



**U.S. Department of Justice**

Office of Justice Programs

*Office for Civil Rights*

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*Washington, D.C. 20531*

December 8, 2011

Daniel H. Heyns, Director  
Michigan Department of Corrections  
206 East Michigan Avenue  
Grandview Plaza  
P.O. Box 30003  
Lansing, Michigan 48909

Re: Notice of Findings  
[REDACTED] v. Michigan Dep't of Corr. (10-OCR-0106)

Dear Director Heyns:

The Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice (DOJ) has completed its investigation into the above-referenced Complaint that [REDACTED] (Complainant) filed against the Michigan Department of Corrections (MDOC). In his Complaint, the Complainant alleges that the MDOC discriminated against him based on race and retaliated against him for assisting another inmate in preparing a grievance.

The OCR has completed our review of the documentation provided by both the MDOC and the Complainant, including information that we gathered during a February 15-16, 2011, onsite visit to the MDOC, which included interviews with MDOC staff and inmates. The OCR has determined that there is insufficient evidence of a violation of the civil rights laws that we enforce. Our findings are set forth below for your review.

**SUMMARY OF ALLEGATIONS**

The Complainant, an African American inmate incarcerated at the MDOC, alleges the following:

In January 2009, he assisted another inmate in filing a religious discrimination grievance that alleged that the MDOC failed to provide the inmate with a kosher diet. Later that month, the Complainant assisted the inmate in filing a second grievance regarding the MDOC's alleged failure to address the initial grievance. In March 2009, the Complainant learned that of the approximately 7,557 days of special good time credits he

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<sup>1</sup> The OCR initiated this review during the tenure of former MDOC Director Patricia Caruso.

earned, the MDOC only awarded him 700 days. Also in March 2009, the MDOC reclassified the complainant from custody Level I to custody Level II<sup>2</sup>, and then in May 2009 the MDOC transferred him from the G. Robert Cotton Correctional Facility to the Newberry Correctional Facility. The Complainant believes that the MDOC's failure to award him all of the special good time credit days he was entitled to, reclassifying him to a higher custody level, and transferring him to another facility was based on his race, and in retaliation for assisting the other inmate prepare a grievance alleging religious discrimination. In support of the discrimination allegations, the Complainant alleges that a White inmate, [REDACTED], was treated more favorably because the MDOC awarded [REDACTED] all of the special good time credit days he earned. In support of his retaliation claim, the Complainant notes that that the MDOC's failure to award him all of his special good time credit days, reclassifying him to a higher custody level, and transferring him to another facility all occurred within several months after he assisted the inmate with his grievances.

#### **SUMMARY OF RELEVANT FACTS**

The Complainant provided the OCR with a copy of an "Administrative Notice (First Notice)," dated January 1, 2009, signed by inmate [REDACTED] and addressed to [REDACTED], [REDACTED]. In this Administrative Notice, Mr. [REDACTED] asserted that the MDOC violated his constitutional rights because it would not provide him with a kosher diet. The Complainant signed his name as a witness to the Administrative Notice. The Complainant also provided the OCR with a copy of an "Administrative Notice (First Notice)," dated January 26, 2009, signed by Mr. [REDACTED] and addressed to MDOC Internal Affairs, in which Mr. [REDACTED] asserted that the MDOC violated his constitutional rights by failing to redress his January 1, 2009, grievance. The Complainant also signed his name as a witness to this second Administrative Notice.

According to the MDOC, it has no records showing that the Complainant assisted Mr. [REDACTED] or any other inmate with a grievance. The MDOC provided the OCR with the "Prisoner/Parolee Grievance Form" that Mr. [REDACTED] signed on February 28, 2009, and submitted to the MDOC regarding the MDOC's failure to provide him with a kosher diet. This grievance does not include the Complainant's name or signature. Mr. [REDACTED] told the OCR that he filed twenty-four grievances regarding being denied a kosher diet but the first thirteen were ignored by the MDOC, and that while the Complainant directed him to information in the library on how to file a grievance Mr. [REDACTED] filed the grievances on his own. The MDOC [REDACTED], [REDACTED], told the OCR that he recalls Mr. [REDACTED] filing two or three grievances, and that he does not know whether the Complainant assisted Mr. [REDACTED] in filing his grievances. Mr. [REDACTED] said that the Administrative Notices dated January 1, 2009, and January 26, 2009, are letters, not official grievances, and that he never saw those letters.

