



Office of the Assistant Attorney General

Washington, D.C. 20530

REGISTERED MAIL
RETURN RECEIPT REQUESTED

OCT 18 1993

Mr. Ray Boswell
President
Lauderdale County Board of Supervisors
410 21st Avenue, 11th Floor
Meridian, Mississippi 39301

Re: Notice of Findings of Investigation,
Lauderdale County Jail

Dear Mr. Boswell:

On May 3, 1993, we notified you of our intent to investigate the Lauderdale County Jail (hereinafter "Jail") pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 et seq. Consistent with statutory requirements, we are now writing to advise you of the findings of this investigation. Throughout the course of this investigation, County officials, including the Sheriff, County Attorney, and jail personnel, provided us with substantial assistance and their full cooperation. Our consultants expressed appreciation for this assistance, and we wish to join them in thanking you for your cooperation.

In making our findings, we recognize that both pretrial detainees and convicted inmates are confined at the Lauderdale County Jail. In general, inmates may not be subjected to conditions that are incompatible with evolving standards of decency or deprived of their basic human needs while incarcerated. See Estelle v. Gamble, 429 U.S. 97 (1976). With respect to the 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 ensuring the detainees' presence at trial or maintaining jail security. Bell v. Wolfish, 441 U.S. 520, 540 (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, ___ U.S. ___, 111 S.Ct. 2321 (1991); Rhodes v. Chapman, 452 U.S. 337 (1981). When convicted prisoners are not, as here, separated from pretrial detainees, the Fourteenth Amendment standard applies to all inmates.

CRIPA Investigation



JC-MS-003-002

Based on our investigation, we believe that conditions at the jail violate the constitutional rights of the inmates confined therein. These conditions are:

I. The Jail does not have Adequate Security and Supervision.

1. Staff and supervision. The Jail is severely understaffed, which subjects inmates to an unreasonable risk of harm. Currently there are only three officers assigned to the day shift (to cover three floors and populations as high as 178 inmates), yet there are seven different functions that can take one or more of the officers outside the Jail for hours at a time. There are no post positions on the 5th and 6th floors. Also, because of the heat in the summer, staff on duty tend to congregate in the air-conditioned 4th floor control room. Further, only two officers are assigned to night shift, both male, rendering any provision of night-time assistance to female inmates problematic. Given the unusual configuration of this Jail, more staff is clearly needed to provide not only adequate supervision, but also to ensure prompt evacuation in the event of an emergency.

The dangers presented by lack of staff are exacerbated by overcrowding. The rated capacity of the Jail is 79 inmates. With a population of 118, which was the census when we toured, inmates are forced to sleep on mattresses on dirty floors. The Jail has housed up to 178 inmates at one time. Such crowding of inmates in a hot, unventilated, filthy facility causes and/or exacerbates problems related to supervision, emergency evacuation, inmate violence, provision of basic services and stress on the physical plant.

2. Staff training. Other than on-the-job training for new employees, no training is provided to jail staff. We observed staff errors and omissions which compromised security. While training is needed in a host of areas, the failure to provide training in emergency preparedness, key control and CPR is particularly dangerous.

3. Specific security and safety deficiencies. The facility has no holding area for inmates at intake. This is dangerous because often individuals who have just been arrested are upset, agitated, unruly, under the influence of drugs and/or alcohol, or even suicidal, and need to be placed in safe confinement. Currently, inmates brought into the Jail are housed in the facility's day room, which contains numerous overhanging pipes, bars and other protrusions, glass vending machines, a wooden picnic table and folding chairs. This day room is not safe for inmates during the intake process.

The Jail's key system is inadequate. The Jail keys are stored haphazardly in an unlocked drawer in the control room. There are too many keys, kept in a disorganized fashion, to effectuate a prompt evacuation, if needed. In addition, the keys are not "touch-coded" to the locks they must open, which could also seriously jeopardize the safety of inmates in the event of an emergency requiring evacuation. Inmate trustees inappropriately have access to the keys, as trustees are often inside the control room.

The Jail's practice of designating inmates as "cell bosses" in the housing units is dangerous. These individuals are responsible for distributing supplies, ensuring housekeeping chores are done, controlling inmate requests for sick call and, as one cell boss stated, "keeping hostility down." The cell bosses were invariably the most dominant-appearing individuals in the unit. This practice is a reflection of the lack of staffing and presents a serious potential for inmate bribery and other abuse which results from allowing inmates to exercise authority over other inmates.

