



**U.S. Department of Justice**

Office of Legislative Affairs

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Office of the Assistant Attorney General

*Washington, D.C. 20530*

**MAR 09 2018**

The Honorable Michael R. Pence  
President  
United States Senate  
Washington, DC 20510

Dear Mr. President:

Enclosed please find a report to Congress about the Department's activities during Fiscal Year 2017 pursuant to the Civil Rights of Institutionalized Persons Act, as required by 42 U.S.C. § 1997f.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Boyd", written over a blue horizontal line.

Stephen E. Boyd  
Assistant Attorney General

Enclosure



**U.S. Department of Justice**

Office of Legislative Affairs

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Office of the Assistant Attorney General

*Washington, D.C. 20530*

**MAR 09 2018**

The Honorable Orrin G. Hatch  
President Pro Tempore  
United States Senate  
Washington, DC 20510

Dear Mr. President:

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Stephen E. Boyd  
Assistant Attorney General

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Office of the Assistant Attorney General

*Washington, D.C. 20530*

**MAR 09 2018**

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, DC 20510

Dear Mr. Leader:

Enclosed please find a report to Congress about the Department's activities during Fiscal Year 2017 pursuant to the Civil Rights of Institutionalized Persons Act, as required by 42 U.S.C. § 1997f.

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Stephen E. Boyd  
Assistant Attorney General

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Office of the Assistant Attorney General

*Washington, D.C. 20530*

**MAR 09 2018**

The Honorable Charles E. Schumer  
Minority Leader  
United States Senate  
Washington, DC 20510

Dear Mr. Leader:

Enclosed please find a report to Congress about the Department's activities during Fiscal Year 2017 pursuant to the Civil Rights of Institutionalized Persons Act, as required by 42 U.S.C. § 1997f.

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Stephen E. Boyd  
Assistant Attorney General

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Office of the Assistant Attorney General

*Washington, D.C. 20530*

**MAR 09 2018**

The Honorable Paul Ryan  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

Enclosed please find a report to Congress about the Department's activities during Fiscal Year 2017 pursuant to the Civil Rights of Institutionalized Persons Act, as required by 42 U.S.C. § 1997f.

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Stephen E. Boyd  
Assistant Attorney General

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Office of the Assistant Attorney General

Washington, D.C. 20530

**MAR 09 2018**

The Honorable Kevin McCarthy  
Majority Leader  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Leader:

Enclosed please find a report to Congress about the Department's activities during Fiscal Year 2017 pursuant to the Civil Rights of Institutionalized Persons Act, as required by 42 U.S.C. § 1997f.

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Sincerely,

A handwritten signature in blue ink, appearing to be "SEB", written over a circular stamp or mark.

Stephen E. Boyd  
Assistant Attorney General

Enclosure



**U.S. Department of Justice**

Office of Legislative Affairs

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Office of the Assistant Attorney General

*Washington, D.C. 20530*

**MAR 09 2018**

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

Dear Madam Leader:

Enclosed please find a report to Congress about the Department's activities during Fiscal Year 2017 pursuant to the Civil Rights of Institutionalized Persons Act, as required by 42 U.S.C. § 1997f.

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Stephen E. Boyd  
Assistant Attorney General

Enclosure



**Department of Justice Activities  
Under the  
Civil Rights of Institutionalized Persons Act  
Fiscal Year 2017**



## Table of Contents

I.	Introduction and Overview	2
II.	Filing of CRIPA Complaints and Resolution of Investigations and Lawsuits	3
III.	Prison Litigation Reform Act	3
IV.	Compliance Evaluations	3
V.	Termination of CRIPA Cases	5
VI.	New CRIPA Investigations	6
VII.	Findings Letters	7
VIII.	Investigation Closures	7
IX.	Technical Assistance	9
X.	Responsiveness to Allegations of Illegal Conditions	9
XI.	Conclusion	10

## **I. Introduction and Overview**

The Civil Rights of Institutionalized Persons Act (CRIPA), enacted in 1980, protects the constitutional and federal statutory rights of people confined to residential institutions, including facilities for persons with mental illness or intellectual and developmental disabilities, nursing facilities, prisons, jails, and juvenile facilities. The Department of Justice's Civil Rights Division (Division), Special Litigation Section is charged with CRIPA enforcement.

