



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

NOV 17 1993

Rainer & U.S. v. Jones



JC-MS-006-002

Mr. Sammy Welch
President
Simpson County Board of
Supervisors
Chancery Building
Mendenhall, Mississippi 39114

Re: Notice of Findings of Investigation,
Simpson County Jail

Dear Mr. Welch:

On May 3, 1993, we notified you of our intent to investigate the Simpson 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 our 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.

It is the policy of the Department of Justice to apprise jurisdictions of any conditions uncovered during an investigation we believe to be immediately life-threatening. Such conditions were discussed extensively with the Sheriff and County Attorney at the end of our investigative tour. These conditions are reiterated and detailed in the text of this letter.

In making our findings, we are aware that many of the individuals confined at the Jail are pretrial detainees or persons not convicted of any crime. The Fourteenth Amendment prohibits punishment of these persons or subjecting them to restrictions or conditions not reasonably related to a legitimate governmental objective such as safety, order or security. Bell v. Wolfish, 441 U.S. 520 (1979). For those convicted of a crime, the applicable standard 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. Moreover, 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).

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

I. Security and Supervision Are Inadequate.

A. Staffing and Supervision. The lack of adequate staffing and supervision of inmates at the Jail present a danger to the safety of the inmates. The Jail's staffing complement, while recently increased, allows for at most two, but often only one, officer(s) per shift to be responsible for the care, custody and supervision of the Jail's average daily population of approximately 90-100 inmates. The dispatcher/jailer simply has too many responsibilities to adequately supervise inmates. Since a majority of the dispatcher's time is spent receiving calls and dispatching officers, duties associated with booking inmates and the overall supervision of the Jail are either performed poorly or not performed at all.

B. Staff Training. The Jail staff do not receive adequate training in jail operations. Only three jailers have received such training, and that training was minimal. None of the dispatchers have received any training at all. Training in jail operations is necessary to provide staff with the requisite skills and knowledge to effectively perform their duties and to hold staff accountable for their job performances. Without proper staff training in such matters as jail security, emergency response (e.g., in case of fire or attempted suicide), medical screening, medication distribution, or use of CPR, inmates are at risk of unnecessary harm.

C. Policies and Procedures. The written policies and procedures for the Jail are inadequate. Written policies and procedures provide guidance to staff in the performance of their duties. The absence of such procedures to govern, e.g., inmate classification, use of force and weapons, intake screening for the violence potential of incoming prisoners, emergencies and evacuations, escapes, inmate disturbances, and the care of mentally ill and suicidal inmates, unnecessarily subjects inmates and staff to harm.

II. Medical Care and Suicide Prevention are Deficient.

A. Medical Care. Medical care at the facility is not adequate. Current medical screening is deficient. The Jail fails to properly screen inmates upon intake or to document an inmate's medical history and possible problems. Sick call, the procedure by which inmates gain access to medical treatment, is also deficient. The Jail has no formal sick call policy and procedure. Inmates orally express to the part-time retired nurse that they need medical care. Medical care is provided by a local practitioner on an episodic basis based on referrals from the Jail. There are no adequate provisions for proper follow through of treatment, referrals, or diagnostic testing for inmates. Moreover, the Jail has created a dual standard of care whereby misdemeanor inmates are examined at the doctor's office while felony inmates are examined by the doctor at the Jail. However, there is no examination room at the Jail, only a room with a desk and two chairs. There is no examination table or equipment, making many types of examinations impossible.

Also, the medication distribution system is inadequate. Prescription medication is distributed by the dispatchers who lack appropriate training. As well, proper procedures for keeping track of medications and their distribution are virtually nonexistent. Our medical expert observed a psychotic inmate patient who had accumulated large quantities of lithium without corrections or nursing staff observing it. In addition, we observed insulin syringes being disposed of with ordinary waste, a particularly dangerous practice that can lead to infection with HIV or hepatitis. Finally, all medications, including narcotics and other scheduled drugs, are improperly kept in a cabinet in the dispatcher's office.

Additionally, the Jail lacks written policies and procedures with respect to contagious or infectious diseases. The Jail fails to screen inmates for communicable diseases such as tuberculosis ("TB"). The failure to test all newly booked inmates for TB leaves all people within the facility, both inmates and corrections staff, at risk. In addition, the community at large is placed at risk upon inmates' release.

B. Mental Health Care. The Jail fails to provide appropriate housing or treatment for mentally ill inmates. There are no written policies and procedures regarding provision of mental health services to inmates. Additionally, there currently is no mental health professional available to examine inmates or for consultation to assist in inmate assessments and treatment.

Access to mental health services and treatment within the Jail is nonexistent. Furthermore, there is no screening process for evaluating inmates for signs and symptoms of significant depression or other mental illness upon their entry to the Jail. Mentally ill individuals are indiscriminately housed with the general Jail population, jeopardizing their safety and that of other inmates and corrections staff. Several actively psychotic inmates were observed by our medical consultant; none of them had been seen by a psychiatrist.