Finally, the Jail has a highly unusual practice of allowing an inmate trustee to work and live in the gas station across the street. The inmate, a convicted felony drug dealer, returns to the Jail to get his meals and for sick call, but resides and spends his nights at the gas station. This presents an unsafe situation, as the facility essentially has no control or supervision of an inmate.

4. Weapons in the Jail. Numerous materials, such as spring beds, accessible piping, and steel covers over inmate property shelves, from which inmates can fashion "shanks" or other weapons are readily available in housing units. Indeed, we observed a collection of such home-made weapons that had been confiscated by staff. This situation creates an obvious danger to both inmates and staff, as evidenced by recent injuries to one officer who was stabbed with a shank during an escape attempt, and another officer who was struck in the head with a pipe.

5. Policies and procedures. Although the facility has some adequate policies and procedures, many important areas are unaddressed, e.g., emergency response procedures, imposition of inmate discipline, and sanctions for staff misconduct. Lack of an emergency plan could result in inmates being unnecessarily harmed (e.g., in the event of fire). Also, lack of an inmate discipline policy has resulted in arbitrary imposition of restrictions. For example, significant penalties such as loss of visitation rights are imposed without any hearing or means of appealing the decision, and staff will discipline groups of

inmates for the misconduct of one or a few. Staff also cuffs inmates to cell bars. Further, there are no written procedures for investigating allegations of staff misconduct or policies for disciplining staff when misconduct is found.

During our tour of the facility, we received allegations of racial discrimination, including denial of access to certain restrooms by black visitors and the use of racial epithets by guards. While the duration of our tour did not permit us to fully investigate these complaints, these allegations, if true, may constitute violations of Title III of the Civil Rights Act of 1964, 42 U.S.C. § 2000b. In these circumstances, we wish to bring them to your attention for appropriate action.

II. Medical and Mental Health Care and Suicide Prevention are Seriously Inadequate.

1. Medical staffing. The Jail currently has only one part-time contract registered nurse who conducts sick call three times a week and a contract medical doctor who sees patients as needed when transported to his office. This is inadequate medical staff for this facility, given the size of its inmate population. In these circumstances, the provision of medical care to the inmates is inadequate.

2. Medical screening. Although the facility is using an acceptable medical screening form for screening inmates at intake, the corrections officers have not received training in how to conduct proper screening. Also, the Jail does not have a qualified medical professional review the screening forms to ensure that medical problems are identified and treated.

3. Sick call. The facility uses a form with which inmates request medical attention. Inmate trustees, *i.e.*, "cell bosses," however, control the distribution of the forms and collection of the completed forms. Inmates should not be given control over access to medical care by other inmates. Further, such screening forms should be evaluated by persons trained to evaluate them.

4. Medication distribution. The current system of medication distribution is inadequate. Medication is distributed to inmates by untrained jail staff. Also, female inmates do not get their medications when female officers are not on duty.

Psychotropic medications are provided to inmates without proper controls. Such medications have serious side-effects. Further, they can cause death if the person taking them is subjected to extremely hot temperatures, *e.g.*, exceeding 100 degrees. Jail staff are not trained to recognize these side-effects nor are they trained in the dangers associated with subjecting inmates taking these drugs to extremely high

temperatures. Thus, inmates taking such medications are subjected to unreasonable risk of harm.

5. Communicable diseases. The existing policy for disease control is deficient. Currently, only inmates bound for the State Department of Corrections are screened for TB. This policy leaves county inmates as well as employees in the facility and the community at large upon the inmates' release at risk of contracting TB or other communicable diseases. These risks are exacerbated at the Jail by the poor environmental conditions and lack of ventilation.

6. Medical policies and procedures. The existing medical policies and procedures for the Jail are inadequate. The policies are insufficiently comprehensive, and are not annually reviewed or approved by an appropriate medical professional. The facility has no policies covering, for instance, emergency medical response and essential care for pregnant inmates.

7. Suicide prevention. Practices regarding confinement of suicidal inmates at the Jail are dangerous. Cells have protruding fixtures and exposed piping which could facilitate suicide. There is no area in the Jail where suicidal inmates can be housed safely. The 4th floor dayroom for suicidal inmates and 5th floor drunk tank for intoxicated inmates are fraught with dangerous physical features. There are no written policies and procedures for identification and observation of suicidal inmates. The Jail does have a "suicide watch" procedure, but logs reveal that staff does not follow it. Lastly, suicidal or mentally ill inmates who become difficult to manage are dealt with by being handcuffed and shackled. The Jail does not consult with mental health professionals for guidance on appropriate responses to such behaviors.