The Division is authorized to open an investigation upon reasonable belief that individuals confined in a residential institution may be subjected to a pattern or practice that deprives them of their constitutional or federal statutory rights.<sup>1</sup> When the investigation has concluded, the Division informs the jurisdiction, in writing, of its investigatory findings. If an investigation reveals a pattern or practice that deprives individuals of their constitutional or federal statutory rights, the Division will identify the conditions that cause the deprivations, the facts that support its findings, and the minimum remedial measures that may remedy the deprivations. The Division then engages in negotiation and conciliation efforts and provides technical assistance to help jurisdictions correct the identified unconstitutional conditions. Only if these efforts fail may the Division institute a civil action for equitable relief necessary to correct the violations of rights.

The Division achieved important successes pursuant to its CRIPA authority to protect the rights of vulnerable people in residential institutions during Fiscal Year 2017. The Division opened five new CRIPA investigations, terminated three CRIPA cases in whole or in part, and closed six CRIPA investigations. At the end of Fiscal Year 2017, the Division had active CRIPA matters and cases involving 156 facilities in 24 states, the District of Columbia, the

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<sup>1</sup> CRIPA protects only constitutional rights in jails and prisons.

Commonwealth of Puerto Rico, and the Virgin Islands.

The Division is also charged with providing information regarding the progress made by the Bureau of Prisons and the Department of Veterans Affairs toward meeting existing standards and constitutionally guaranteed minimums for such institutions pursuant to Section f(5) of CRIPA. Statements from both of these federal agencies are attached.

**II. Filing of CRIPA Complaints and Resolution of Investigations and Lawsuits**

The Division did not file a CRIPA complaint or enter a settlement to resolve a CRIPA investigation or lawsuit in Fiscal Year 2017.

**III. Prison Litigation Reform Act**

The Prison Litigation Reform Act (PLRA), 18 U.S.C. § 3626, enacted in 1996, covers prospective relief in prisons, jails, and juvenile justice facilities. The Division has defended the constitutionality of the PLRA and has incorporated the PLRA’s requirements in the remedies it seeks regarding improvements in correctional and juvenile justice facilities.

**IV. Compliance Evaluations**

By the end of Fiscal Year 2017, the Division monitored compliance with CRIPA consent decrees, settlement agreements, and court orders designed to remedy unlawful conditions in numerous facilities throughout the United States. These facilities are:

**A. Facilities for persons with developmental disabilities:**

Facility or Facilities	Case or Agreement	Court/Date
Centro de Servicios Múltiples Rosario Bellber	<u>United States v. Puerto Rico</u> , 99-1435	D.P.R. 1999
Abilene State Supported Living Center; Austin State Supported Living Center; Brenham State Supported Living Center; Corpus Christi State Supported Living Center; Denton State Supported Living Center; El Paso State Supported Living Center; Lubbock State Supported Living Center; Lufkin State Supported Living Center; Mexia State	<u>United States v. Texas</u> , A-09-CA-490	E.D. Tex. 2009

Facility or Facilities	Case or Agreement	Court/Date
Supported Living Center; Richmond State Supported Living Center; Rio Grande State Supported Living Center; San Angelo State Supported Living Center; and San Antonio State Supported Living Center		

**B. Juvenile justice facilities:**

Facility or Facilities	Case or Agreement	Court/Date
Bayamon Detention Center; Centro Tratamiento Social Bayamon; Centro Tratamiento Social Humacao; Centro Tratamiento Social Villalba; and CTS Ponce	<u>United States v. Puerto Rico</u> , 94-2080 CCC	D.P.R. 1994
Leflore County Juvenile Detention Center	<u>United States v. Leflore County, Mississippi</u> , 4:15-cv-00059	N.D. Miss. 2015

