



Office of the Assistant Attorney General

Washington, D.C. 20035

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RETURN RECEIPT REQUESTED

OCT 8 1993

Mr. Ely Mitchell
President
Alcorn County Board of Supervisors
501 Waldron Street
Indianola, Mississippi 38751-0988

Re: Notice of Findings of Investigation,
Alcorn County Jail

Dear Mr. Mitchell:

On May 3, 1993, we notified you of our intent to investigate the Alcorn County Jail (hereinafter "ACJ") pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 et seq. Consistent with statutory requirements, we now are writing to advise you of the findings of our investigation. Throughout our investigation, county officials, including the Sheriff, Deputy Sheriff, and Dispatcher, 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 are aware that many of the individuals confined at ACJ are pretrial detainees or persons not convicted of any crime. 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 restrictive conditions or practices which are not reasonably related to a legitimate governmental objective such as ensuring the detainees' presence at trial or maintaining jail security and order. 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.

U.S. v. Alcorn Co.



JC-MS-007-002

Department of Justice attorneys, accompanied by four consultants (a penologist, a medical doctor, a suicide expert, and a health and safety expert), toured ACJ on June 15 and 16, 1993. During the course of these tours, we interviewed inmates, examined ACJ records, and evaluated other records provided by the Sheriff Department's personnel. Based on our investigation, we believe that certain conditions at ACJ violate the constitutional rights of the inmates confined there. These constitutionally violative conditions and the minimum remedial measures that ACJ must implement are set forth below:

I. THE JAIL DOES NOT HAVE ADEQUATE SECURITY AND SUPERVISION.

A. **Staffing and Supervision.** ACJ does not have any jail staff, a situation that severely jeopardizes the safety of inmates and the security of the jail. One inmate trustee is in de facto charge of the housing units and another inmate trustee is responsible for the food service (ordering, storage, preparation, and distribution). All inmates, including female inmates, must depend on the male inmate trustees to provide for many of their basic needs. Also, the inmate trustee has access to the cell door keys. Furthermore, the jail is not adequately monitored: neither the television monitors nor the intercom operate adequately. This failure to provide adequate staff and the use of inmate trustees to supervise and exercise authority over other inmates is dangerous.

ACJ has no policies and procedures for the operation of the jail. Policies are needed for ensuring the security of the jail, holding the staff accountable for their actions and to provide basic operating procedures.

B. **Control of Dangerous Items.** ACJ fails to control and monitor potentially dangerous kitchen tools and utensils. We found a variety of kitchen knives, screwdrivers, wrenches and other tools in unsecured drawers in the kitchen. The inmate trustee has unfettered access to these dangerous implements, and through him so do the other inmates. No one at the jail knew what should be the count of knives and tools in the kitchen. Also, we saw personal items such as irons and aerosol sprays in the cells which could be used as weapons.

C. **Food Service.** ACJ serves only two meals per day to inmates. An inmate trustee plans the composition of the meals and cooks all of the meals. ACJ has not determined that the two meals are nutritionally adequate for the inmates.

II. MEDICAL, MENTAL HEALTH, AND SUICIDE PREVENTION SERVICES ARE GROSSLY INADEQUATE.

A. **Medical Resources and Access to Medical Care.** Access to medical care at ACJ is deficient. A local practitioner provides episodic care for inmates after referrals from ACJ, but does not provide on-site services at the jail or provide "on-call" telephone advice. There are no adequate provisions for proper follow through of recommended treatment, referrals, or diagnostic testing for ACJ inmates. Also, ACJ has no written policies or procedures for the provision of medical care.

Current medical screening at ACJ is deficient. Medical screening is conducted by the booking officer who has not been trained to conduct such screening. There is no screening for dental or mental health problems or suicide ideation. There is no pre-set blood alcohol level above which intoxicated inmates are automatically referred for medical evaluation prior to being placed in the drunk tank.

ACJ has no formal sick call policy and procedure. In general, requests to see a physician are made through the inmate trustee. Trustees should not be given control over access to medical care. Also, the results of visits to the local hospital are not documented. Furthermore, there is no current provision for health maintenance for inmates with identified chronic illnesses. ACJ does not provide therapeutic diets to inmates.

ACJ's medication distribution system is inadequate. Inmate trustees distribute medications. Inmate trustees should not be given such health care responsibilities. There is no mechanism in place to ensure that inmates actually take the medicines they are given. Currently, an inmate's medication is confiscated upon booking and is kept in the dispatcher's office. There is no verification of the status of the prescription or that the medication in the vial is in fact that which was prescribed. In several instances, ACJ failed to ensure that inmates received their medications.

B. **Mental Health Care.** The facility does not provide adequate mental health care services. Specifically, there is no mental health screening at ACJ, nor is there adequate access to mental health care professionals for inmates with mental illnesses or who are at risk of suicide.

C. **Suicide Prevention Program.** None of the Alcorn County Sheriff's Department personnel have received any jail suicide prevention training nor are they required to be CPR trained and certified. ACJ also lacks medical emergency supplies. The questions on the intake booking card do not identify suicidal inmates, nor is there any other mechanism in place to identify suicidal inmates.

