

Memorandum



AEP:MHN:AJB:TRP:LWJ:plh
DJ 168-12-11

Subject

Notice of Findings Regarding the
San Diego County Jail System

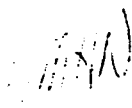
Date

July 1, 1994

To

Deval L. Patrick
Assistant Attorney General
Civil Rights Division

From

Arthur E. Peabody, Jr. 
Chief
Special Litigation Section

Attached is our proposed findings letter pertaining to conditions of confinement at the San Diego County, California jails. Our findings are founded upon our 1993 expert consultant visits to the jails and our review of appropriate documents at the facilities.

Currently there are six major jail facilities in operation in San Diego, Central Detention, Vista, Las Colinas Women's, South Bay, East Mesa and George Bailey. One additional facility is operated by the County for the Immigration and Naturalization Service, which was not the subject of our investigation since they rely on Marshals Service inspections. San Diego jails do also house a number of federal inmates together with county inmates under a contract with the Marshals Service.

Our findings are narrowly drawn and reflect only the most substantial problems cited by our expert consultants. As set forth in the letter, there are considerable differences in conditions of confinement at the various jail facilities. The worst conditions were noted at the Central Complex, however, other facilities have deficiencies less severe than Central but significant none-the-less.

Attachment

Approved: 

Disapproved: _____

Comments:

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.

II. 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.

and all other jail facilities should be serviced and fully operational.

Sanitation Findings.

Although our visits to the jail facilities disclosed some environmental sanitation problems, set forth in our consultant's report, we are of the opinion that the creation of a modern food production unit at the East Mesa facility has vastly improved food service and sanitation in the San Diego jails. Some problems with supervision remain at all facilities with respect to proper sanitation methods and food temperatures. However, we conclude that these problems do not result in violations of a constitutional magnitude.

Consultant's Reports.

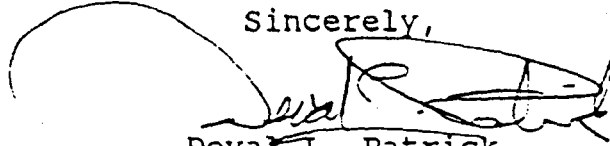
Enclosed with this letter are copies of our consultants 1993 expert evaluations of the San Diego jail facilities. In the case of fire safety, we enclose the consultant report of late 1991, as the Central Complex is the only facility which requires extensive fire safety renovations, and it was decided that further fire safety review was not needed at the time of the 1993 tours.

Pursuant to the Civil Rights of Institutionalized Persons Act, the Attorney General may initiate a lawsuit to correct deficiencies at institutions 49 days after appropriate local officials are notified of them and given an opportunity to remedy them. 42 U.S.C. § 1997b(a)(1). Therefore, we anticipate hearing from you as soon as possible but no later than 49 days after the date of this letter with any response you may have to our findings and a description of the specific steps you will take to implement each of the minimum remedies set forth above. If you do not respond within the stated time period, we have no other alternative than to consider initiating an action against your jurisdiction to remedy the identified unconstitutional conditions.

We anticipate working with you and other County of San Diego officials to resolve this matter in a reasonable and expeditious manner. If you or any of your staff have any questions, please

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

Sincerely,



Deval L. Patrick
Assistant Attorney General
Civil Rights Division

Enclosures

cc: Mr. Jim C. Roache
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County of San Diego

Mr. Ian Fan
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Alan D. Bersin, Esquire
United States Attorney

Mr. Eduardo Gonzalez
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United States Marshals Service



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November 21, 1994

Freedom of Information Act Officer
Civil Rights Division
US Department of Justice
10th & Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Sir or Madam:

Re: Freedom of Information Act Request

This is a request for documents made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. The undersigned requests the following documents:

1. for the time period beginning October 1, 1990 to the present, copies of written notifications made pursuant to 42 U.S.C. § 1997b(a)(1) [the so-called "49-day letters"];
2. for the time period beginning October 1, 1990 to the present, copies of the section or sections of the Attorney General's annual report to Congress (made pursuant to 28 U.S.C. § 522) which contains the information required by 42 U.S.C. § 1997f.

The undersigned is willing to pay fees up to \$ 25.00 without prior approval. Please contact the undersigned at 619-531-6218 in the event fees exceed that amount.

Very truly yours,

LLOYD M. HARMON, JR., County Counsel

By *IAN FAN*
IAN FAN, Deputy