



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

AUG 15 1994

Ms. Pamela Slater
Chairman, San Diego County
Board of Supervisors
Room 335
1600 Pacific Highway
San Diego, CA 92101

Re: Notice of Findings Regarding the San Diego County
Jails, pursuant to 42 U.S.C. Section 1997b

Dear Ms. Slater:

I write regarding our continuing investigation of the San Diego County Jails pursuant to the Civil Rights of Institutionalized Persons Act ("CRIPA"), 42 U.S.C. § 1997 *et seq.* Consistent with statutory requirements, we are now writing to advise you of the findings of this investigation. Our findings are founded upon on-site reviews of conditions at the jail facilities by various consultants, interviews of staff, and review of appropriate documentation.

As you may know, expert consultant visits of the jail facilities took place in late 1991 and March and April of 1993. Because the jail system was in transition at the close of 1991, it was decided that this Department would defer making any findings until a reasonable amount of time had expired to determine what changes would be effected. Our 1993 visits have disclosed significant improvements in the physical plant and the management of the jail system. The closing of outmoded facilities and the addition of the East Mesa and George Bailey Detention Facilities and the direction given to the Detention Division by Mr. James Painter, Director of that Division, have brought about improvements in some conditions at the jails as contrasted with our evaluations in 1991. It should also be noted that our consultants expressed appreciation for the assistance given to them by Mr. Painter and the jail personnel in their most

U.S. v. San Diego



JC-CA-004-001

recent visits. Consistent, however, with the requirements of CRIPA, we wish to advise you of the conditions which we believe remain in violation of the United States Constitution, the supporting facts underlying those conditions, and the minimum measures which are needed to remedy the identified problem areas. These findings are based upon our 1993 tours.

In setting forth our findings, we recognize that the San Diego Jails confine both pretrial detainees and convicted persons. In general, inmates may not be deprived of their basic human needs while incarcerated and must be protected from harm. See, Estelle v. Gamble, 429 U.S. 97 (1976). With respect to pretrial detainees, the Fourteenth Amendment prohibits punishment of these persons or any restrictive condition or practice which is not reasonably related to a legitimate governmental objective such as safety, order or security. Bell v. Wolfish, 441 U.S. 520 (1979). Inmates convicted of crimes and confined in jails are protected against cruel and unusual punishment as set forth in the Eighth Amendment to the Constitution. See, Rhodes v. Chapman, 452 U.S. 337 (1981); Wilson v. Seiter, ___ U.S. ___, 111 S.Ct. 2321 (1991).

Our evaluation of the jail system included on-site reviews at Central Detention, Vista, Las Colinas Women's, South Bay, and some evaluations of the new jails recently added to the San Diego system, East Mesa and George Bailey Maximum Security. It is our understanding that these are now the components of the jail system housing County of San Diego inmates, although at least one of the former facilities is operated by county employees on behalf of the Federal government. Some Federal inmates are also housed in facilities primarily holding county inmates. Those facilities are subject to our investigation. Our understanding is that at least two other jail facilities are now permanently closed, El Cahon and Las Colinas Men's.

The following sets forth in summary the conditions which result in unconstitutional conditions of confinement of the prisoners confined in San Diego jails. Remedial measures must be taken at the San Diego jails to ensure that the inmates housed there are not deprived of rights guaranteed to them under the Constitution. Those measures are set forth below.

I. Security, Supervision and Dangerous Practices

1. Staffing and supervision. Inadequate correctional officer staffing at Central Complex, Vista and South Bay facilities present a danger to the safety of inmates. At Central Complex only two deputies are assigned to supervise up to one hundred seventy-five inmates on a floor. Due to an insufficient relief factor, there are many instances when only one officer is on duty on the entire floor. This number of deputies is totally inadequate and represents a definite threat to the safety of the

inmate population. At Vista, there is only one deputy on the floor and often this officer is out of the unit "roving" to other inmate housing areas. The officer in the control center cannot attend to incidents on the floor in any real sense of intervention. Here, again, there is insufficient provision for relief. The situation is essentially the same at South Bay. The use of so-called "tank captains," inmates designated to provide "good order" in housing units, has resulted in some inmate tank captains assuming authority over other inmates. This is particularly the case at facilities such as Central Complex which suffer from correctional officer staff shortages. The use of inmates to provide security for other inmates is unacceptable and correctional officer staffing is inadequate to provide reasonable safety to inmates.

