

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

FILED

JUL 24 1981

ROBERT E. BULLINGTON, )  
et al., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
WARDEN MORELAND, et al., )  
 )  
Defendants. )

EYVON MENDENHALL  
U. S. DISTRICT COURT  
E. DISTRICT OF MO.

No. 79-650C(2)

MAGISTRATE'S REVIEW AND RECOMMENDATION

Subject case was filed in the Federal District Court on May 30, 1979. A prior case, styled Johnson v. O'Brien, 76-210C(4), was considered by the Honorable John F. Nangle, who issued an order pertaining thereto on December 30, 1977. This prior case was consolidated into the Bullington case and referred to the undersigned Magistrate for review and recommendation. Said Magistrate had assisted in the resolution of the Johnson case.

COMPLIANCE WITH ORDER OF DECEMBER 30, 1977

Jail detainees in this matter are represented by Messrs. James L. Thomas and John P. Emde, who were of enormous assistance to the Court. In a preliminary report made to the Court on February 6, 1981, I indicated that said attorneys and myself made an unannounced visit at the St. Louis County Jail on February 3, 1981. At this time, we ascertained that the directives of your judgment and order entered on December 30, 1977, had been basically satisfied.

We then proceeded to examine the complaints addressed to the Court in Bullington v. Moreland, the prime case. This Court conducted a series of hearings and listened to the testimony of Bullington and several other County Jail detainees. The majority of the testimony lacked constitutional import and bordered on querulous carping. The complaints alleged in the petition and recited in the subsequent hearings, could be catagorized into twelve

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JC-MO-010-045

general areas, as follows:

- (1) Overcrowding by excess population.
- (2) Cold food and inadequate portions thereof.
- (3) Substandard medical-dental facilities.
- (4) Lack of a serviceable library.
- (5) Failure to provide prisoners with jail rules.
- (6) Lack of cleanliness.
- (7) Prisoner mail from courts and attorneys being censored.
- (8) Strip searches, especially after visits.
- (9) Antiquated visiting booths creating inadequate communication.
- (10) Internal assaults.
- (11) Lack of recreation.
- (12) Length of pretrial detention.

#### OVERCROWDING

Attached hereto is a breakdown of the various divisions of the County Jail indicating dimensions and population.

(A) Red zone.

This is the area that was constructed in compliance with the Court's order in Johnson v. O'Brien, supra. The area and the population comport with minimum circuit court directives.

(B) Green zone.

The common area afforded the twelve inmates in three 4 man cells, gives adequate square footage.

(C) North module.

This area contains nine 1 man cells which average out over 115 square feet per cell, per man. These are desirable areas that are used for trustees and favored detainees.

(D) South module.

This consists of ten rooms which are usually occupied by certified juveniles. These are spacious and adequate facilities affording each detainee over 112 square feet.

(E) Close security.

These five 2 men cells which are only 45 square feet per cell, pose some problem. While there is an adjacent day room that affords some 184 square feet, it can only be used by one or two men at a time, because of the friction existing in the unit. The result is that for the vast majority of the day, each detainee has only about 23 square feet of living area. This area could possibly be altered as was the red zone to incorporate the day room area into the cell area or reduce the population of each cell to one man, in order to comport with Eighth Circuit standards.

(F) Isolation.

The seven 1 man cells in isolation afford each man approximately 63 square feet.

(G) Infirmary.

The present infirmary has four beds in approximately 158 square feet. Considering the beds, this makes for pretty tight quarters, although it affords each patient approximately 40 square feet.

When you total the indicated capacity of the aforescribed units, you arrive at 147 detainee spaces. As I previously informed you, on the day we visited, there were 152 detainees in these spaces. If the close security area is unalterable, the population there should be reduced by five. This would reduce the total population to 142. However, the north and south modules, which are basically occupied by relatively low risk prisoners, could play host to an additional four cots or mattresses per unit on a quasi-temporary basis. We note, however, the use of additional cots is somewhat restricted. Presently, these cots are being placed in the north and south module day room areas. There are no toilet facilities in these day rooms. This, of course, could be altered by the County. This, then could give the indicated capacity of the County Jail as such, at 150 detainees.