C. Suicide Prevention Practices. The facility lacks adequate procedures to prevent suicides. There is no written suicide prevention policy and staff receive no training on the subject. No suicide prevention screening is conducted. Two inmates, both of whom had histories of suicide ideation and self-inflicted wounds that required hospitalization, had not received any assessment, treatment or even a simple inquiry regarding their suicidal behaviors from any mental health professional. Further, inmates considered at risk for suicide are currently placed in inappropriate cells, i.e., the Drunk Tank or Cell No. 9. These cells are structurally unsafe for monitoring suicidal inmates. The cells do not allow adequate observation and have physical features such as exposed pipes and electrical wiring that would facilitate rather than impede suicide.

III. Environmental Health and Safety Conditions Are Deficient.

A. General Sanitation. The Jail is dirty and unsanitary. Dirt and flammable debris are excessive in inmate living areas, especially the trustee area. In addition, the facility fails to consistently provide inmates with materials to maintain personal hygiene, such as toothbrushes, toothpaste, razors, towels, clean sheets, sufficient feminine hygiene products, clean clothes when needed, and materials with which to clean their cells.

B. Fire Safety. The Jail fails to protect inmates from potential harm due to fire. No fire drills are conducted. Smoke detectors were found to be non-operational. Also, the facility's fire extinguishers are not routinely inspected and serviced. There are also combustible materials and fire hazards throughout the Jail. For example, we observed mattresses coated with highly flammable and toxic plastic which, if burned, could cause death due to the toxic fumes. Exposed wiring was also readily apparent. In addition, the entire Jail population is at risk of potential harm because staff have no training in fire suppression, prevention or emergency evacuation and there are no written plans or procedures for dealing with fires.

C. Overcrowding. The fact that the Jail is seriously overcrowded compounds the problem of security, supervision and evacuation. The routine use of catwalks for the housing of inmates inhibits jailers from making their required rounds of the cellblock area. As such, jailers indicated that they merely look through the small viewing windows in each of the cellblock doors to conduct what little surveillance is provided. Moreover, the excessive crowding of beds, especially in the trustee housing area, makes safe evacuation in case of an emergency virtually impossible.

Minimum Remedial Measures

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

I. Security and Supervision

A. Staffing and supervision. The Jail must provide additional staff and monitoring of inmates to ensure their safety and security. At a minimum, this means that there must be no fewer than four officers per day and evening shift and two officers for the midnight-to-eight shift.

B. Staff training. All dispatchers and jailers must receive adequate training in jail operations to ensure the safe and secure operation of the Jail.

C. Policies and Procedures. A policies and procedures manual for operation of the Jail must be developed and implemented to encompass, inter alia, the various functions of the Jail, responsibilities of staff, use of force and restraint devices by staff, and adequate emergency response procedures.

II. Medical and Mental Health Care and Suicide Prevention

A. Medical Care. To ensure provision of adequate medical care to inmates, the facility must: establish a sick call procedure that ensures requests for treatment are reviewed in a timely manner by a person trained to evaluate such requests and that the granting or denial of treatment is documented in writing; ensure that medical care is provided in a timely manner by a qualified medical professional; provide appropriate training to dispatchers on administering medications and identifying the potential side-effects of commonly used medications; and provide TB screening for all inmates incarcerated seven days or more and for other communicable diseases. Finally, the Jail must develop and implement adequate, written policies and procedures governing access to and delivery of medical care.

B. Mental Health Care. The Jail must ensure provision of basic mental health screening, evaluation, and treatment of mentally ill or suicidal inmates, including development and implementation of appropriate written policies and procedures.

C. Suicide Prevention. The Jail must: develop and implement appropriate written policies and procedures regarding the identification, observation and care of suicidal inmates; provide safe observation cell[s] for inmates at risk of suicide; eliminate risks posed by physical features in the Jail conducive to committing suicide; and ensure a local mental health professional is available for consultation services and on-site evaluations when necessary.

III. Environmental Health and Safety

A. General Sanitation. The Jail must be cleaned and maintained in a sanitary manner. Inmates must be provided appropriate items to maintain personal hygiene and materials with which to clean their units.

B. Fire Safety. To provide adequate fire safety, the Jail must: post evacuation plans in the housing units and ensure staff and inmates are educated regarding egress procedures in case of fire; remove combustible material and excess furniture in trustee area in order to allow for rapid and safe evacuation; ensure smoke detectors are functional; regularly conduct and document internal fire safety inspections.

C. Overcrowding. Take appropriate steps to limit the inmate population at the Jail to its rated capacity of 78 persons.

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 January 5, 1994. 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 will 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.

The response we have received to date from County Attorney Welch regarding the remedial measures already undertaken in follow-up to our inspection is encouraging and indicates the County's willingness to take the necessary measures to correct the constitutional deficiencies at the Jail. Thank you for your cooperation and assistance.

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 David Deutsch, Senior Trial Attorney, Special Litigation Section, at (202) 514-6270.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division

cc: Mr. Lloyd S. Jones
Simpson County Sheriff

Danny Welch, Esquire
Simpson County Attorney

George L. Phillips, Esquire
United States Attorney
Southern District
State of Mississippi