Furthermore, ACJ does not have an area suitable for housing suicidal inmates. All the cells in the facility have exposed piping, light fixtures, towel racks and electric cords, which present opportunities for an inmate to attempt suicide. In a recent suicide attempt at ACJ, an inmate was found hanging by a cord by an inmate trustee who came to check on the inmate when he noticed that the inmate was unusually quiet. The inmate trustee cut the cord by which the inmate was hanging and administered CPR through the cell bars. The trustee had to kick the main cell block door and scream to get assistance. The inmate was not taken to the hospital after his attempted suicide. Three of the most recent suicide attempts in the jail were discovered by other inmates and not by County staff; two of the incidents involved items (string and hoarded medication) to which the inmates should not have had access.

III. ACJ HAS SERIOUS ENVIRONMENTAL HEALTH AND SAFETY DEFICIENCIES.

A. Physical Plant Maintenance. We found defective plumbing, inadequate ventilation systems, altered exhaust air ducts for individual cells, exposed electrical wiring, and faulty lock and door maintenance throughout the facility.

In virtually all inmate housing areas lighting levels were grossly inadequate. Mechanical ventilation in the cell housing was also grossly inadequate for providing a minimum supply of fresh air and exhaust of unclean air. This condition was exacerbated by internal air temperatures of 82 degrees fahrenheit and 80% relative humidity. There was no evidence of recent cleaning, maintenance, and proper balancing of the ventilation system. Inadequate ventilation increases the potential for infectious communicable diseases to occur and progress.

Hot water in the individual cells reached 150 degrees fahrenheit. Water that hot can scald inmates and staff. Inadequate plumbing maintenance and defective lavatory valves have caused inadequate water supply in the drunk tank, cell 2 on the County side, the day room on the State side, as well as a leaking sink drain pipe in the food preparation area. These plumbing deficiencies can cause the spread of diseases.

We found exposed, nonconforming electrical wiring in the pipe chase affixed to the rear of a metal cell wall, exposed electrical outlets and electrical switches, and overloaded outlets in the individual cells. These conditions increase the potential of electrical fire and possible electrocution of inmates.

B. Personal Hygiene and Bedding. The facility does not provide any personal hygiene materials for inmates, e.g., soap, shaving soap, toothpaste, toothbrushes, or feminine hygiene materials.

ACJ also does not provide towels, washcloths, bed linen, undergarments or personal clothing. These items are essential to maintain personal hygiene. Furthermore, bed mattresses which were torn were unsanitary and enhanced the potential for disease transmission.

C. Fire Safety. There is no plan for emergency evacuation of inmates in the event of a fire. The annunciator panel in the facility was inoperable. ACJ also lacks an emergency secondary power source. This renders all smoke detection and alarm systems inoperable in the event of a power failure.

The fire extinguishers are not routinely inspected and serviced. Flammable materials are stored next to the hot water heater. The main exit corridor out of the cell housing area was partially blocked by two large soda vending machines. ACJ uses polyurethane mattresses and pillows, which emit highly toxic gasses upon ignition, throughout the cell housing areas. Shower curtains in the facility are not flame resistant. In one cell, the shower curtain consisted of trash bags which are flammable and which emit toxic gasses upon ignition. Moreover, the keys for all cell doors were not labeled or readily identifiable so as to facilitate immediate evacuation in the case of a fire. The dispatcher informed us that in an emergency she would not know which key fit which cell door. Finally, the illuminated fire exit signs did not work.

D. Environmental Hygiene and Sanitation. We found individual cells, showers, toilets and lavatories to be dirty. There was soil residue and mold growth on shower walls and floors, lavatories and toilet fixtures. The food service area was also unsanitary. Our inspection revealed soil residue, grease, food residue, carbon build-up and roaches. Chemical pesticides, chemical cleaning agents and paint solvents were stored together with food products, increasing the potential of chemical poisoning and cross-contamination of chemicals with food products. Furthermore, an inmate trustee was indiscriminately applying unapproved chemical pesticides in the food service operation area, increasing the potential of poisoning of inmates.

E. Overcrowding of Cells. We found that ACJ often houses far more inmates in a cell than its design capacity. Such crowding increases the potential for spreading infectious communicable diseases and for inmate-on-inmate violence and impedes the ability of correctional staff to evacuate inmates in the event of an emergency.

IV. ACCESS TO LEGAL MATERIALS IS INSUFFICIENT.

The law library at ACJ is seriously deficient. The selection of books is inadequate. Further, inmates are not informed about the existence of the law library. Finally, there is no system in place to provide inmates access to legal materials outside of the jail.

V. INMATES' OPPORTUNITY FOR EXERCISE IS INADEQUATE.

ACJ allows inmates outdoor exercise only once or twice per month for 15 minutes. This is insufficient to maintain health and less than what is constitutionally required.