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<sup>2</sup> The MDOC classifies inmates according to the following five custody level designations: Level I (the least secure level), Level II, Level III, Level IV, and Level V (the most secure level).

From the beginning of his incarceration at the MDOC on March 20, 1974, through December 2009, the Complainant earned approximately 7,557 special good time credit days, which is time granted to an inmate as a reward for especially good behavior. Since the Complainant's earliest release date was approaching, based on this number of special good time credit days, in approximately January 2009<sup>3</sup> the MDOC convened a Time Review Committee to review the Complainant's record and make a recommendation to the warden regarding the number of special good time credit days to award. At the time of the review, the Complainant was incarcerated at the G. Robert Cotton Correctional Facility. The Complainant's Time Review Committee consisted of [REDACTED]

[REDACTED] During the OCR's onsite visit, [REDACTED] told the OCR that the Time Review Committee was conducting a "special good time minimum review," where the Committee was evaluating the number of special good time credit days to be granted on the Complainant's minimum sentence.<sup>4</sup>

Upon review, the Time Review Committee made a recommendation to the warden of the G. Robert Cotton Correctional Facility, Debra Scutt (race, White), not to award the Complainant any special good time credits days. [REDACTED] told the OCR that she reviewed the Complainant's entire record since he was incarcerated at the MDOC, and that she also spoke with MDOC staff familiar with the Complainant. She indicated that she found the Complainant's biggest issue to be his lack of accountability, in that he always blamed someone else for his actions. [REDACTED] said that for example, the Complainant was found to have marijuana in his system, and he blamed it on passive smoke. [REDACTED] stated that the Complainant had been in the MDOC system for over thirty years, and he still continued to fight the system. She also indicated that she met with the Complainant and discussed his file with him, and during the discussion, the Complainant never showed any accountability or acceptance for anything negative in his file. Accordingly, [REDACTED] said that she recommended that the Complainant not be awarded any special good time credit days. [REDACTED] told the OCR that he did not review the Complainant's file, but he knew that [REDACTED] had reviewed the entire file and he agreed with her recommendation as his supervisor. [REDACTED] told the OCR that she only supervised the Complainant for six or seven months and did not review his entire history while incarcerated, and that she deferred to [REDACTED] and also agreed with her recommendation not to award the Complainant any special good time credit days. [REDACTED] [REDACTED] each informed the OCR that the Complainant's race played no factor in their recommendations, and that they did not know whether the

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<sup>3</sup> It is not clear from the documentation provided to the OCR exactly when the MDOC convened the Time Review Committee. The MDOC's "Time Review & Disposition" form that it completed in connection with the review states in the comments section "1/13/09 created by tcu/qcu/s.pung," the warden signed the form on February 19, 2009, and the date of the report is listed as March 3, 2009.

<sup>4</sup> Based on the OCR's interviews with MDOC staff and the MDOC's policies and procedures, the OCR understands that depending on the circumstances, a Time Review Committee may review whether special good time credits will be granted on an inmate's minimum sentence ("minimum review") or on an inmate's maximum sentence ("maximum review").

Complainant assisted [REDACTED], or any other inmate, in filing grievances with the MDOC.

Warden Scutt told the OCR that upon receiving the Time Review Committee's recommendation not to award the Complainant with any special good time credit days, she reviewed the Complainant's record covering his entire period of incarceration. This record included the Complainant's education history, anger management training, conduct and behavior, and whether the Complainant completed recommended programming. Similar to [REDACTED], Warden Scutt said that her review of the Complainant's record showed that the Complainant lacked accountability for his behavior and had a history of blaming others for his actions. Warden Scutt stated that the Complainant also had at least twelve incidents of misconduct during his incarceration, including incidents involving marijuana use, possession of money, possession of gambling paraphernalia, disobeying direct orders, theft, and sexual misconduct, where the Complainant would masturbate in his cell at times when he knew that officers would be conducting cell checks. According to Warden Scutt, while the Complainant believes that he has accomplished great things while incarcerated and he has received some good reports, Warden Scutt feels that the Complainant acts only in his own self-interest. Based upon her review of the Complainant's record and her review of the Time Review Committee's recommendation, Warden Scutt made the decision not to award the Complainant any special good time credit days. Warden Scutt told the OCR that the Complainant's race played no factor in her decision, and that she was not aware of the Complainant assisting any inmates, including [REDACTED], with filing a grievance with the MDOC.