Now the County maintains what they call an Intake

Unit, which has twelve 1 man cells. These are unclassified prisoners, who are undergoing processing. This unit usually has at least double the twelve man indicated capacity. This is accommodated by placing additional mattresses on the floor. The County does not consider this part of the jail proper for reasons best known to them. This area could accommodate twelve fold-down type bunks above the existing beds, which would, more or less, comfortably double its indicated capacity. It should be noted that the intake units, as they are presently utilized, are not suitable for long term detention. There is simply inadequate space to serve meals in these areas. This would furnish an additional 24 spaces for detainees, or intakees, whatever you choose to call them. The cost of the modification should be modest.

Mr. Moreland testified at the hearings that in addition to the cell overcrowding, he lacked space for:

- (1) An adequate law library.
- (2) Room for social workers.
- (3) Adequate lawyer-client visitation.
- (4) Kitchen expansion.
- (5) Larger infirmary.
- (6) Housing additional correctional officers.

Depending upon the outcome of the bond issue and, indeed, even before a successful bond issue election can come into fruition, these suggested alternatives have to be considered by both the Court and the County of St. Louis.

#### FOOD

Although the prisoners complain about cold food and inadequate portions, these complaints border on frivolity, and we concluded that many of the complaints were simply that certain prisoners did not like some types

of food served. I observed the food to be both wholesome and the portions adequate to the average appetite. All of the prisoners who testified before this Court appeared to be reasonably well nourished.

#### MEDICAL-DENTAL FACILITIES

I had previously reported to you that the medical program in the St. Louis County Jail was basically in conformance with your prior order made in the Johnson case. There is a 9:00 a.m. sick call five days a week, wherein the LPN actually patrols the corridors, picking up medical complaints. A physician visits the jail on Mondays, Wednesdays and Fridays, and a psychiatrist is available on Tuesdays, Thursdays and Saturdays. Dental problems are sent to Gumbo for general dental therapy. Previously, only extractions were handled at the County Hospital. The investigating Magistrate was unable to get any proof of sexual abuse from the medical personnel. One casual observation should be noted. Both LPNs work the same shift. Perhaps the County will be well advised to have one nurse work the morning shift and the other work the afternoon shift. This would afford at least 16 of the 24 hours a day, some medical coverage.

#### LIBRARY

For all practical purposes, there is no County Jail Library. There is a small room in which the walls are basically decked with advance sheets. The room is approximately 150 square feet and has a table in the center, which is made available to two prisoners at a time for a period of one hour. The social worker will make copies of cases needed from the courthouse library. Actually, the County should furnish a library which comports with the requirements set out in Tyler v. Satz, No. 77-918C(1) (E.D. Mo. 1978). This latter mentioned library was furnished by the City of St. Louis to its City Jail and has been enthusiastically received. It affords the detainees their

right to up-to-date legal information and utilizes much of their spare time in a pacific time consuming endeavor.

#### JAIL RULES

The County has recently adopted a detailed set of rules. Furthermore, each incoming detainee is given a summary of the major disciplinary rules. The jail administration has made a serious attempt to comply with due process requirements in the administration of its disciplinary rules. This complaint is thereby rendered moot.

#### CLEANLINESS

As previously reported, the Court's prior order has been carried out. A washer and dryer are available for laundering and the residents can use these facilities by putting their clothes in a bag, which is then fed to the machines by a trustee. Various detainees who testified before this Court complained there was not enough soap made available, but my personal inspection of the jail premises would indicate that it was basically clean.

#### MAIL CENSORING

Inmates complained and testified that incoming mail from the courts and attorneys was censored. County officials denied this. At any rate, the County should be made aware of prisoners' rights to uncensored in-coming mail from courts and attorneys, as per existing case law.

#### STRIP SEARCHES

There were allegations of senseless routine strip searches made in pleadings and testimony given thereon. The County has abandoned strip searches after non-contact visitation, which was a prior custom. Obviously, occasional strip searches are essential to security and should not be the concern of this Court.

