that the state violated the plaintiffs’ right to equal protection, the state makes the same mistake by defending the indefensible.

It is time for the state to act and remedy these sex-based disparities. It is past time.