Warden Scutt then consulted with the [REDACTED] regarding her decision not to award the Complainant any special good time credit days. After some discussion, Warden Scutt ultimately decided to award the Complainant 700 special good time credit days out of the 7,557 special good time credit days he earned.

At the time of the OCR's onsite visit, Warden Scutt told the OCR that she has only conducted three special good time credit reviews within the past four years. In support of his claim of race discrimination, the Complainant states that Warden Scutt treated a White inmate, [REDACTED], more favorably when she decided to award [REDACTED] all of the special good time credit days that he had accrued. The Complainant provided the OCR with a signed statement from [REDACTED] that stated, "[o]n January 30, 2009, Ms. Debra Scutt signed a Time Review & Disposition form granting me 6449 days Special Good Time on my Maximum Sentence. I have been incarcerated for approximately 29 years and during this incarceration I have received seven (7) Major Misconduct tickets with one of them being a non-bond major misconduct for fighting."

Records provided by the MDOC indicate that the MDOC convened a Time Review Committee in January 2009 to determine whether [REDACTED] would be awarded any of the 6,449 days of special good time credits that he earned on his maximum sentence. [REDACTED]

██████████ was also on ██████████ Time Review Committee.<sup>5</sup> ██████████ told the OCR, “██████████ was one of the very few inmates who took responsibility for his actions,” and that he had a totally different record of accountability as compared to the Complainant. ██████████ also noted that ██████████ had an exemplary record in the Marines. The Time Review Committee recommended to Warden Scutt that ██████████ be awarded all of the special good time credit days he earned. According to Warden Scutt, she then reviewed the Time Review Committee’s recommendation along with ██████████ entire file since his incarceration began in 1980. She told the OCR that unlike the Complainant, ██████████ was accountable and held himself responsible for his actions. She also said that that most of ██████████ misconduct was not of a serious nature, and that he had fewer misconduct tickets than the Complainant (seven versus twelve). Based on these factors, Warden Scutt made the decision to award ██████████ all of his special good time credit days, and the ██████████ agreed with her determination. Both ██████████ and Warden Scutt told the OCR that ██████████ race played no factor in the decision to award him all of his special good time credit days that he earned.

When the Complainant was first incarcerated at the G. Robert Cotton Correctional Facility in February 2006, the MDOC classified him at a minimum security custody Level I. In March 2009, the complainant was reclassified from Level I to a more restrictive custody Level II. In the MDOC’s Position Statement in response to the Complainant’s allegations, the MDOC said that because the Time Review Committee only awarded the Complainant 700 of the possible 7,557 special good time credit days, this re-set the Complainant’s early release date to 2028. As a result, the Complainant was not within three years of his early release date, and pursuant to MDOC policies and procedures the Complainant was not eligible to be classified as a Level I custody level.

In May 2009, the MDOC transferred the complainant to the Newberry Correctional Facility, approximately 335 miles north of the G. Robert Cotton Correctional Facility, in Michigan’s Upper Peninsula. According to the MDOC, the MDOC transferred the Complainant to make space for an inmate who was transferring from the Newberry Correctional Facility to the G. Robert Cotton Correctional Facility because he was to be released soon. In the MDOC’s May 8, 2009, Transfer Order, the MDOC notes that, “[p]risoner is being transferred to accommodate incoming discharge from NCF.” Warden Scutt told the OCR that the MDOC transferred the Complainant because there was nothing tying the Complainant to the G. Robert Cotton Correctional Facility, such as medical needs, and that the MDOC never takes race into consideration when determining the placement of an inmate.

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<sup>5</sup> ██████████ told the OCR that while ██████████ Time Review Committee evaluated the number of special good time credit days to award on his maximum sentence (“maximum review”), as compared to the “minimum review” that the Time Review Committee conducted of the Complainant, the Committee reviews the file in the same manner and takes the same factors into consideration.



