

The Commonwealth of Massachusetts
Office of the Attorney General
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SCOTT HARSHBARGER
ATTORNEY GENERAL

(617) 727-2200

September 10, 1992

Steven J. Schwartz, Esq.
Center for Public Representation
22 Green Street
Northampton, Massachusetts 01060

(Hinckley v. Fair)

Dear Steve:

I have received your letter dated September 3, 1992, in which you refer to your letters dated July 15 and July 20, 1992. I apologize if you were expecting an immediate acknowledgement from me, as I thought, perhaps erroneously, that your letters concluded the correspondence on these issues for the moment. In any event, there has been action on both of the issues raised in your letters.

As for the Court training issue (your letter of July 15), the Department of Public Health, in a letter dated July 27, relayed the comments contained in your July 15 letter to the Court official responsible for training. The Department of Public Health is following up on this process in hopes of sparking the planning of the session you desire before the end of the calendar year.

On the issue of legislation (your letter of July 20), the Departments of Public Health and Correction are once again in the position of agreeing with you on basic policy, although we disagree with your interpretation of the settlement agreement.

The Commissioner of Public Health has already sent a letter dated July 1, 1992 to Rep. Gray, which "supports the intent of your draft legislative proposal to prohibit the commitment of women for alcoholism or substance abuse to MCI Framingham" and suggests revisions to the proposed bill. We would be very interested in knowing whether you agree with the Commissioner's proposed revisions, so that there would be a meeting of the minds on this issue.

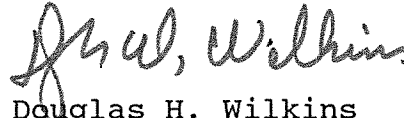
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Similarly, on May 12, 1992, the Commissioner of Correction wrote to Representative Gray, stating that D.O.C. "fully supports the concept of this legislation". D.O.C. recommended that the problem be addressed "in a more comprehensive and effective manner through House Bill 200 . . .". In any event, the main point for purposes of the Hinckley case, is that both agencies have supported the intent of Rep. Gray's proposal.

For your convenience, I am enclosing a copy of both Commissioners' letters.

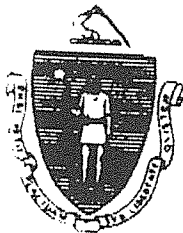
As to the requirements of the settlement agreement, however, the language clearly only binds the defendants "to support pending legislation". Neither the Governor nor his predecessor has ever been a defendant or signatory to the agreement, nor is the "pending legislation" referred to in the 1990 agreement still before the General Court. I therefore do not see how I could advise the Governor that he is bound by the agreement to support the current proposed legislation. That issue may be mooted, however, by the support of the Administration's agencies for the "intent" of Rep. Gray's bill.

Very Truly Yours,



Douglas H. Wilkins
Assistant Attorney General

Deanna McCarr



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
150 Tremont Street
Boston 02111

William F. Weld
Governor
David P. Forsberg
Secretary
David H. Mulligan
Commissioner

*Copy for Shelly
or Barbara ✓*

July 1, 1992

The Honorable Barbara E. Gray
Room 237
The State House
Boston, MA 02133

Re: An Act Prohibiting the Commitment of
Women for Alcoholism or Substance Abuse
to the Massachusetts Correctional
Institution at Framingham

Dear Representative Gray:

The Department of Public Health supports the intent of your draft legislative proposal to prohibit the commitment of women for alcoholism or substance abuse to MCI Framingham, and we suggest incorporating certain revisions (attached) which we think will clarify that intent.

As you know, the percentage of civil commitments to MCI Framingham has decreased significantly over the past couple of years. In FY 1990, of the 219 civil commitments, 64% were held at MCI Framingham. In FY 1991, of the 349 total, 4% were held at Framingham; so far this year, of 388 commitments, only 5% have been at Framingham.

