



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

Mr. Gerald Isler  
Chairman  
Clay County Commission  
P.O. Box 519  
Fort Gaines, GA 31751

June 1, 1995

Re: Notice of Findings from Investigation of  
Clay County Jail

Dear Mr. Isler:

On October 3, 1994, we notified you of our intent to investigate the Clay County Jail ("CCJ") pursuant to the Civil Rights of Institutionalized Persons Act ("CRIPA"), 42 U.S.C. § 1997 et seq. Consistent with the requirements of CRIPA, the purpose of this letter is to advise you of our findings from this investigation, the supporting facts, and to recommend necessary remedial measures.

Our investigation consisted of a tour of the facility with expert consultants, the examination of documents, and extensive interviews with prisoners and staff at the facility. We were accompanied on our tours by three consultants: a penologist, a medical expert, and a fire safety/environmental sanitarian, all with expertise in jail facilities. Throughout the course of this investigation, County officials and CCJ staff extended to us and our consultants their cooperation, for which we wish to convey to you our thanks.

In making our findings, we recognize that CCJ confines both pre-trial detainees and post-conviction inmates. In general, inmates may not be subjected to conditions that are incompatible with evolving standards of decency or deprive them of their basic human needs while incarcerated. See Estelle v. Gamble, 429 U.S. 97 (1976). With respect to the pre-trial detainees, the Fourteenth Amendment prohibits punishment of these persons and restrictive conditions or practices that are not reasonably related to the legitimate governmental objectives of safety,

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order and security. Bell v. Wolfish, 441 U.S. 520 (1979). For those convicted of a crime, the standard to be applied is the Eighth Amendment's proscription against cruel and unusual punishment. Wilson v. Seiter, 501 U.S. 294 (1991); Rhodes v. Chapman, 452 U.S. 337 (1981). When convicted prisoners are not, as here, separated from pre-trial detainees, the Fourteenth Amendment standard applies to all inmates.

CCJ was opened in 1882 and has a reported capacity of 16 inmates. On the day of our tour, the Jail housed 12 inmates. Based on our investigation, we believe that conditions at CCJ violate the constitutional rights of prisoners and that the Jail should be closed. CCJ is unfit for human habilitation and very dangerous.

#### **I. Correctional Deficiencies.**

A. Housing areas are grossly deficient. The housing areas of the Jail are archaic, unconscionable and contrary to evolving standards of decency. The Jail is essentially a late 19th century house with retro-fitted modular "cellblocks" on the second floor which resemble cages. The cells have only 17 unencumbered square feet and yet each houses 8 prisoners. This amount of square footage is insufficient for one person. The bunks are located so close together that standing between them to access the top bunk is extremely difficult. This is grossly unacceptable.

One of the cell units has only one means of egress from the only stairway. This is unacceptable and poses a serious fire hazard.

Female prisoners are housed on the first floor in a completely unsecured area. Reportedly, the Jail transfers female inmates to another county jail because of the insecure room. This means, as a practical matter, that the County provides housing only to male prisoners. This is unacceptable.

B. Staffing and supervision are inadequate. CCJ fails to provide adequate inmate supervision. Each cellblock is separated by a heavy steel door with a small window. The prisoners are required to scream for the assistance of a deputy and rely primarily on an inmate trustee for assistance such as medical care. Reportedly, jailers conduct visual inspections of the housing units. Jail officials informed us, however, that if the housing units are noisy, officers enter the housing units only if there are two officers available. Significantly, two officers are rarely scheduled on a shift.

Indeed, one officer is routinely scheduled per shift and has the dual responsibility of safeguarding the Jail and dispatching the City police and fire department.

It appears that the Jail fails to maintain incident reports involving incidents of violence.

C. Out-of-cell/exercise time is insufficient. CCJ fails to provide adequate out-of-cell opportunities for exercise. Dayroom areas fail to provide adequate opportunities for indoor exercise. Only one of the dayrooms has a bench where prisoners can sit; the other dayroom requires prisoners to stand all day or to sit on the floor. Prisoners are allowed outdoors once per week. There is no exercise equipment.

D. Access to religious services is inadequate. The Jail fails to afford reasonable access to religious services. Reportedly, the Jail has allowed a religious group to come to the Jail in the past. Our consultant, however, was informed that a local minister's request to make a religious visit was denied. According to Jail staff, the request for the visit was denied because it would require the Jail to afford other inmates the same opportunity. This is completely unacceptable. The Jail does not provide any religious services. Religious services or consultation initiated by inmates should not be arbitrarily denied.