## **RELEVANT MDOC POLICIES AND PROCEDURES**

The OCR reviewed various MDOC policies and procedures regarding special good time credits, classification of inmates, and transfer of inmates. Pursuant to MDOC Policy Directive No. 03.01.100, *Good Time Credits*, inmates convicted of an offense committed prior to April 1, 1987, are eligible to earn special good time credits, which may be granted to an inmate who has received consistently good to excellent assignment reports during the review period and made satisfactory progress toward completing reception facility recommendations, or has performed a specific exemplary or meritorious act. According to the G. Robert Cotton Correctional Facility Operating Procedure No. 03.01.100, *Good Time Credits*, inmates may earn special good time credits on the minimum and maximum terms of the inmate's sentence, and the special good time reviews are completed once on the inmate's minimum and once on the inmate's maximum sentence terms, approximately eleven months prior to the inmate's minimum or maximum release date. Pursuant to this Operating Procedure, the warden shall ensure that each eligible inmate has a Time Review Committee comprised of the inmate's residential unit manager or assistant resident unit supervisor, a resident unit officer assigned to that inmate's housing unit, and a work or school assignment supervisor, if applicable, and the Committee shall review the inmate's conduct and progress for the entire period of the inmate's incarceration. Specifically, the Time Review Committee "shall review a prisoner's overall behavior in the housing unit, school and work setting using established criteria and then make a single recommendation to the warden as to whether to grant available Special Good Time (SGT) credits." The decision to grant special good time credits can only be made by the warden, and wardens shall consult with the deputy director of CFA prior to deciding whether to grant special good time on an inmate's maximum sentence.

In regard to the classification of inmates to appropriate custody levels, MDOC Policy Directive No. 05.01.140, *Prisoner Placement and Transfer*, states that, "[a] Warden of an institution with multiple security levels may authorize the transfer of a prisoner to another security level within that institution." According to MDOC Policy Directive No. 05.01.130, *Prisoner Security Classification*, "prisoners shall be classified according to management and confinement requirements necessary for protection of the general public, prevention of escape, maintenance of control and order, and the safety of staff and prisoners," and shall be classified at Levels I through V and segregation. This Policy Directive states that prisoners shall be rescreened for security classification under certain circumstances, including if staff have reason to believe that the inmate's security level would change. The Policy Directive further states that staff should conduct the rescreening using the "Security Classification Screen – Review" form CSJ-481; this form lists fourteen factors that staff should take into consideration when determining an inmate's custody level, including whether the inmate is within three years of the inmate's earliest release date.

As for the transfer of inmates between MDOC institutions, pursuant to MDOC Policy Directive No. 05.01.140, MDOC shall utilize a transfer order when transferring an inmate

from one institution to another and shall note the purpose of the transfer, and the CFA deputy director or a designee must approve several types of inmate transfers, including when a transfer is to a security level equal to the security level of the sending facility, unless the transfer is to security Level I. MDOC Policy Directive No. 05.01.140 discusses how inmates may be placed in facilities based on security, medical, programming, and service needs. According to MDOC Policy Directive No. 05.01.140 and MDOC Policy Directive No. 03.02.101, *In-Reach Services*, certain MDOC facilities are designated as "in-reach facilities," where inmates receive specialized programming, assessment, and transition services to assist them in successfully transitioning into the community. According to these policies, inmates who are granted parole contingent upon completion of in-reach services, or inmates who are deemed to need in-reach services prior to discharge, shall be transferred to the in-reach facility servicing the county where the inmate will be released.

### **APPLICABLE LEGAL STANDARDS**

Title VI of the Civil Rights Act of 1964 (Title VI) provides that "[n]o person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d. Additionally, the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), under which the MDOC receives DOJ funding, contains a discrimination provision modeled after Title VI that prohibits funding recipients from discriminating on the basis of race, color, national origin, sex, and religion. 42 U.S.C. § 3789d(c)(1). To prove discrimination under these statutory provisions, the evidence must establish an intent to discriminate. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265 (1977). Discriminatory intent may be shown by such factors as substantial disparate impact, a history of discriminatory actions, procedural and substantive departures from the norms generally followed by the decisionmaker, and discriminatory statements. *Id.* at 265. It is important to note that when an individual alleges discrimination by correctional officials, exceptionally clear proof of discrimination is required. *McKenzie v. Alabama Dep't of Corr.*, No. 2:11-CV-97-ID, 2011 WL 1004875, at \*1 (M.D. Ala. Feb. 24, 2011) (citing *Fuller v. Georgia Bd. of Pardons & Paroles*, 851 F.2d 1307, 1310 (11<sup>th</sup> Cir. 1988)).