**C. Jails:**

Facility or Facilities	Case or Agreement	Court/Date
Coffee County Jail, Georgia	2000 Settlement Agreement	N/A
Muscogee County Jail	<u>United States v. Columbus Consolidated City/County Gov't, Georgia</u> , 4-99-CV-132	M.D. Ga. 1999
Orleans Parish Prison	<u>Jones &amp; United States v. Gusman</u> , 2:12-cv-00859	E.D. La. 2008
Grant County Detention Center, Kentucky	2009 Settlement Agreement	N/A
Oklahoma County Jail and Jail Annex, Oklahoma	2009 Settlement Agreement	N/A
Erie County Detention Center and Holding Facility	<u>United States v. Erie County, New York</u> , 09-CV-0849	W.D.N.Y. 2009
Cook County Jail	<u>United States v. Cook County, Illinois</u> , 10-cv-2946	N.D. Ill. 2010
Lake County Jail	<u>United States v. Lake County, Indiana</u> , 2:10-CV-476	N.D. Ind. 2010
Robertson County Jail	<u>United States v. Robertson County, Tennessee</u> , 3:13-CV-00392	M.D. Tenn. 2013
Miami-Dade County Detention	<u>United States v. Miami-Dade County, Florida</u> , 1:13-CV-21570	S.D. Fla. 2013
Piedmont Regional Jail Authority, Virginia	<u>United States v. Piedmont Regional Jail Authority</u> , 3:13-CV-646	E.D. Va. 2013
Los Angeles County Jails	<u>United States v. County of Los Angeles, California and Los</u>	C.D. Cal. 2015

Facility or Facilities	Case or Agreement	Court/Date
	<u>Angeles County Sheriff</u> , 2:15-cv-05903	
Westchester County Jail	2015 Settlement Agreement	N/A
Hinds County Adult Detention Center and Jackson City Detention Center	<u>United States v. Hinds County, Mississippi Board of Supervisors</u> , 3:16-cv-00489	S.D. Miss. 2016

**F. Prisons:**

Facility or Facilities	Case or Agreement	Court/Date
Golden Grove Correctional and Adult Detention Facility	<u>United States v. Virgin Islands</u> , 86-265	D.V.I. 1986
Julia Tutwiler Prison for Women Correctional Facility	<u>United States v. Alabama</u> , 2:15cv368	M.D. Ala. 2015

**V. Termination of CRIPA Cases**

In Fiscal Year 2017, the Division terminated two CRIPA cases in whole and one case in part. On January 10, 2017, the Division informed the court that the Kings County Hospital Center in New York City had achieved and maintained substantial compliance with the agreement in United States v. City of New York (E.D.N.Y. 2010), and requested that the case be closed. The recommendation was based on subject matter experts' reports that concluded that the Hospital Center had greatly improved the quality of medical and mental health care and treatment of its population with serious mental illness, and had ensured that its population was free from undue restraint. Accordingly, on January 17, 2017 the court ordered that the case be closed.

In 2017, the Guam Adult Correctional Facility had maintained substantial compliance with a 1991 consent decree in United States v. Guam (D. Guam 1991). Guam had successfully implemented reforms in the areas of fire safety, security, sanitation, and the provision of medical, dental, and mental health care. In April, the parties jointly moved for dismissal pursuant to the terms of the agreement, and on April 13, 2017; the court granted the motion for dismissal.

In addition, in May 2017, the Division joined Cook County, Illinois in asking the court to dismiss Cook County Sheriff Thomas Dart from United States v. Cook County (N.D. Ill. 2010), based on the Sheriff's substantial compliance with all of his obligations, pursuant to a 2010 settlement agreement, to ensure constitutional conditions of confinement at the Cook County Jail. The court granted this motion on June 9, 2017.

#### **VI. New CRIPA Investigations**

The Division opened five CRIPA investigations during Fiscal Year 2017. In October 2016, the Division opened a statewide investigation of the men's prisons in the Alabama Department of Corrections. The investigation focuses on whether Alabama adequately protects its male prisoners from physical harm and sexual abuse from other prisoners and from excessive use of force and sexual abuse by correctional officers, and whether Alabama provides male prisoners with sanitary, secure, and safe living conditions.

In November 2016, the Division opened an investigation of the Boyd County Jail in Catlettsburg, Kentucky. The investigation focuses on allegations that Boyd County fails to adequately protect prisoners from harm due to excessive force, violates prisoners' rights to bodily privacy, and improperly uses restrictive custody.