E. Access to the courts and reading materials is inadequate. Jail policy requires that an inmate's legal mail be opened prior to delivery to the inmate. Indeed, numerous prisoners reported receiving opened legal mail. Additionally, prisoners are not allowed to seal outgoing legal mail. These practices are completely unacceptable.

## II. Deficiencies in Medical and Mental Health Care and Suicide Prevention.

A. Policies and procedures are inadequate. The Jail has an inmate handbook which details the use of sick call forms to access medical care. The Jail fails, however, to have adequate written policies and procedures regarding the provision of medical care.

B. Receiving screening and routine examinations are deficient. The Jail utilizes a standard form to obtain the medical history of inmates at intake. Our consultant discovered that this form is not routinely used. As such, medical screening is inadequate. Furthermore, the Jail does not examine prisoners or conduct any screening for tuberculosis. Indeed, the facility does not have any policies or procedures regarding tuberculosis or other communicable diseases.

C. Sick call is inadequate. Inmates access sick call by completing a form and submitting it to a jailer or trustee, who, in turn, submits it to the Sheriff to make an appointment with a local doctor. Inadequate notes are made as to when the request was received or even the disposition of the request. This "system" is defective.

D. Physician care is deficient. There is no person with medical training (e.g., in medical screening or medication distribution) present at the Jail. Moreover, there is no health care professional who assumes responsibility for ensuring medical attention is provided to the inmates. The Jail has only an informal agreement with a local doctor who reportedly provides services for the prisoners on an as needed basis. No medical records are maintained when the doctor sees the inmate for sick call. Only the doctor maintains a record of any patients sent to his office. No copy of this is sent to the Jail to ensure appropriate care. This is an unacceptable practice.

E. Medication practices are inadequate. Medication is maintained in an unlocked box on the window sill at the dispatcher's desk. This is unacceptable and contrary to generally accepted standards.

F. Mental health care and suicide prevention. The Jail is unable to provide appropriate observation for suicidal inmates and, therefore, transfers inmates to another county jail. Routine mental health care is reportedly provided on an as needed basis.

### III. Environmental Health and Safety Deficiencies.

A. Archaic structure presents serious safety hazard. As noted earlier, the Jail is located in a retrofitted 19th century house and is both antiquated and outmoded. See discussion, p.2. As such, it represents in nearly all respects gross departures from generally accepted correctional standards. A modern facility is needed.

B. Fire safety is inadequate. As noted above, there is only one exit from Cell #1, the main stairway leading to the upstairs. This is an unacceptable fire hazard. The stairway fails to provide adequate egress from the building. Significantly, the Jail does not have any smoke detectors. The fire department can only be alerted by the activation of a switch by the dispatcher.

The Jail does have an emergency fire plan. It does not, however, have an emergency plan for any other type of natural disaster, e.g., flood. The Jail does not conduct fire drills. The Jail does not have an emergency generator.

Our consultant discovered a live electrical outlet approximately a foot away from a toilet without a ground fault circuit interrupter.

C. Plumbing is deficient. The lavatory in the female housing area does not have hot water. The showers in the male housing areas have a step nearly 18 inches high. This poses an extreme danger as it increases the probability of slip and fall accidents. The Jail did not have a vacuum breaker on a hosebib, which can result in back siphonage and water contamination. Our consultant noted that the hot water closet near Cell #1 was cracked open, apparently for past repairs. This area needs to be sealed to prevent harborage areas for vermin and to prevent fire transmission.

D. Bedding supplies. The Jail does not provide any bedsheets or pillows for inmate beds. This practice is unacceptable.

E. Food services are deficient. Food is provided for the Jail by an outside contractor. Our consultant did not evaluate the sanitation practices of the provider. Temperature measurements were, however, taken of the afternoon meals delivered to the inmates. The food was nearly 40 degrees below the minimum level necessary to prevent food-borne illness.

F. Lighting is inadequate. The lighting in the Jail's cellblocks is inadequate, measuring at or below 10 foot-candles. Many lights were burned out and had not been replaced. Lighting at this level is insufficient to protect against possible eye strain and inhibits adequate cleaning and maintenance of cells and personal hygiene.

