

January 29, 2021

VIA EMAIL

Steven Rosenbaum, Chief
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue
Washington, D.C. 20530
steven.rosenbaum@usdoj.gov

Re: Lowell Investigation

Dear Steven:

I write on behalf of the Florida Department of Corrections (“FDC”) to thank you for speaking with us about the report produced by the United States Department of Justice on December 22, 2020, after the conclusion of its two-and-a-half-year investigation of Lowell Correctional Institution and the Lowell Annex. Please be assured that we have thoroughly reviewed both the report and the law and the facts that underlie it. While we disagree with the report’s ultimate conclusions, we welcome all opportunities—and this one in particular—to continue to make our policies and practices stronger and our prisons safer.

FDC takes seriously its responsibility to protect inmates from all forms of staff misconduct. FDC has made and continues to make particular efforts at Lowell to reinforce a culture of zero tolerance for sexual abuse. We are encouraged that, in 2019, a DOJ-certified auditor concluded that Lowell meets or exceeds all forty-five standards under the federal law that regulates sexual-abuse prevention, detection, and response in state prisons. And when incidents of staff sexual misconduct have been substantiated despite Lowell’s implementation of those standards, FDC has consistently taken action to protect inmates and to remove and discipline wrongdoers. We are pleased to report that not one of the twelve FDC employees whom you have identified as perpetrators or suspected perpetrators of sexual misconduct at Lowell works with female inmates at any Florida prison today, while five of the twelve have been arrested and criminally charged.

We also look forward to sharing with you the continued, constructive steps that FDC and Lowell have recently taken to deter staff misconduct. For example, FDC completed a formal camera assessment at Lowell in 2019 and anticipates a further expansion of camera coverage at the facility. FDC has restructured its officer academy to accept trainees on a rolling basis, minimizing the time that trainees spend on the compound. And FDC has developed a statewide Staff-at-a-Glance application that provides the leadership team at Lowell immediate access to each officer's employment history, including all allegations of misconduct. We note that almost all of the alleged incidents described in the report occurred between two and five years ago, well before FDC's most recent measures were taken.

For these and other reasons, FDC respectfully disagrees with the conclusion that Lowell tolerates sexual abuse or that systemic deficiencies subject inmates at Lowell to a substantial risk of harm. At the same time, FDC always seeks good and practical ideas that will make its prisons safer, and we agree that a collaborative approach will best advance that shared objective. FDC will continue to bring to this process the same spirit of cooperation that characterized its participation in the investigation phase. We will approach future discussions with an open mind, in the hope that together we can find new ways to achieve our common aims.

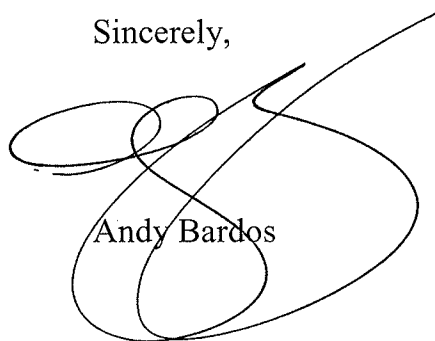
To facilitate our assessment of the remedial measures recommended in the report, we ask that you provide us the draft of a proposed agreement that embodies those proposals for FDC's consideration. We also request that, pursuant to section 4 of the Civil Rights of Institutionalized Persons Act, you describe specifically the financial, technical, or other assistance that may be available from the United States. 42 U.S.C. § 1997b(a)(2)(A). Finally, as we requested during the investigation, if you have any actionable information that specific inmates are currently in danger of sexual abuse—or that specific staff members represent a present risk of harm to inmates at Lowell—then please communicate that information immediately, so that FDC may take all appropriate steps to prevent harm and protect the inmates in its custody.

To the same end, the report contains a number of allegations of staff misconduct that it does not corroborate with substantial details. For example, the report states that it is “common” for officers to grope prisoners, to bribe prisoners with contraband in exchange for sex, to compel prisoners into ongoing abusive sexual “relationships,” to watch prisoners without justification as they use the toilet or shower or change clothes, and to threaten prisoners with solitary confinement if they report sexual abuse. FDC disputes these broad conclusions, as it has not seen facts sufficient to support them. If you have further information that substantiates these allegations, then we request that you provide it. If the information came to you from sources other than FDC, then its confidential disclosure will enable FDC to investigate the allegations expeditiously and,

if substantiated, to take corrective action to prevent future harm to any inmate, which is always a paramount goal.

Please do not hesitate to contact me at any time, formally or informally. We look forward to working with you.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right. The signature is positioned above the printed name "Andy Bardos".

Andy Bardos