#### VISITING BOOTHS

Jail residents complained of cumbersome communication problems in existing visiting booths. The communication

channels have been further barred to disallow the passage of contraband. This additional installation has created hearing problems. Actually, a plexiglass shield with telephonic communication on both sides would be the ideal solution to visiting communication.

#### INTERNAL ASSAULTS

Although there were complaints and testimony of prisoner assaults on one another, we were unable to verify any such physical abuse. There is no doubt but that there are occasional fights and no doubt the somewhat cramped quarters contribute to friction, which ultimately relieves itself in violence. However, this seems to be the way of man, and absent obvious tolerated brutality or the mixing of young prisoners with seasoned prior offenders, there is little that correctional officers can do to avoid occasional physical fighting. We do not feel that the evidence on this score invites judicial interference.

#### RECREATION

As previously reported, the County has installed a recreation area in one of the old courtrooms on the second floor of the Old Courthouse. When it was first opened for usage in 1980, there were two escapes from the area. The recreation area was closed for awhile to make construction alterations and the insertion of a correctional officer booth within the recreation facility. Since then, the exercise facility which include bar bells, strength testing devices, weight machines, foz ball machines, punching bags and a handball court have been used by the prisoners on a regular and acceptable basis. The recreation area is operated from 8:00 a.m. until midnight. Prisoners are given the opportunity to use the facility for one hour periods on rotating intervals. There is a maximum limit of eight detainees permitted to use the facility at any one time. This type of a facility does not necessarily replace a large outdoor activity area, but it at least

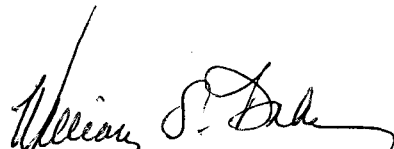
furnishes the essential recreational facilities as required by the courts.

PRETRIAL DETENTION

Bullington testified that 40% of the detainees were there for more than eight months awaiting trial. Mr. Moreland testified that the average pretrial detainee was in the County Jail eight and a half to nine months (he later indicated to the press that this computation was erroneous and that the average detention was some five months).

When you consider that the average federal pretrial detainee is kept barely over thirty days, and that the City Circuit Court pretrial detention period is three months, there is a suggestion that county trial acceleration could possibly lessen jail population. In any event, this question is not before the Court at this time.

The foregoing report is limited to the recommendations concerning the physical facilities of the existing St. Louis County Jail. This Court has assimilated, through the courtesy of county officials and county circuit judges, statistics concerning bond settings on prisoners, incarceration periods while awaiting trial, and court dispositions which could be made the subject of a supplementary report at some future date.

  
UNITED STATES MAGISTRATE

Dated: July 23, 1981



COUNTY JAIL DIVISIONS, DIMENSIONS AND POPULATION

- (96) RED ZONE Twelve 8 men cells, 32 ft. x. 8 ft. = 256 sq. ft.  
÷ 8 men = 32 sq. ft. per man.
- (12) GREEN ZONE Three 4 men cells, 8 ft. x. 14 ft. = 336 sq. ft.  
total + 564 sq. ft. day room = 900 sq. ft.  
÷ 12 men = 75 sq. ft. per man.
- (9) NORTH MODULE Nine 1 man cells, 58 sq. ft. per cell x 9 =  
522 sq. ft. total + 530 sq. ft. day room =  
1052 sq. ft. ÷ 9 = 115 sq. ' per man.
- (10) SOUTH MODULE Ten rooms, 52 sq. ft. ea. = 520 sq. ft. + 600  
sq. ft. day room = 1,120 ft. ÷ 10 = 112 sq. ft.  
(Juvenile,  
Certified) per man.
- (10) CLOSE SECURITY Five 2 men cells, 45 sq. ft. per cell. 45 sq. ft.  
x 5 = 225 sq. ft. total + 184 sq. ft. day room =  
409 sq. ft. ÷ 10 men = 40.9 sq. ft. per man.
- (7) ISOLATION Seven 1 man cells, 63 sq. ft. per cell per man.
- (3) INFIRMIRY Can accommodate 3 to 4 men in 158 sq. ft. ÷ 3.5 =  
40 sq. ft. per man.