III. Serious Deficiencies exist in Environmental Health and Safety.

1. Housing units. Due in part to the age, wear and tear, and obvious lack of maintenance at the facility, the Jail has numerous environmental and physical structure deficiencies presenting serious risks to inmates' health and safety.

First, the plumbing is grossly deficient. There are leaking pipes, old toilets that are rusty, loose, and leaking, toilets that flush waste into adjacent toilets, malfunctioning faucets, leaking sinks, showers in disrepair and running water that is scalding hot. Second, the air quality is extremely poor. Inmates are crammed into hot, stuffy, and confined living areas with air temperatures above 90 degrees, humidity at 80%, and essentially no ventilation bringing in outside air. Third, the facility has serious electrical hazards (see discussion regarding fire safety, below). Fourth, lighting levels are inadequate to

permit inmates to maintain sanitation in their cells or to read without significant eyestrain. Finally, the various environmental problems are each exacerbated by crowding in the Jail. For example, the combination of inmate crowding and inadequate ventilation further increases the risk of spreading TB and other communicable diseases.

2. Food service. Food delivered by a food service contractor is not reheated or chilled at the Jail and is served to the inmates at improper temperatures, creating a risk of food-borne illness. Also, many inmates eat in unsanitary conditions on mattresses, cell floors, or in dirty dayrooms used as sleeping areas for inmates. Further, the kitchen/tray preparation area of the Jail is unclean, infested with roaches, and is dilapidated, with damaged floors, walls and ceilings.

3. Insect and vermin infestation. The Jail is infested with vermin. We observed live roaches and other insects (e.g., spiders) in numerous locations throughout the facility. The vermin hide in various cracks, crevices, and holes in walls. Health Department inspections also found vermin infestation, listing it as a critical item requiring immediate attention. Roaches in the food preparation area are especially unhealthy due to their ability to transport disease-causing organisms to unprotected food or food utensils.

4. General cleanliness of the Jail. The general cleanliness of the Jail is seriously inadequate. Most cell areas are filthy, with layers of dirt and scum visible on window sills, cell bars and shower walls. Most mattresses are unclean, torn and cracked.

5. Fire safety. The facility has numerous fire safety deficiencies. Broken light fixtures, receptacles and switch boxes without covers, and vast numbers of extension cords strewn across and throughout most cells, pose electrical hazards. The presence of excessive combustible materials in cells, such as inmates' personal property, blankets and sheets hung in cells for privacy, inmate laundry hung to dry, garbage bags filled with trash, flammable stuffing exposed through tears in mattresses, exacerbates the danger from these hazards. Further, egress from the Jail in the event of a fire is hindered in several ways: exit ways are obstructed by mattresses and inmate property on floors; exits are unmarked; emergency exit doors are double padlocked; the emergency plan is insufficiently specific; staff is inadequately trained in evacuation procedures; there is no secure holding area for evacuated inmates; and routine fire drills are not conducted. Lastly, the self-contained breathing apparatuses are not routinely cleaned and serviced, nor is staff trained in their use.

Finally, given the scope of the deficiencies cited above, the County may wish to consider building a new jail. This was the recommendation of the Lauderdale County Grand Jury, which has found that the Jail is in "deplorable condition," and, because their "recommendations cannot be met with the present jail," has determined that "[t]here has to be a new jail."

IV. Inmates' Opportunities for Out-of-Cell/Exercise Time is Inadequate.

The Jail makes no provision for inmate exercise whatsoever. Inmates are frequently confined in unhealthy and overcrowded quarters for sustained periods (one inmate had been awaiting trial some 22 months). Adequate opportunity for regular exercise is essential for maintaining both physical and mental health.

V. Access to Courts is Insufficient.

The facility purportedly provides inmate access to the county law library on the first floor of the courthouse building. However, numerous inmates complained that requests to conduct legal research are invariably ignored. A subsequent review of jail logs for the past two months contained no indication that any inmate had ever been taken to the law library or otherwise provided legal texts or materials.

MINIMUM REMEDIAL MEASURES

To rectify these deficiencies at the Jail and to ensure that constitutional conditions of confinement are achieved, we recommend that the following minimum remedial measures be implemented:

I. Security and Supervision.

1. Staff and supervision. Ensure that there are, at a minimum, five officers on duty on the day and evening shifts, and three officers on duty on the midnight shift, with at least one female officer present on each shift. On those two or three nights of the week with the heaviest booking, there should be four officers on duty on the midnight shift.

