



VIA ELECTRONIC MAIL: FOIA@vadoc.virginia.gov

May 21, 2020

Virginia Department of Corrections
P.O. Box 26963
Richmond, VA 23261

RE: Request for Records Related to Treatment of Muslim Inmates at Wallens Ridge State Prison

To Whom It May Concern:

Gay Gardner, a citizen of the Commonwealth of Virginia, and Muslim Advocates submit this request (“the Request”) under the Virginia Freedom of Information Act, Va. Code § 2.2-3700, *et seq.*, to inspect or obtain copies of public records that are in the possession of the Virginia Department of Corrections (“VADOC”) related to the treatment of Muslim inmates at Wallens Ridge State Prison (“Wallens Ridge”) in Big Stone Gap, Virginia.

I. Background

Wallens Ridge is a super-maximum security VADOC facility in Big Stone Gap, Virginia. It is the long-standing focus of advocacy and lawsuits centering on its mistreatment of inmates in its care.¹ In recent months, Ms. Gardner and Muslim Advocates have received complaints from Muslim inmates incarcerated at Wallens Ridge, who allege a series of unlawful activities that impact their ability to practice their faith and indicate a pattern of abuse by prison staff directed at Muslim inmates.

In April of this year, Muslim Advocates, along with two Virginia community organizations submitted a letter to Governor Ralph Northam, Attorney General Mark Herring, and VADOC Director, Harold Clarke.² This letter outlined accounts that the organizations had received from

¹ Elizabeth Weill-Greenberg, *Solitary Is A Tomb With No Escape Prisoners Allege*, THE APPEAL (May 6, 2019), <https://theappeal.org/path-out-of-solitary-is-an-endless-maze-for-virginia-prisoners-suit-alleges/>; Edward Fitzpatrick, *State Inmates Call Virginia’s Wallens Ridge ‘Hell’*, THE HARTFORD COURANT (June 19, 2000), <https://www.courant.com/news/connecticut/hc-xpm-2000-06-19-0006190028-story.html>.

² Letter from Nimra H. Azmi, Margaret Breslau, and Rameez Abid to Hon. Ralph Northam, Governor of Virginia, Hon. Mark R. Herring, Attorney General of Virginia, and Harold Clarke, Director, Va. Dep’t of



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Muslim inmates at Wallens Ridge that prison staff were preventing them from observing the holy month Ramadan, allegedly due to “too many” inmates seeking to participate in Ramadan.³ To advance Wallens Ridge’s decision to curtail the number of Muslims fasting this year, inmates at Wallens Ridge were told, often improperly, that they had not been designated as Muslim or that they had not submitted requests for such designation (in some circumstances, the inmates were unable to sign-up, because they were in segregation at the time sign-up was available). Furthermore, Ms. Gardner has received concerning reports regarding abusive treatment by Wallens Ridge staff towards Muslim inmates, including physical violence, retaliation, placing inmates in unhygienic conditions—including without access to a functioning toilet or shower, theft of religious books and articles, and the rampant use of derogatory and bigoted language by prison staff. Ms. Gardner has also received accounts that Muslim inmates observing Ramadan have not been provided sufficient food and drink during the month.

The above-mentioned issues implicate serious questions around the ethical and humane treatment of incarcerated persons. Furthermore, they concern fundamental constitutional questions relating to freedom of religion, equal protection, and freedom from cruel and unusual punishment. Accordingly, the records requested herein would provide information that is critically and urgently important to the public.

II. Request for Records

I, Gay Gardner, the requesting party, am a citizen of Virginia as required by statute. *See* Va. Code § 2.2-3704, *et seq.* I request the following records that concern the religious exercise of Muslim inmates at Wallens Ridge from January 1, 2018 until the completion of this Request:

1. Documents, including lists, reflecting the inmates at Wallens Ridge who requested the ability to participate in Ramadan in 2018, 2019, and 2020;
2. Documents, including lists, reflecting all inmates designated as Muslim (Sunni, Shia or any other sect), Nation of Islam, or Moorish Science Temple in 2018, 2019, and 2020;

Corrections (May 24, 2019), available at <https://muslimadvocates.org/wp-content/uploads/2020/04/2020.04.23-VDOC-2020-Ramadan-Letter-FINAL.pdf>.

