



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

January 27, 2005

The Special Counsel

The President
The White House
Washington, DC 20500

Re: OSC File No. DI-04-0050

Dear Mr. President:

In 1976, the Supreme Court ruled that prisoners have a constitutional right to adequate medical care. Estelle v. Gamble, 429 U.S. 97 (1976). Courts have subsequently interpreted "adequate medical care" as medical care that is consistent with community standards.

I received disclosures from a whistleblower at the Federal Correctional Institute (FCI) in Memphis, Tennessee, that the Supreme Court's decision was being violated at the FCI. Specifically, the whistleblower Nahem A. Naimey, M.D., alleged that the inmates were not receiving adequate medical care because several mentally ill inmates had not been seen by a psychiatrist for over three months and medical laboratory tests were substantially delayed because the medical laboratory was inadequately staffed. As discussed in the attached report, an agency investigation partially substantiated Dr. Naimey's allegations.

I required the Attorney General of the United States to conduct an investigation into these disclosures pursuant to 5 U.S.C. § 1213(c) and (d). The Attorney General delegated authority to review and sign the required agency report to Harley G. Lappin, Director, Federal Bureau of Prisons (FBOP). Mr. Lappin's report to this office on February 18, 2004, was found deficient, and I asked him to submit additional information, which he did on August 10, 2004. The whistleblower commented on the agency report; his comments are attached. As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the report to you.

We have reviewed the original disclosures and the agency report and supplemental report as well as Dr. Naimey's comments. We have determined that the agency report contains all of the information required by statute and most of the findings appear to be reasonable.

However, as discussed in the attached report, we are unable to conclude that the agency's findings regarding the actions of the FCI Memphis Health Services Administrator are reasonable, and, therefore, we are recommending that the agency conduct further investigation into this

The Special Counsel

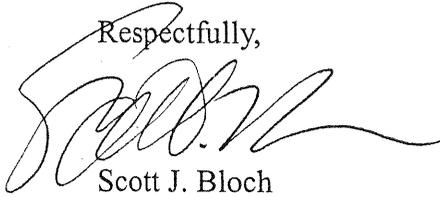
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matter and consider taking disciplinary action against her. In addition, Mr. Lappin has asked the Office of Inspector General to investigate the origin of certain misinformation that FBOP provided to OSC in its February 18, 2004 report. We respectfully request that your office follow up on both of these matters.

As required by law, 5 U.S.C. § 1213(e)(3), I have sent a copy of the report and Dr. Naimey's comments to the Chairmen of the Senate and House Committees on the Judiciary. We have also filed copies of the report and Dr. Naimey's comments in our public file and closed the matter.

Respectfully,

A handwritten signature in black ink, appearing to read "S. Bloch", with a long horizontal flourish extending to the right.

Scott J. Bloch

Enclosures