2. Staff training. Train all Jail staff in jail operations.

3. Ensure there are officers posted on the 5th and 6th floors.

4. Policies and procedures. Develop and implement written policies and procedures for the Jail including policies for, inter alia, emergency response, inmate disciplinary procedures, and investigation of staff misconduct.

5. Specific security and safety measures.

a. Holding cells: provide an area or designated cells where incoming inmates can be held safely during intake and booking. The areas should be designed for the protection of inmates who are unruly, under the influence of alcohol or drugs, or suicidal.

b. Key control: keep keys in a locked cabinet or other secure container; have a back-up set of keys on-site and readily available 24 hours a day; maintain an emergency set of keys containing all keys necessary to effectuate an evacuation; and cease allowing trustees, under any circumstances, into the control room.

c. Cell bosses: cease the use of inmates to control access to medical care and ensure that inmates are not given responsibilities that include exercise of authority over other inmates.

d. Off-grounds trustees: ensure all inmate trustees are appropriately supervised and return to the Jail for confinement when the work day is completed.

6. Weapons. Remove from the Jail materials, not integral to the physical plant, that can readily be fashioned into weapons, e.g., spring beds and steel covers over personal property shelves. Also, conduct full shakedowns of housing units on a regular basis.

II. Medical and Mental Health Care and Suicide Prevention.

1. Medical staffing. Ensure the presence of at least one full-time RN to provide medical services to inmates.

2. Medical screening. Ensure that all officers who conduct medical screening are appropriately trained and that all screening forms are evaluated by a qualified medical professional, e.g., a registered nurse.

3. Sick call. Ensure all inmate "kites" or requests for medical care are reviewed by a qualified medical professional and that "cell bosses" have no role in the sick call process.

4. Medication distribution. Provide appropriate training to Jail staff in administration, storage and management of medications and the potential side-effects of psychotropic medications and the drugs most commonly used at the Jail.

5. Communicable diseases. Provide TB screening for all inmates incarcerated seven days or more and provide intake screening for other communicable diseases.

6. Medical policies and procedures. Develop and implement written policies and procedures, signed by an appropriate medical professional, regarding access to and provision of medical care to inmates at the Jail.

7. Suicide Prevention. Develop written policies and procedures for identification and observation of suicidal inmates; train staff in suicide prevention procedures; provide safe "observation cell[s]" for inmates at risk of suicide (properly designed and equipped holding cells could suffice); eliminate, where feasible, physical features and fixtures in the Jail that are conducive to committing suicide; and ensure a local mental health professional is available for around-the-clock on-call consultation services and on-site evaluations when necessary.

III. Environmental Health and Safety.

1. Housing units. Repair the numerous existing plumbing deficiencies and maintain adequate plumbing on a continuing basis; provide adequate ventilation in the living areas; eliminate all electrical hazards related to wiring, outlets and extension cords, and provide adequate lighting.

2. Food service. Ensure that food is served to inmates at appropriate temperatures, that eating areas are clean, and that the kitchen/food preparation area is clean and sanitary.

3. Insect and vermin infestation. Take necessary steps to eliminate roaches and other insects and vermin in the Jail, including, but not limited to, exterminating the Jail.

4. Thoroughly clean the Jail and institute housekeeping procedures to ensure the Jail remains clean.

5. Fire safety. Ensure the facility is fire safe by remedying deficiencies related, but not limited to: electrical hazards; combustible materials in cells; unmarked exits; egress; evacuation; and staff training in conducting evacuation drills.

IV. Out-of-Cell/Exercise Time.

Afford all inmates a minimum of one hour of exercise at least five times a week.

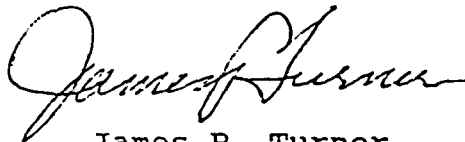
V. Access to Courts.

Provide inmates adequate access to law books and writing materials.

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). That period expires on December 6, 1993. Therefore, we anticipate hearing from you before that date with any response you may have to our findings and a description of the specific steps you have already 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 unconstitutional 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 your staff have any questions, please feel free to contact Timothy R. Payne, Senior Trial Attorney, Special Litigation Section, at (202) 514-6441.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division

cc: J. Richard Barry, Esquire
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Lauderdale County Board
of Supervisors

Mr. P.G. Gunnis Hill
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