³ The holiest month of the Muslim calendar, Ramadan lasts approximately 30 days. As part of fulfilling their religious duties during the month, observant Muslims must forego all food and all drink, including water, from sunrise until sundown. Muslims are religiously obligated to stop eating immediately upon sunrise and to break their fast promptly upon sunset. During Ramadan, Muslims must consume all food, water, and other necessities, like medication, during non-fasting hours. This year, Ramadan will end on or about May 23.

3. All policies and memoranda related to Ramadan operative at Wallens Ridge in 2018, 2019, and 2020;
4. The Ramadan meal delivery schedule and the content of the meals, including caloric breakdown, at Wallens Ridge in 2018, 2019, and 2020;
5. All policies and memoranda related to religious practice and accommodation operative at Wallens Ridge in 2018, 2019, and 2020;
6. All grievances, complaints, letters, or any other document filed by Wallens Ridge inmates with VADOC staff pertaining to their ability to observe Ramadan in 2018, 2019, and 2020 at Wallens Ridge;
7. All grievances, complaints, letters, or any other document filed by Wallens Ridge inmates with VADOC staff pertaining to their ability to observe Islamic practices and/or seeking religious accommodations in 2018, 2019, and 2020 at Wallens Ridge; and
8. All grievances, complaints, letters, or any other document filed by Wallens Ridge inmates with VADOC staff pertaining to harassment or hostility they have experienced by Wallens Ridge staff allegedly due to their Islamic faith in 2018, 2019, and 2020.

III. Description of Processing

The terms “records” is intended to be construed in the broadest possible sense and includes without limitation all records or communications preserved in electronic or written form, including, but not limited to, correspondence, regulations, directives, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, legal and policy memoranda, minutes or notes of meetings and phone calls, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, text communications between phones or other electronic devices (including, but not limited to, communications sent via SMS or other text, Blackberry Messenger, iMessage, WhatsApp, Signal, Gchat, or Twitter direct message), training materials or studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations. No category of material should be omitted from search, collection, and production.

Please produce records in electronic form. Where possible, please provide responsive material in electronic format by email to nimra@muslimadvocates.org and gaygardner@msn.com. Please furnish any responsive material being sent by mail to:

Nimra H. Azmi
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Please produce electronic records in their native format. With respect to the form of production, the Requestors request that responsive electronic records be provided electronically in their native file format, if possible. Va. Code § 2.2-3704(G). In particular, please produce electronic files in a format that contains the original metadata of the files. If the records cannot be produced in their native format, please (1) provide an explanation why the records cannot be so produced; and (2) please produce records electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and in separate, Bates-stamped files.

Please produce documents as they become available. Requestors prefer a rolling production. We would be happy to discuss a search priority and schedule for production.

If you withhold records or parts of records, please provide the justification for the withholding. If it is your position that any portion of the requested records is exempt from disclosure, please provide an index of those records as required and describe the documents claimed as exempt with sufficient specificity to permit a reasoned judgment as to whether the material is actually exempt. *Id.* § 2.2-3704(B)(1)-(2). Please ensure that the index describes the documents or portion thereof withheld, and for each withholding discusses the consequences of disclosing the sought-after information. Please supply a justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.

If you withhold portions of a record, please produce all segregable portions. In the event some portions of the requested records are, in your view, properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. *Id.* § 2.2-3704.01. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. Please state claims of non-segregability with the same degree of detail as required for claims of exemptions in an index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

We request a waiver of all fees associated with this Request, since disclosure of the

requested information is in the public interest. These materials are crucial in determining whether incarcerated people in the care of Virginia are being adequately permitted to practice their faith in accordance with constitutional and statutory guarantees. Further, the information requested is not being sought for any commercial purpose. However, if there are any fees for searching or copying these records, we request that you inform us of those costs before processing this Request. *Id.* § 2.2-3704(F).

The Virginia Freedom of Information Act requires a response to this Request within five business days. *Id.* § 2.2-3704(B). If you require additional time to respond to the Request, please reach out to the undersigned. *Id.* § 2.2-3704(C).

Very truly yours,

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