



August 4, 2016

Rodney Ballard, Commissioner
Kentucky Department of Corrections
P.O. Box 2400
Frankfort, KY 40602

RE: Louisville Metro Corrections Overcrowding — State Inmates

Dear Commissioner Ballard:

On behalf of the ACLU of Kentucky, I write concerning one of the factors that appear to be contributing to overcrowded conditions at the Louisville Metro Detention Center (LMDC) — the state’s failure to timely assume custody of state inmates from that facility. Specifically, as of August 1, 2016, there were seventy-one (71) state inmates (convicted felons and parole violators) who have remained in LMDC’s custody for more than forty-five (45) days while awaiting transport to state facilities.¹

As you are aware, § 254 of the Kentucky Constitution provides that “[t]he Commonwealth shall maintain control of the discipline, and provide for all supplies, and for the sanitary condition of the convicts.” In construing this provision, the Kentucky Supreme Court has described its language as plainly requiring that state inmates *must* be remanded to the state’s custody.² Moreover, the Court in *Campbell Co.* further stated that “[i]t is *intolerable that any state prisoner, regardless of space availability, should be refused an order compelling transfer into the state penal system beyond forty-five days . . .*”³

Given the plain language of the relevant constitutional provision, as well as the clearly established direction from the Kentucky Supreme Court regarding its execution, the ACLU of Kentucky is concerned about the state’s failure to timely assume custody of state inmates from LMDC. It appears, based on publicly available inmate population data, that the state’s delay in

¹ Louisville Metro Corrections, *State Inmate Housing Report* (Aug. 1, 2016) (attached).

² *Campbell Co. v. Ky. Corrections Cabinet*, 762 S.W.2d 6, 9 (Ky. 1988) (“The fact is the prisoner remains in local custody when the Kentucky Constitution mandates state custody.”); *see also Kentucky County Judge/Executive Ass’n v. Justice Cabinet, Dep’t of Corrections*, 938 S.W.2d 582, 585 (Ky. Ct. App. 1996) (“Constitutional mandates, such as the one contained in § 254 that the state has the responsibility to care for prisoners sentenced to a state facility, cannot be waived.”).

³ *Id.* at 32 (emphasis added).

timely assuming custody of these state inmates may be a significant factor in LMDC's overcrowded conditions. And, of course, if those overcrowded conditions persist, additional violations of inmates' rights are likely to occur. We thus urge you to take all necessary steps to ensure that state inmates are timely transferred from LMDC to appropriate state facilities, and we respectfully request that you notify us, in writing, of your intent to do so.

Thank you in advance for your attention to this very important matter, and I look forward to your reply.

Sincerely,



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cc: Mark Bolton, Director LMDC
Jim Erwin, Deputy Commissioner of Adult Institutions



LOUISVILLE METRO CORRECTIONS
DIRECTOR MARK BOLTON
STATE INMATE HOUSING REPORT
AUGUST 01, 2016

Number of Sentenced Females	24	All are control intake inmates
Number of Sentenced Males	138	All are control intake inmates
Number of Sentenced Inmates --- TOTAL	169	
Breakdown of sentenced inmates		Breakdown of above inmate totals
SENTENCE FELON / MALES	109	Ready to be transported –
SENTENCE FELON / MALES	29	Waiting for Final Judgments from Courts
SENTENCE FELON / FEMALES	22	Ready to be transported –
SENTENCE FELON / FEMALES	2	Waiting for Final Judgments from Courts
TOTAL PAROLEES	163	Breakdown of the total below
PAROLE VIOLATORS / MALES	131	Ready for transport
PAROLE VIOLATORS / FEMALES	31	Ready for transport
INMATES WAITING OVER 45 DAYS	71	(all are included in totals below)
Number of sentenced Females stay over 45 days waiting on Judgments	0	* 45 days from final sentence
Number of sentenced Females stay over 45 days with Judgments - Ready for Transport	5	* 45 days from final sentence
Number of sentenced Males stay over 45 days waiting on Judgments	1	* 45 days from final sentence
Number of sentenced Males stay over 45 days with Judgments – ready for Transport	36	*45 days from final sentence
Number of Male parole violators over 45	17	* 45 days from date of arrest
Number of Females parole violators over 45	12	* 45 days from date of arrest

Note: State Inmates Transferred the Week of 07/24/2016 – 07/30/2016

Local Detention Facilities =36
 KSR/CCDT =00
 KCIW / ROSS CASH =00
 Total =36

****OUT OF THE TOTAL OF 36 INMATES TRANSPORTED 9 WERE PV'S ****
****RECEIVED 4 N.O.D AND 0 STILL HAS PENDING CHARGES****