The Honorable Carol Shea-Porter
U.S. House of Representatives
Washington, DC 20515
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Dear Congresswoman Shea-Porter:

This responds to your letter dated May 22, 2018, regarding concerns associated with individuals who are confined to the State of New Hampshire’s Secure Psychiatric Unit (SPU). You attached a letter, dated August 3, 2016, signed by the Treatment Advocacy Center of Arlington, VA, that included New Hampshire State Representative Renny Cushing.

The attached letter alleges that the State of New Hampshire is systematically and intentionally violating the Constitution, as well as the civil rights and civil liberties of certain civilly committed and other individuals on forensic status who are confined to the SPU. The letter stresses that it is inappropriate to house these individuals in a correctional facility and calls for a new, secure facility or wing within the New Hampshire Hospital (NHH) and transfer of operations from the State Department of Corrections to the State Department of Health and Human Services. The letter also notes that over the years, several bills have been introduced in the New Hampshire legislature to address outstanding issues associated with the SPU, but that none of them have passed. The letter asks the Department’s Special Litigation Section to open a new investigation into this matter.

In October 2016, a few weeks after receiving the original letter, officials from the Department’s Office of Legislative Affairs (OLA) spoke to Rep. Cushing by telephone regarding the issues set out above. These OLA officials informed Rep. Cushing that the Department was unable to provide assistance on legislation, constitutionality assessments, or on legislative policy. OLA pointed him to various technical assistance materials and guidance from the Department that were available online to states and to the public.

As you may be aware, the Department is actively participating as Plaintiff-Intervenor in a class action case – Amanda D. v. Sununu; United States v. New Hampshire, No. 12-CV-53-SM – that is prompting the State to expand and enhance community capacity to address the needs of adults with serious mental illness in integrated settings, while minimizing contact with institutiona facilities like the SPU. Per the Settlement Agreement in this case, the State is to provide intensive community services through mobile crisis and Assertive Community
Treatment teams to help de-escalate crises and to address individualized needs onsite in community settings, without the need to transfer people to NHH or the SPU.

The Department is able and willing to raise pertinent issues, such as those set out in the attached letter, in the context of this case. We have already had talks with some party representatives about how to address outstanding issues and the Department is committed to continuing such efforts going forward. Nonetheless, the Department does not have the authority to represent or to seek relief for any single individual, including those at the SPU.

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,

John M. Gore
Acting Assistant Attorney General
Civil Rights Division