In December 2016, the Division opened an investigation into the conditions at the Hampton Roads Regional Jail in Portsmouth, Virginia. The investigation focuses on whether the jail violates the constitutional rights of prisoners to adequate medical and mental health care; violates the constitutional rights of prisoners who have mental illness by secluding them in isolation for prolonged time periods; and violates the Americans with Disabilities Act rights of prisoners who have mental illness by denying them access to services, programs, and activities because of their disability.

In January 2017, the Division opened an investigation into conditions of confinement of

persons with serious mental illness at the John George Psychiatric Hospital and the Santa Rita Jail in Alameda County, California. The investigation also seeks to determine whether Alameda County's use of institutional settings to provide mental health services to adults with mental health disabilities violates those individuals' rights under Title II of the ADA to receive services in the most integrated setting appropriate to their needs.

In September 2017, the Division opened an investigation of the South Carolina Department of Juvenile Justice Services to review conditions at the Broad River Road Complex, South Carolina's long-term juvenile commitment facility, including whether the Department of Juvenile Justice fails to protect youth from physical abuse by other youth and by staff, and subjects youth to prolonged solitary confinement. The investigation will also review whether the Department of Juvenile Justice violates the Americans with Disabilities Act in decisions where it has the sole authority to determine whether to place youth with disabilities in its pre-sentencing residential evaluation centers, and whether the Department of Juvenile Justice reasonably modifies its pre-sentencing evaluation system to avoid disability-based discrimination.

## **VII. Findings Letters**

The Division did not issue a CRIPA findings letter during Fiscal Year 2017.

## **VIII. Investigation Closures**

In Fiscal Year 2017, the Division closed six CRIPA investigations. In November 2016, the Division closed its investigation of the Topeka Correctional Facility in Topeka, Kansas. Kansas had successfully met and sustained all of the requirements of a 2014 settlement agreement designed to protect women prisoners from custodial sexual abuse by reforming systems designed to prevent, detect, and respond to custodial sexual abuse.

In January 2017, the Division closed its investigation of the St. Tammany Parish Jail in Covington, Louisiana, and terminated a 2013 Memorandum of Agreement prohibiting the placement of people with serious mental illness in small booking cages, and remedying other mental health care and suicide prevention issues. St. Tammany Parish had substantially complied with the agreement by implementing durable, sustainable reforms.

The Division also closed its matter involving the Baltimore City Detention Center in Baltimore, Maryland in January 2017. The jurisdiction implemented significant reforms since entering a settlement in 2007, regarding protection from harm, medical and mental health care, and unsafe living conditions. Baltimore also eliminated the isolation of youth confined in the Baltimore City Detention Center.

The Division closed its investigation of the Indianapolis Juvenile Correctional Facility, in Indianapolis, Indiana, in March 2017. Shortly before the Division issued findings, the state closed this facility and relocated the juveniles to the Madison Juvenile Correctional Facility in Madison, Indiana. After gathering information about the Madison facility, the Division concluded that closure of the matter was appropriate.

In September 2017, the Division closed its investigation of the Dallas County Jail in Dallas, Texas. Dallas County had fully complied with all terms of a 2012 Memorandum of Understanding concerning medication administration, access to health care, medical facilities, and mental health assessment and treatment.

Also in September 2017, the Division closed its investigation into the Sebastian County Adult Detention Center in Fort Smith, Arkansas after the county had substantially complied with the terms of a settlement agreement to provide adequate medical and mental health care for inmates and detainees at the Jail.



**IX. Technical Assistance**

Where federal financial, technical, or other assistance is available to help jurisdictions correct deficiencies, the Division advises responsible public officials of the availability of such aid and arranges for assistance when appropriate. The Division also provides technical assistance through the information provided to jurisdictions by the Division's expert consultants at no cost to state or local governments. During the course (and at the conclusion) of investigatory tours, the Division's expert consultants often meet with officials from the subject jurisdiction and provide helpful information regarding specific aspects of their programs. These oral reports permit early intervention by local jurisdictions to remedy highlighted issues before a findings letter issues.

To ensure timely and efficient compliance with settlement agreements, the Division has also issued post-tour compliance assessment letters to apprise jurisdictions of their compliance status. These letters also routinely contain technical assistance and best practices recommendations.

