Lawsuit accuses MDOC guards of having sex with juveniles, allowing them to be raped

By Kyle Feldscher | kylefeldscher@mlive.com on December 12, 2013 at 5:30 AM, updated December 12, 2013 at 5:48 PM

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A lawsuit filed in Washtenaw County on behalf of seven juvenile prisoners alleges prison staff coerced one teenager into having sex and many other corrections officers ignored sexual abuse and physical assaults.



earnestcbrooks.jpeg

The lawsuit filed Monday in the Washtenaw County Trial Court names the Michigan Department Of Corrections, numerous officials in the department and Gov. Rick Snyder as defendants.

The crux of the plaintiffs' allegations comes from their assertion that the MDOC has failed to adequately separate juvenile prisoners from adult prisoners, as required

by law.

Seven unnamed prisoners are listed as the plaintiffs in the case, which is also pending in federal court in Detroit. According to the lawsuit, at least two plaintiffs were raped repeatedly because cellmates were selling access to their cell — and MDOC staff members were aware.

"MDOC staff was aware of assaults and aware that male adult prisoners were paying John Doe 5's cellmate for access to John Doe 5 for purposes of sexually assaulting him," the lawsuit states.

MDOC Public Information Officer Russ Marlan did not return a message seeking comment on the lawsuit.

The case was originally filed in Washtenaw County in October, but was dismissed by the plaintiffs after the defendants attempted to transfer the case to the Court of Claims. The case has been refiled, citing violations of the Elliott-Larsen Civil Rights Act.

Ann Arbor attorney Deborah LeBelle filed the lawsuit. She said she'd been aware of high instances of sexual abuse of young prisoners, but was shocked by the plaintiffs' stories.

She said she was also disturbed by the fact that children as young as 13 can be put into adult prisons in Michigan. The decision to allow those children into adult prison raises the chances of recidivism and puts those kids in danger, she said.

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Deb_LaBelle.jpg

"I didn't know the extent of the damage those choices had wrought in Michigan until I started talking to the youth," she said. "And, I found it heartbreaking."

More than half of the seven plaintiffs — not all of whom are from Washtenaw County — could have served the entirety of their sentences in juvenile facilities, LaBelle said. Instead, all of them were subjected to adult prisons.

LaBelle said she was also extremely disturbed that these child prisoners would be put into solitary confinement and MDOC staff would use Tasers on them.

"If you put all of these together, I saw it as a tragic waste," she said.

The lawsuit states MDOC staff failed to separate juvenile prisoners from adult prisoners by sight and sound as required by law; failed to adequately supervise juvenile prisoners; failed to properly train, monitor, discipline or regulate prison staff and still fails to implement proper policies and procedures to identify and house young prisoners.

The class-action lawsuit is filed on behalf of more than 500 children — between ages 14 and 17 — who have entered adult prisons since 2010, according to the lawsuit. The lawsuit states the young prisoners who are, were or will be in adult prisons in Michigan have been, or will be, subjected to sexual and physical assaults, abuse, sexual harassment, degrading treatment because they haven't been housed, supervised or separated from adults adequately.

Download the lawsuit.

The lawsuit states that having young prisoners in contact with adult prisoners resulted in the youths getting more punishment, degrading treatment, solitary confinement and being deprived of rehabilitative programming and educational services.

The MDOC is also failing to meet standards set by the Prison Rape Elimination Act, according to the lawsuit. The act states no prisoner under the age of 18 should have sight, sound or physical contact with adult prisoners.

The 32-page document details some disturbing incidents each of the seven plaintiffs has had to endure while in prison. All seven plaintiffs report sexual assaults, with many reporting violent rapes, of which MDOC staff members were aware.

At least two plaintiffs allege they were coerced into sex with female MDOC officers.

"From late 2012 until early 2013, a female MDOC staff member repeatedly opened John Doe 4's cell for purposes of engaging in coerced sexual intercourse with him," the lawsuit states.

about:blank Page 2 of 3 In the case of John Doe 2, the lawsuit alleges an MDOC staff member opened the prisoner's cell to allow an adult prisoner to assault him. That same prisoner was put into solitary confinement for reporting sexual abuse.

"Upon his release from solitary confinement, John Doe 2 was physically assaulted again with a knife," the lawsuit states, "resulting in a scar across the face and marking him as a victim and as an ongoing target for other prisoners."

The lawsuit accuses the MDOC of four different violations of the Elliott-Larsen Civil Rights Act: Creating a sexually hostile prison atmosphere, failing to prevent and to remedy a sexually hostile prison environment, aiding and abetting violations of ELCRA and age discrimination.

The lawsuit was filed in the Washtenaw County Trial Court because the plaintiffs are seeking more than \$25,000 in damages. The lawsuit asks the court to award "punitive and exemplary damages where appropriate" along with reasonable costs and fees.

Further allegations include the plaintiffs being subjected to cross-gender searches, pat-downs and viewings while showering and performing basic bodily functions.

Officials at the state level of the MDOC are named, along with the wardens of Carson City Correctional Facility, Charles Egeler Reception and Guidance Center, Earnest C. Brooks Correctional Facility, Gus Harrison Correctional Facility, Richard A Handlon Correctional Facility, Oaks Correctional Facility, Thumb Correctional Facility, Chippewa Correctional Facility, Marquette Branch Prison and Bellamy Creek Correctional Facility.

Washtenaw County Trial Court Judge Carol Kuhnke issued a protective order banning defense attorneys from interviewing the plaintiffs in the case until a Jan. 8 hearing. According to a motion filed by the plaintiffs on Monday, defense attorneys had been abusive in interviews when the lawsuit was previously filed.

Among the accusations are that the seven plaintiffs were told to sign affidavits prepared by defense attorneys and to sign confidentiality agreements that would have specifically mentioned their own attorneys.

"One youth was told that if he was asked about being raped or harmed, he 'better not say a word," the motion stated.

Kyle Feldscher covers cops and courts for The Ann Arbor News. He can be reached at kylefeldscher@mlive.com or you can follow him on **Twitter**. Find all Washtenaw County crime stories **here**.

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