2. Crowding. Although the San Diego jail system is under state court order limiting inmate populations at various facilities, and the United States accepts those limits as reasonable, there are two instances of crowding which are not addressed by the capacity limitations already in place. At the Central jail complex, the booking area houses inmates for as long as seven days in crowded triple-bunked areas, a situation which is dangerous from a safety and health standpoint. At Las Colinas Women's, rooms in the "C" Unit are triple-bunked without toilet facilities in them. There have been instances when the rooms have been "locked down" at night and inmates have been forced to defecate in wastebaskets. Such crowding and its attendant consequences create a health and sanitation risk and is not humane treatment.

3. Classification. Although an inmate classification system is in place, there are two problems system-wide which need to be addressed. The current system does not include information regarding the prior behavior of the inmate, a most important predictor of future conduct. Moreover, an assaultive inmate can be removed from one facility and returned, for example, to Central Complex without classification authorities knowing of the move. This provides serious potential for exposing staff or inmates to assault.

4. Dangerous Practices. San Diego jails utilize so-called "safety cells," padded single cells without beds with holes in the floor to flush excrement. In Central Complex in particular, but other jails as well, the cells are in areas not easily supervised. These cells have been alleged to be the venue for untoward actions by some staff. Although we are advised that the cells are not to be used for purposes other than dealing with combative or self-destructive inmates in the short term, our review of their use demonstrated that they have been used for purposes of administrative segregation in violation of Detention Division policy and in a manner which expose inmates to serious danger.

Equipment on "Emergency Response Wagons" is not properly controlled. These carts contain disturbance control equipment necessary and appropriate to deal with security related matters. At the Central Jail and South Bay every correctional officer has a key to access this equipment. There is no logbook or supervision of any kind regarding the distribution of riot control equipment. Moreover, at South Bay, the cart was not secured behind a locked door of any kind. These practices present an unacceptable potential for harm or improper use of equipment and a gross failure of officer supervision.

Minimum Remedial Measures Pertaining to Security and Supervision.

1. The jails must provide additional correctional officer staff as indicated to provide for appropriate inmate safety and security.
2. The jails must discontinue the practice of designating "tank captains" or otherwise using inmates to supervise other inmates.
3. The jails must set reasonable limits on the number of inmates housed in the Central Complex booking area and impose a 48 hour limitation on any inmate staying in that area.
4. The jails must provide adequate access to toilet facilities for women housed on Unit "C" at Las Colinas, and limit the population of that unit to the number which can reasonably be accommodated by existing toileting facilities.
5. The jails must refine the present inmate classification system to include data on prior inmate behavior and implement a system to assure that inmates moved from one facility to another are pre-cleared by classification authorities.
6. The jails must either discontinue the use of "safety cells" or provide for placement of television cameras within secure recessed fixtures in each cell to ensure proper surveillance and supervision.
7. The jails must provide and use logbooks for all use of emergency response equipment and limit access to Emergency Response Wagons to the Watch Commander or Sergeants.

I. Medical Care and Housing of Suicidal Inmates

Medical care of inmates in the San Diego jail system has been changing since this Department first visited the jails in late 1991. At the time of the March and April 1993 visits, the United States was made aware of the creation of and soon to be opened medical facilities at the new George Bailey detention center. Now that the medical unit is opened at that facility, San Diego has acquired dedicated medical beds for its system together with a new infirmary. This represents a significant achievement and deals with one of the most pressing problems facing the jail system. However, a number of significant problems remain with respect to the provision of adequate medical services.

1. Physician staffing. Although a Medical Director has been hired, review of actual physician staffing disclosed significant shortcomings. Even with the utilization of part-time physicians, the Detention Division does not have sufficient numbers of physicians to treat the inmate population in the system now approaching 5000 persons held per day and over 120,000 bookings per year.