In the absence of direct evidence of intentional discrimination, a claim of disparate treatment under Title VI can be analyzed using the burden shifting scheme established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), a case interpreting Title VII of the Civil Rights Act of 1964 (Title VII).<sup>6</sup> Under *McDonnell Douglas*, the evidence must first establish the following elements of a *prima facie* case of discrimination: (1) that the

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<sup>6</sup> Courts have held that the *McDonnell Douglas* burden-shifting framework under Title VII also governs Title VI claims. See *Paasewe v. Ohio Arts Council*, No. 02-3843, 74 Fed.Appx. 505, 508 (6<sup>th</sup> Cir. 2003) (applying *McDonnell Douglas* to Title VI claim); *Fuller v. Rayburn*, 161 F.3d 516, 518 (8<sup>th</sup> Cir. 1998); *Quarles v. Oxford Mun. Separate Sch. Dist.*, 868 F.2d 750, 754 n. 3 (5<sup>th</sup> Cir. 1989).

complainant is a member of a protected class; (2) that the complainant was eligible for a federally assisted program or activity; (3) that the complainant suffered an adverse action; and (4) that similarly situated individuals outside the protected class were treated more favorably. *McDonnell Douglas*, 411 U.S. at 802; *Paasewe*, 74 Fed.Appx. at 508. If the evidence establishes a *prima facie* case of discrimination, the responding agency must articulate a legitimate, nondiscriminatory reason for the action. *Id.*

The DOJ regulations implementing Title VI further prohibit funding recipients from retaliating against individuals for filing a complaint of discrimination or otherwise engaging in protected activity under Title VI. 28 C.F.R. § 42.107(e). To establish a claim of retaliation, the evidence must demonstrate the following: (1) the complainant engaged in protected activity; (2) the agency was aware of the protected activity; (3) the agency took an adverse action against the complainant; and (4) a causal connection exists between the protected activity and the adverse action. *Chandamuri v. Georgetown University*, 274 F.Supp.2d 71, 84 (D.D.C. 2003); *Ford v. General Motors Corp.*, 305 F.3d 552, 553 (6<sup>th</sup> Cir. 2002) (addressing retaliation under Title VII).

## **ANALYSIS**

### **Race Discrimination Claims**

Based on the information that is before the OCR, it does not appear that the MDOC departed from established norms or procedures when it did not award the Complainant all of the special good time credit days he earned, reassigned him from custody Level I to custody Level II, and transferred him to the Newberry Correctional Facility. The OCR's investigation also did not find any other evidence of discriminatory intent, such as discriminatory statements by the decisionmakers. Furthermore, the evidence does not establish a *prima facie* claim of race discrimination as set forth in *McDonnell Douglas*.

### **Special Good Time Credit Days**

In regard to awarding the Complainant only 700 of approximately 7,557 special good time credit days on his minimum sentence, the MDOC appears to have followed MDOC and G. Robert Cotton Facility policies and procedures regarding the award of special good time credits, MDOC Policy Directive No. 03.01.100 and G. Robert Cotton Correctional Facility Operating Procedure No. 03.01.100. Pursuant to these documents, the MDOC convened a Time Review Committee to review the Complainant's record while incarcerated at the MDOC. While the OCR has concerns that [REDACTED] appears to be the only member of the Time Review Committee who reviewed the Complainant's file and his entire history while incarcerated, and the other members merely deferred to her recommendation, it does appear that [REDACTED] conducted a thorough review and was very familiar with the Complainant's history at the MDOC. It also appears that Warden Scutt conducted a similar thorough review of the Complainant's record. While the MDOC policy and the G. Robert Cotton Facility procedures document do not provide much guidance for what objective criteria a Time Review Committee or warden should



take into consideration,<sup>7</sup> both [REDACTED] and Warden Scutt expressed concern regarding the Complainant's lack of accountability for his behavior and his history of blaming of others for his actions. Warden Scutt told the OCR that her initial decision to not award any special good time credit days was also based on the fact that the Complainant had at least twelve incidents of misconduct during his incarceration. The evidence before the OCR does not indicate that the MDOC has a history of discriminatory actions or that any of the individuals involved in recommending or determining the number of special good time credit days to award made any discriminatory statements about the Complainant.

Additionally, the evidence is insufficient to demonstrate a *prima facie* claim of race discrimination. The information obtained by the OCR showed that although the MDOC decided to award [REDACTED], a White inmate, all of the special good time credit days that he earned, he is not similarly situated to the complainant. Both [REDACTED] and Warden Scutt noted that unlike the Complainant, [REDACTED] took responsibility for his actions and was accountable for his behavior, and Warden Scutt also stated that [REDACTED] had fewer misconduct tickets than the Complainant and that most of these incidents were not of a serious nature. Accordingly, [REDACTED] was not similarly situated to the Complainant for the purpose of determining the number of special good time credit days to award, and the evidence fails to satisfy the criteria set forth in *McDonnell Douglas*.