MINIMUM REMEDIAL MEASURES

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

I. Security and Supervision

1. Hire five full-time jailers (8 hour shifts) or four full-time jailers (12 hour shifts). Wherever women inmates are housed at the Jail, either a dispatcher or jailer on each shift should be a woman. A minimum of one officer per shift should be stationed in the cell block area at all times. ACJ must cease using inmate trustees to run the jail.
2. All jailers must receive adequate training in small jail operations to ensure the safe and secure operation of the jail. Additionally, a mental health professional must train all jailers in recognizing inmates at risk of committing suicide.
3. Develop and implement written policies and procedures for the operation of ACJ, including, but not limited to, responsibilities of staff, emergency response procedures and use of restraints.
4. Inventory and secure the kitchen knives and tools, and maintain a log of their use. Remove personal items from cells that constitute security problems and issue them strictly on an as-needed but reasonable basis.
5. Ensure that cells house only an appropriate number of inmates.
6. Evaluate the nutritional adequacy of the meals served at ACJ and ensure that inmates receive nutritionally adequate food.

II. Medical Care, Mental Health Care, and Suicide Prevention

1. Cease using inmate trustees to perform health care tasks, including medication administration and transmission of sick call requests.

2. Develop a contractual relationship with an appropriate medical professional[s] to provide medical care services to ACJ inmates. Responsibilities should include timely evaluation of sick call requests, ensuring that inmates have access to medical care for serious medical problems and emergencies and that inmates receive treatment for communicable diseases, essential prenatal care, and follow-up care for serious medical problems.

3. Develop and implement adequate, written policies and procedures governing access to and delivery of medical care and mental health care, as well as procedures to identify and monitor inmates at risk of suicide.

4. Inmates must be screened for medical problems upon intake by trained jail personnel or a medical professional. Screening should include, but not be limited to, medical, dental, mental health, substance abuse problems, and Tuberculosis. Ensure that inmates with identified chronic illnesses (e.g., AIDS, asthma, diabetes, hypertension, positive PPD status, seizure disorder, etc.) receive adequate and timely medical care.

5. Ensure that mentally ill or suicidal inmates have access to a mental health professional in case of an emergency.

6. Provide special diets to inmates with medical conditions that require them.

7. Contract with a pharmacist or other appropriate health professional to manage medication at ACJ. Medications must be stored safely and properly monitored. ACJ must also ensure that medications are distributed to the inmates who are to get them and taken by those inmates at the time of distribution.

8. Provide appropriate jail suicide prevention training to jail staff and ensure that inmates at risk of suicide are frequently and regularly observed and that such observations are recorded in writing.

9. Ensure that one correctional officer on every shift has certification in CPR and that this person is re-certified regularly.

10. Replace all current cell doors (i.e., female cell, old juvenile cell and trustee cells) with doors that contain larger viewing windows allowing for proper inmate supervision.

11. Repair and retrofit each cell containing obvious protrusions that are conducive to suicide attempts including, but not limited to, exposed piping, light fixtures, towel racks, and electrical cords. Cease using the old juvenile cell to house suicidal inmates until these repairs are completed.

12. Purchase rescue equipment which must include, but not be limited to, a first aid kit, a 911 Rescue Tool, disposable rubber gloves, and a CPR pocket mask.

III. Environmental Health and Safety

1. Clean the jail and ensure that it remains clean.

2. Provide inmates with personal hygiene materials including, but not limited to, soap, toothpaste, shaving soap, and feminine hygiene materials. Also, provide towels, washcloths, bed linen and personal clothing to inmates, as needed, if they cannot obtain clothing from visitors. Mattresses which are in disrepair must be replaced.

3. Remove paint solvents, chemical cleaning products and chemical pesticides from the food storage area.

4. In order to provide adequate fire safety, ACJ must: post evacuation plans in the housing units and ensure that staff and inmates are educated regarding egress procedures in case of fire emergency; provide a secure evacuation area for inmates; ensure that the annunciator panel is operating; conduct fire drills on a regular basis; ensure that emergency exit lights are operable; obtain a secondary power source; conduct internal fire safety inspections; remove all polyurethane mattresses and pillows; install flame retardant shower curtains; remove obstructions from exit ways; properly store combustible materials; ensure that fire suppression equipment is regularly inspected and maintained and that staff are trained in its use; label cell door keys so that they are readily identifiable.

5. Provide for routine physical plant maintenance to ensure the timely repair of deficiencies, including, but not limited to, repair of exposed electrical wiring and plumbing, and to ensure proper ventilation, lighting, and water temperature.

IV. Inadequate Access to Legal Materials

Provide inmates with reasonable access to appropriate legal materials.

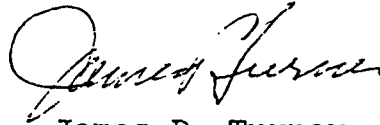
V. Opportunity for Exercise

Ensure that inmates are afforded outdoor (weather permitting) exercise, a minimum of one hour, five times per week.

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 November 26, 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 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.

Thank you for your cooperation. 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 Iris Goldschmidt, Trial Attorney, Special Litigation Section, at (202) 514-6264.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division

cc: Mr. Jimmy Taylor
Sheriff
Alcorn County

Wendell Trap, Esq.
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