**X. Responsiveness to Allegations of Illegal Conditions**

During Fiscal Year 2017, the Division reviewed allegations of unlawful conditions of confinement in public residential facilities from a number of sources, including individuals who live in the facilities, relatives of persons living in facilities, former staff of facilities, advocates, concerned citizens, media reports, and referrals from within the Division and other federal agencies. The Division received 4,305 CRIPA-related citizen complaint letters, 74 CRIPA-related emails and 47 voicemails during the fiscal year. In addition, the Division responded to 1,170 CRIPA-related inquiries from Congress and the White House.

**XI. Conclusion**

In Fiscal Year 2018 and beyond, the Division intends to continue to enforce CRIPA to remedy unlawful conditions that harm individuals in residential institutions, who include the most vulnerable in our society.



U.S. Department of Justice


Federal Bureau of Prisons

Washington, DC 20534

October 12, 2017

MEMORANDUM FOR STEVE ROSENBAUM, CHIEF  
SPECIAL LITIGATION SECTION  
CIVIL RIGHTS DIVISION, DOJ

FROM:

  
for Steve Mora, Assistant Director  
Program Review Division

SUBJECT:

Response for the Attorney General's Report to  
Congress for FY 2017 Pursuant to the Civil Rights of  
Institutionalized Persons Act of 1997

The Bureau of Prisons appreciates the opportunity to report our actions during FY 2017 as related to the Attorney General's Report to Congress for FY 2016 Pursuant to the Civil Rights of Institutionalized Persons Act of 1997.

The following is provided for insertion into the report:

FEDERAL BUREAU OF PRISONS

The Federal Bureau of Prisons (Bureau) adheres to the correctional standards developed by the American Correctional Association (ACA), the Prison Rape Elimination Act (PREA) of 2003 (Public Law 108-79; September 4, 2003), and 28 CFR Part 115, Prison Rape Elimination Act National Standards. These standards cover all facets of correctional management and operation, including the basic requirements related to life/safety and constitutional minima, which includes provisions for an adequate inmate grievance procedure, and a zero tolerance toward all forms of sexual activity, including sexual abuse and sexual harassment.

ACA standards have been incorporated into the Bureau's national policy, as well as the program review guidelines. Currently, the Bureau's 122 institutions, the agency's two training centers (Staff Training Academy and Management and Specialty Training Center), and the Bureau's Headquarters are accredited by the ACA's Commission on Accreditation for Corrections.

ACA accredited institutions are subject to interim audits by the ACA Commission to monitor standards compliance. Particular attention is given in the vital areas of inmate rights, healthcare, security, safety, and sanitation. The standards are reviewed at least annually for continued compliance, by institutional staff, through the operational review process. In addition to operational reviews, program reviews are conducted at all federal prisons in each discipline at least once every three years to monitor policy compliance. In FY 2017, there were 566 separate program reviews conducted by Bureau examiners which included a review of ACA standards.

PREA audits for federal institutions began on August 20, 2013. As such, the PREA requirement to ensure at least 1/3 of the Bureau's federal institutions were audited at least once each year for the first 3-year PREA cycle (August 20, 2013, to August 19, 2016) was met. The second 3-year PREA cycle began on August 20, 2016, and will end on August 19, 2019. For PREA Year 2017, 36 audits were conducted.

The Bureau utilizes a medical classification system that identifies each inmate's medical and mental health needs, along with the forensic needs of the court. Additionally, the Bureau assigns inmates to facilities (identified as Care Levels 1 through 4) with appropriate in-house and community health care resources. Effective June 2017, Accreditation Association Ambulatory Health Care (AAAHC) will survey all Care Level 2 & 3 institutions. The accreditation process is a thorough, organization specific, on-site review conducted by surveyors experienced in healthcare that is provided in a correctional setting. Currently, 14 sites have been accredited utilizing AAAHC. Additionally, The Joint Commission (formally the Joint Commission Accreditation for Hospital Organizations) will continue to survey all Bureau of Prisons Medical Centers. Currently, six of the seven Medical Center sites are accredited. The accreditation process is expected to take place by December 2017 for Federal Medical Center (FMC) Ft. Worth. FMC Ft. Worth is a Care Level 3 institution and the remaining six sites are Care Levels 3 and 4.