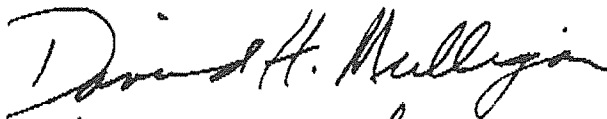
The substantial decrease in the percentage of inappropriate civil commitments can be explained by the implementation of a highly successful Department of Public Health emergency response system which makes appropriate services readily available through a network of licensed community-based substance abuse programs providing 24-hour supervision for detoxification, treatment, and referral.

Civilly committed women at MCI Framingham receive no substance abuse treatment other than basic medical services. At the

current time, the Commonwealth is fortunate to have the capacity to place all civilly committed substance abusing women in appropriate, fully supervised detoxification, treatment, and referral programs, thus eliminating the need for commitment to MCI Framingham entirely.

Enclosed is a copy of our suggested revisions and a summary of their content. Thank you for your consideration of the Department's position on this matter. If you are in need of additional information, please contact Gerard E. Desilets or Kathleen Atkinson at (617) 727-2692.

Sincerely,



David H. Mulligan
Commissioner

Enclosures

cc. Charles D. Baker, Undersecretary for Health
Diane Juliar, Deputy Attorney General/Policy and Training

[Proposed new draft of AN ACT PROHIBITING THE CIVIL COMMITMENT OF WOMEN FOR ALCOHOLISM OR SUBSTANCE ABUSE TO THE MASSACHUSETTS CORRECTIONAL INSTITUTION AT FRAMINGHAM.]

Legislative Summary

The intent of the bill is to prohibit the civil commitment of women to MCI Framingham for substance abuse by amending M.G.L. Section 35 of M.G.L. Chapter 123 and Section 7 of M.G.L. Chapter 111B as follows:

Section 1 eliminates MCI Framingham as a placement for civil commitments of women for substance abuse.

Section 2 eliminates the possibility of voluntary placement at MCI Framingham for substance abusing women.

Section 3 requires the Department of Public Health to maintain no fewer than fifteen beds in its substance abuse treatment system for civilly committed substance abusing women. This provision will guarantee a minimum number of placements in appropriate, fully supervised detoxification and treatment programs for civilly committed women.

Section 4 amends state public health law pertaining to detoxification centers to bring it into conformity with current state policy and the proposed amendments outlined above. Specifically, it strikes the requirement that individuals ~~civilly~~ ^{voluntarily} committed to MCI Framingham or MCI Bridgewater for substance abuse remain in the facility for a minimum of ten days. In addition to eliminating any reference to MCI Framingham as a placement for treatment of women civilly committed for substance abuse, this amendment would confirm in state law what is already state policy regarding detention of men ~~civilly~~ ^{voluntarily} committed to MCI Bridgewater for substance abuse.

[Proposed new draft of AN ACT PROHIBITING THE CIVIL COMMITMENT OF WOMEN FOR ALCOHOLISM OR SUBSTANCE ABUSE TO THE MASSACHUSETTS CORRECTIONAL INSTITUTION AT FRAMINGHAM.]

SECTION 1. Section 35 of Chapter 123 of the General Laws is amended by striking from the third paragraph the words "or at Framingham, if a female."

SECTION 2. Section 35 of Chapter 123 of the General Laws is further amended by striking from the fourth paragraph the words "and Framingham" and substituting the word "institution" for the word "institutions" in the same paragraph.

SECTION 3. Section 35 of Chapter 123 of the General Laws is further amended by striking from the last sentence of paragraph 3 the word "it", and inserting at the end of the last sentence the words "no less than fifteen (15) treatment beds for women committed under this section. The department of public health shall make said roster..."

SECTION 4. Section 7 of Chapter 111B of the General Laws is hereby amended by striking the following words from the last sentence of the third paragraph thereof:

"or if any person is committed for rehabilitative purposes to the Massachusetts correctional institution, Bridgewater or to the Massachusetts correctional institution, Framingham, he shall be required to remain for a period of not less than ten days."