#### **IV. Remedial Measures Regarding Correctional Deficiencies.**

A. Housing areas. Construct a new jail; in the interim renovate the current facility to afford minimal safety.

B. Staffing and supervision. Improve Jail staffing to ensure adequate surveillance and supervision of prisoners. Conduct and properly document routine and, as needed, visual inspections of the housing areas. Inspections of the housing areas must not be compromised due to staff scheduling. Incidents involving violence must be properly documented, both in the individual offender's records and in a master log for the Jail. Master logs regarding violent incidents must be evaluated at appropriate intervals to enable jail administrators to properly deploy and evaluate security personnel.

C. Out-of-cell/exercise time. Inmates must be provided with exercise outdoors, when weather permits, one hour per day, five days per week. Reasonable exercise equipment and activities should be provided for both indoor and outdoor exercise.

D. Access to religious services. Ensure free exercise of religion by permitting religious services and consultation.

E. Access to the courts and reading materials. Legal mail may only be opened in the presence of the inmate to whom it is addressed. Outgoing legal mail must be sealed by inmates outside the presence of Jail staff.

**V. Remedial Measures Regarding Medical and Mental Health Care.**

A. Policies and procedures. Create and implement comprehensive written policies and procedures regarding the provision of medical care.

B. Receiving screening and routine examinations. Thoroughly screen and assess the medical history of every inmate within 24 hours of an inmate's entry into the Jail. Ensure that medical conditions are referred to a health care professional. Complete physical exams must be performed by qualified medical staff within 14 days of an inmate's entry into the Jail. Inmates housed in the Jail for more than seven days must be tested for tuberculosis and other communicable diseases, as appropriate.

C. Sick call. Ensure that sick call slips are dated and signed by the submitting inmate, receiving staff member and attending health care professional. Ensure that inmates receive prompt medical and mental health care.

D. Physician care. Retain the services of a "responsible health authority" ("RHA"). The RHA may be a part-time registered nurse, but must be under a doctor's supervision. The registered nurse must have regular hours, conduct routine, periodic triage and "walkthroughs" of the housing areas.

E. Medication. Medication must be maintained in a secure, locked area.

F. Mental health care and suicide prevention. Create and implement comprehensive policies and procedures for the provision of mental health care. Create and implement suicide precautions. Ensure all staff are trained in recognizing and promptly referring to a qualified professional individuals exhibiting common symptoms of mental illness, mental retardation or suicidal behavior.

**VI. Environmental Health and Safety.**

A. General sanitation. Review and, as necessary, revise the Jail's housekeeping plan, and implement and document compliance. Ensure routine cleaning of all housing areas.

B. Fire safety. Provide a second door with means of egress from Cell #1. Provide smoke detectors throughout the housing areas. Provide automatic dispatch to the fire department in the event of fire or similar emergency.

Develop, based upon consultation with an appropriate professional, written plans for an emergency disaster, e.g., flood. Provide and maintain an emergency generator.

Correct and maintain all electrical outlets; provide ground fault circuit interrupters where necessary.

C. Plumbing. Improve plumbing pending construction of a new jail. Provide vacuum breakers on all hosebibs. Seal the hot water closet near Cell #1.

D. Bedding supplies. Provide each inmate with adequate bedding, to include, but not be limited to, a pillow, pillowcase, along with sheets and sufficient blankets.

E. Food services. Ensure that food reaches inmates at proper temperatures to protect against food-borne illnesses.

F. Lighting. Improve lighting pending construction of a new jail. Provide lighting adequate for reading and sanitation in the housing areas.

Pursuant to CRIPA, the Attorney General may initiate a lawsuit to correct deficiencies at an institution 49 days after appropriate local officials are notified of them. 42 U.S.C. § 1997b(a)(1). We expect to hear from you as soon as possible, but no later than 49 days after receipt of this letter, with any response you may have to our findings and a description of the specific steps you have taken, or intend to take, to implement each of the minimum remedies set forth above. If you do not respond within the stated time period, we will consider initiating an action against your jurisdiction to remedy the unlawful conditions.

We look forward to working with you and other County officials to resolve this matter in a reasonable and expeditious manner. If you or any member of your staff have any questions,

please feel free to contact the attorneys in the Special Litigation Section assigned to this matter, Shanetta Y. Brown, (202) 514-0195, David Deutsch, (202) 514-6270, and Christopher Cheng, (202) 514-8892.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval L. Patrick". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Deval L. Patrick  
Assistant Attorney General  
Civil Rights Division

cc: William H. Mills, Esquire  
County Attorney

Mr. Roger Shivers  
Sheriff  
Clay County Jail

James L. Wiggins, Esquire  
United States Attorney  
Middle District of Georgia