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DRVT publishes the DOC response to our investigation of the death of Michael Crosby:

The Vermont Department of Corrections was given a copy of DRVT's report on Mr. Crosby's death and provided a written response that DRVT makes available for your review below.

Based on the Department's response, DRVT remains concerned that important lessons from Mr. Crosby's death may not be used to prevent future needless tragedies.

There can be little doubt that "destructive behaviors that individuals choose" may have played a part in this tragedy, but DRVT believes that the facts in this report support our finding that adherence to proper policies and procedures by various staff and contractors might well have prevented this death.

The Department contends that our conclusions are based "upon conjecture and speculation" and misses the point that we have not quibbled with the medical examiner's findings on cause of death, but have tried to point out where close observation and medical evaluation and intervention might have led to a different outcome.

DRVT believes a careful and unbiased reading of our investigative report will allow readers to come to their own conclusions on these important points.

DRVT is the protection and advocacy system for the State of Vermont.

Email at info@DisabilityRightsVT.org,

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June 8, 2010

A.J. Ruben, Supervising Attorney
Disability Rights Vermont, Inc.
141 Main Street, Suite #7
Montpelier, VT 05602

Re: DRVT Investigative Report on the Death of Michael Crosby

Dear Mr. Ruben:

Thank you for sending DRVT's report on its investigation into the death of Michael Crosby and affording the Department of Corrections an opportunity to respond.

We disagree with DRVT's contention that the DOC is responsible for "negligent conduct that contributed significantly to Mr. Crosby's death." As the Chief Medical Examiner determined after conducting an autopsy, Mr. Crosby's death was an accident that resulted from his substance abuse and overdose of prescribed and non-prescribed medication. He further found that contributory factors to Mr. Crosby's death were hypertensive and atherosclerotic cardiovascular disease, obesity, and chronic substance abuse. No other contributory factors were noted. As to the manner and cause of Mr. Crosby's death, the clinical findings of a licensed physician are undoubtedly due greater weight than post hoc speculation.

We also disagree with DRVT's suggestion that the environment at the Chittenden Regional Correctional Facility was one in which staff did not expect prompt quality assurance reviews and consequences for behavior not meeting requirements." Tellingly, this suggestion is not supported by any factual findings set forth in the report and belies any claim to intellectual honesty and objectivity.

In the end, the DOC cannot reverse or negate the destructive behaviors that individuals choose (such as morbid obesity, smoking, abusing drugs and alcohol, or refusing medical or mental health care for long periods).

We recognize that DRVT's purpose of providing this report is in part "to illuminate areas of concern and promote improvements in future services, policies, and responses to prisoners with disabilities throughout Vermont." Indeed, the DOC always welcomes objective, fact-based recommendations that can improve its delivery of medical care to thousands of Vermonters every year. In the past, some of DRVT's reports have contained valuable recommendations that have helped shaped the DOC service delivery system. However, recommendations based upon conjecture and speculation illuminate little more than the bias underlying them such as are contained in this report.

Despite being in strong disagreement with DRVT's inaccurate assertions in this matter, we recognize that, as with any human endeavor, the DOC can improve. To that end, the DOC solicits and receives advice and recommendations from numerous individuals and groups on how it can better the quality of the vital services we provide. As mentioned above, in the past, the DRVT has been one of these groups. It is our hope that in the future, DRVT will return to providing advice and recommendations based upon fair and accurate conclusions.

Sincerely,

Andrew A. Pallito
Commissioner