## **Reclassification to Custody Level II**

The evidence before the OCR is also insufficient to demonstrate that the MDOC departed from any established norms or procedures when it reclassified the Complainant from a minimum security custody Level I to the more restrictive custody Level II, or that the MDOC made any discriminatory statements in connection with this action. Pursuant to MDOC Policy Directive No. 05.01.140, MDOC staff shall rescreen inmates for security classification if staff have any reason to believe that the inmate's security level would change. This directive further states that staff shall use the fourteen factors listed on form CSJ-481 to determine an inmate's appropriate security classification; one of these factors is whether the inmate is within three years of the inmate's earliest release date. The MDOC stated that because the Time Review Committee only awarded the Complainant 700 of the possible 7,557 special good time credit days, this re-set the Complainant's early release date to 2028, and that since the Complainant was no longer within three years of his early release date he was no longer eligible to be classified as Level I. Therefore, the MDOC appears to have had a legitimate, non-discriminatory reason to reclassify the Complainant's custody level. In addition, the evidence does not establish a *prima facie* case of race discrimination regarding the reclassification, as the record before

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<sup>7</sup> The OCR strongly recommends that the MDOC revise MDOC Policy Directive No. 03.01.100 and G. Robert Cotton Correctional Facility Operating Procedure No. 03.01.100 to include some specific, objective criteria that members of a Time Review Committee and the warden should take into consideration when determining the number of special good time credit days to award an inmate. Specification of objective criteria will help to ensure consistency and fairness and to reduce the risk of a perception that the MDOC is relying upon discriminatory factors in reaching a determination.

the OCR does not contain any information showing that the MDOC treated a similarly situated inmate of a different race more favorably.

### **Transfer to the Newberry Correctional Facility**

The evidence is also insufficient to demonstrate that the MDOC discriminated against the Complainant based on race when it transferred the Complainant to the Newberry Correctional Facility. In accordance with MDOC Policy Directives No. 05.01.140 and No. 03.02.101, the MDOC decided to transfer an inmate from the Newberry Correctional Facility to the G. Robert Cotton Correctional Facility because the inmate was going to be released soon. The documentation before the OCR indicates that the G. Robert Cotton Correctional Facility offers in-reach services to inmates who are about to be released, while the Newberry Correctional Facility is not an in-reach facility. The MDOC told the OCR that it transferred the Complainant to make space for the incoming inmate, and that it selected the Complainant for transfer because he had no specific needs that could only be met at the G. Robert Cotton Correctional Facility. In accordance with MDOC policies, the MDOC completed a transfer order to document the transfer which contained approval by a CFA staff member. There is no evidence that the MDOC departed from established norms or policies or made any discriminatory statements in connection with the Complainant's transfer, and the evidence does not show that the MDOC treated any similarly situated inmate of a different race more favorably.

### **Retaliation Claims**

Regarding the Complainant's retaliation claim, the evidence does not establish a *prima facie* claim of retaliation because the evidence is insufficient to demonstrate that any MDOC staff members involved in the actions complained of were aware that the Complainant may have assisted another inmate in filing a grievance alleging discrimination. The Complainant's name does not appear on the official grievances filed by inmate ██████████, and while the Complainant did sign his name as a witness to the Administrative Notices prepared by ██████████, the evidence is insufficient to demonstrate that any of the MDOC staff members involved in the actions complained of were aware of these Administrative Notices or that the MDOC processed these Notices as grievances. Nevertheless, even if the evidence demonstrated that the MDOC staff were aware that the Complainant assisted ██████████, the evidence shows that the MDOC had legitimate, non-retaliatory reasons for its actions and there is insufficient evidence of a causal connection between the Complainant's activity and the MDOC's actions.

### **CONCLUSION**

For the above reasons, the evidence is insufficient to demonstrate a violation of Title VI and the Safe Streets Act and their implementing regulations. Accordingly, we are closing

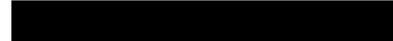
Daniel H. Heyns, Director  
Michigan Department of Corrections  
December 8, 2011  
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the administrative Complaint filed by the Complainant.

Sincerely,  
/s/

Michael L. Alston  
Director

cc: Warden Debra Scutt  
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