



MINNESOTA SHERIFFS' ASSOCIATION

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St. Paul City Attorney Lyndsey Olson

400 City Hall

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February 28, 2018

Re: Request for Prosecution Consideration

City Attorney Olson:

I write this letter as general counsel to the Minnesota Sheriffs Association (MSA) and at the specific direction of its Board of Directors. As will be explained below the MSA believes it is time for law enforcement and prosecution to take action to enforce the laws of the State of Minnesota that are regrettably being ignored to the peril of public safety, safety of sheriff staff and harmful to those in jail with severe mental illness. It is for that reason I am also sending a copy of this letter to the authorities noted below in the event additional criminal investigation is required.

I am including three attachments to this letter. The first attachment is the current version of Minn. Stat. 253B.10, subd. 1. Of importance to this discussion is the portion of that statute that was enacted in 2013 in Session Law Chapter 108, Article 4, Section 1. This section concerns persons who are in jails and are civilly committed to the Commissioner of Human Services as mentally ill. The relevant portion of that statute provides: "Patients described in this paragraph must be admitted to a service operated by the Commissioner within 48 hours." Unfortunately, as reflected in the second attachment the sheriffs of this state have documented at least 60 cases where the Commissioner of Human Services and/or her office and staff have utterly failed to comply with that known, mandatory, nondiscretionary, ministerial duty.

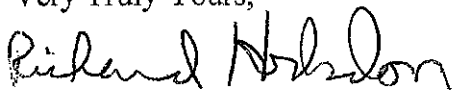
The spreadsheet results were compiled by William Hutton, Executive Director of MSA, from data provided by several sheriffs from the entire state. Please understand that there is strong reason to believe this is not the full extent of the Commissioner's Department violating this statute and it continues to occur even as I write this letter. I am sending you this

specific list because it appears that each case could and should be considered for a gross misdemeanor criminal prosecution.

The third document I attach is a copy of Minn. Stat. 609.43. Please note clause one that provides it is a gross misdemeanor to: "intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the office or employment within the time or in the manner required by law." When the two statutes are read together it should be obvious why the MSA Board unanimously directed me to send this letter to law enforcement and prosecution. We believe your office and Ramsey County to be the proper venue because the Office of the Commissioner who is failing or refusing to execute her statutory duty is located in your jurisdiction.

Be assured the MSA Board did not enter lightly into making the decision to seek criminal enforcement and prosecution under this statute. The MSA is aware the Commissioner believes resource constraints prevent her from complying with the law and on many occasions she and/or her staff have admitted they are not obeying Minn. Stat. 253B.10, subd. 1. However, the black letter wording of Minn. Stat. 253B.10, subd. 1 and 609.43(1) are crystal clear and the data we are providing you shows chronic, long term and on-going violations of the 48 hour statute. The legislature has clearly mandated for the safety of the public and jail staff and the treatment of the mentally ill in a humane setting the law must be complied with. The MSA now turns to the authority of your offices for help.

Very Truly Yours,



Richard Hodsdon

MSA Counsel

Cc: Chief Todd Axtell, St. Paul Police Department

Lori Swanson, Minnesota Attorney General

William Hutton, MSA Executive Director