If you require additional information, please contact Kevin Pistro, EAPAS Chief, in my office at (202)598-0910.

VA



U.S. Department  
of Veterans Affairs

Office of the General Counsel  
Washington DC 20420

DEC - 7 2017

In Reply Refer To:

Steve Rosenbaum  
Chief, Special Litigation Section Civil Rights Branch  
U.S. Department of Justice  
601 D Street, N.W.  
Washington, D.C. 20004

RE: Information for inclusion in the Attorney General Report to Congress  
on the Civil Rights of Institutional Persons Act (42 U.S.C. § 1997f)

Dear Mr. Rosenbaum:

Thank you for the opportunity to submit a contribution to the Attorney General's Report to Congress pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA). The Department of Veterans Affairs believes we meet all existing promulgated standards for CRIPA and, in so doing, ensure the constitutionally guaranteed rights of our patients and residents. The enclosed information is provided for inclusion in your report.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J.M. Byrne".

James M. Byrne  
General Counsel

Enclosure

## DEPARTMENT OF VETERANS AFFAIRS

The Department of Veterans Affairs (VA) has multiple ongoing programs to protect the civil rights of patients in its facilities. VA regulations published at 38 C.F.R. § 17.33 identify the rights of patients. All patients or their representatives are advised of these rights on their admission to a facility and provided a copy of a statement of those rights. *Id.* at § 17.33(h). The statement of patients' rights is required to be posted at each nursing station, and all VA staff working with patients receive training regarding these rights.

The applicable regulations establish that the specified patients' rights "are in addition to and not in derogation of any statutory, constitutional or other legal rights:" *Id.* at § 17.33(i). The regulations set forth specific procedures for VA to follow when restricting any rights. *Id.* at 17.33(c). The regulation also recognizes the right of patients to present grievances for any perceived infringement of patients' rights. *Id.* at § 17.33(g). In addition to the regulations, the Veterans Health Administration (VHA) has issued a directive prohibiting discrimination based on race, color, religion, national origin, Limited English Proficiency (LEP), age, sex (includes gender identity and transgender status), sexual orientation, pregnancy, marital and parental status, political affiliation, disability, and genetic information, and prohibiting harassment and retaliation. VHA Directive 1019, *Nondiscrimination in Federally Conducted and Federally-Assisted (External) Programs* (May 23, 2013).

VA further protects patients' civil rights through its program of hiring individuals to serve as Patient Advocates. The purpose of VA's Patient Advocacy Program is "to ensure that all Veterans and their families, who are served in VHA facilities and clinics, have their complaints addressed in a convenient and timely manner." VHA Handbook 1003.4, *VHA Patient Advocacy Program*, paragraph 3 (September 2, 2005). The Advocates assist patients in understanding their rights and by presenting the patient's perspective of the problem and desired resolution. VA also facilitates the representation of patients by external stakeholders, including, but not limited to, Veterans Service Organizations and state protection and advocacy systems, which seek to represent patients in VA facilities. *Id.* at paragraph 8.

In addition, patients are also protected by VA regulations requiring the full informed consent of patients or, where applicable, their surrogates before any proposed diagnostic or therapeutic procedure or course of treatment is undertaken. 38 C.F.R. § 17.32.

VA believes the receipt of high-quality medical care is the right of all patients and takes action to achieve its provision through a number of internal mechanisms. VA operates ongoing active peer review programs designed to discover and correct problems in the provision of care. Additionally, pursuant to Presidential Executive Order 12862 (1993), which requires patient surveys and use of the resultant feedback to manage agency operations, patients are periodically surveyed to determine their satisfaction with the health care provided to them. Also, the VA Office of the Inspector

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General and the VA Office of the Medical Inspector conduct investigations of complaints concerning the quality of health care. All of these mechanisms serve to protect the civil rights of patients in facilities operated by VA.

(VA participates in two grant-in-aid programs with the states to provide construction and renovation funds and to provide per diem payments for care of eligible Veterans in State homes; however, these homes are not Federal facilities).