2. Intake screening. The medical screening process at the Central Complex intake facility is unacceptable because of the lack of privacy in the interview process. Due to a process which amounts to group interviews, it is impossible for staff to obtain accurate, reliable and confidential information during the screening interview. Moreover, medical screening examinations were only performed on approximately 40% of booked inmates in 1991-92. There is no adequate medical examination area in intake at the Central Complex. Las Colinas and Vista similarly lack a private interviewing and medical screening area. Only a very small percentage of inmates are screened for contagious tuberculosis even though this is a jurisdiction with higher than average rates of tuberculosis infection. The screening which does exist is perfunctory and is often not done by persons medically trained at the emergency medical technician level or above. Inadequate screening for sexually transmitted disease is likewise the case at San Diego's intake facilities.

3. Equipment. Medical and dental equipment at the Central Complex jail is inadequate for the number of inmates needing basic services. Dental equipment and X-Ray equipment are insufficient to provide adequate medical care at this facility. Our sanitation consultant did note the lack of a dental sterilization unit at the time of his visit in 1993 to the new Bailey Detention Facility.

4. Policy and procedure. Since our initial visits to the jails in late 1991, there has been considerable improvement of medical policies. Policies remain deficient with respect to

tuberculosis and AIDS. Use of "standing orders" by physicians, a means of compensating for lack of physician staff, gives nurses inappropriate authority to prescribe medications. Our consultant noted instances wherein nurses' medication orders were not countersigned by a physician within 24 hours as required by generally accepted medical practice.

5. "Safety cells" and housing for mentally ill inmates. Although "safety cells" are allegedly no longer used for medical purposes, it is our understanding that psychiatric patients may be held in these cells for days at a time. Except for the most short term use, this utilization is unacceptable because these cells pose unreasonable risks of harm to the mentally ill inmates housed in them. In addition, there are cells on the sixth floor of the Central Complex used for psychiatric patients which represent a danger, particularly to suicidal persons. Beds in this unit contain springs which can be fashioned into weapons or used in suicide attempts. Moreover, the cells have exposed electrical conduit pipes which could easily provide a means for inmates hanging themselves. The problem of beds containing springs also exists at the "A" unit of Las Colinas Women's facility.

Minimum Remedial Measures Pertaining to Medical Care and Housing of Suicidal Inmates.

1. The jail system must provide additional physician staffing to properly provide emergency and sick call care consistent with the system's inmate population. A minimum of five full time equivalent physicians is required in order to provide adequate emergency care and a system of sick call which meets generally accepted medical standards.

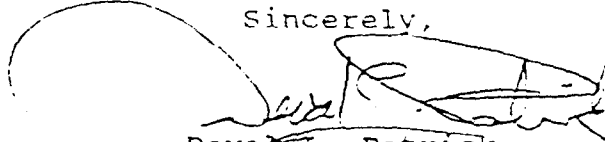
2. Intake screening must be improved at all intake facilities. At minimum, screening must be done by medically trained persons rather than corrections officers. Areas must be provided for confidential medical interviews at intake. Screening for infectious diseases, particularly tuberculosis and sexually transmitted diseases, should be part of the intake process, or should take place within a short time frame thereafter.

3. Additional dental and X-Ray equipment is required at Central Complex in order to provide adequate dental services. Sterilization units should be acquired for dental services to prevent transmission of disease.

4. Policies and procedures must be developed with respect to tuberculosis and AIDS issues, including testing of all inmates for tuberculosis who are in the system for a week or longer. Use of physician "standing orders" for nurses should be limited to that which is generally accepted medical practice.

feel free to call Andrew J. Barrick, Senior Trial Attorney,
Special Litigation Section, at (202) 514-6249.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval L. Patrick", written over a horizontal line.

Deval L. Patrick
Assistant Attorney General
Civil Rights Division

Enclosures

cc: Mr. Jim C. Roache
Sheriff
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Mr. Ian Fan
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