



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

Mr. Edgar Donahoe
President
Sunflower County Board
of Supervisors
200 Main Street
Indianola, MS 38751-0988

NOV 17 1993

Re: Notice of Findings of Investigation,
Sunflower County Jail, Indianola, Mississippi

Dear Mr. Donahoe:

On May 3, 1993, we notified you of our intent to investigate the Sunflower County Jail ("Sunflower") 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 the 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 assessing the constitutionality of conditions at Sunflower, we are aware that several of the individuals confined to the Jail are pretrial detainees. 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 pretrial detainees, 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 security or order. 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.

U.S. v. Sunflower Co.



JC-MS-016-002

Department of Justice representatives, accompanied by a physician, penologist, environmental health and safety expert and suicide prevention expert, toured the Sunflower County Jail and Farm/Camp Minimum Security Facility on June 28, 1993. During the course of this tour, we interviewed inmates and staff, examined records and other documents relative to the operation of Sunflower. Based on our investigation, we believe that certain conditions at Sunflower violate the constitutional rights of the individuals confined therein. The violative conditions are described below along with the minimum measures necessary to remedy those conditions:

I. ENVIRONMENTAL HEALTH AND SAFETY ARE INADEQUATE.

A. **General Sanitation.** The Sunflower County Jail is filthy and vermin infested. It is virtually unfit for human habitation and should be condemned and closed. The cells, cat-walk and storage area all had foul smelling standing water. The shower stalls and walls were caked with mold and scum and crawling with roaches and insects. Roaches were also highly visible in the kitchen, food containers and food storage areas. Maggots and other insects were also visibly present around the base of the combination toilets/washbasins located in the cells. One such combination toilet/washbasin, when flushed, forced toilet water and human waste into the very washbasin used for washing and drinking water. Although various state inspection reports indicate that the jail is air-conditioned, during our investigation the indoor temperature exceeded 85 degrees in most of the cells and living areas. Inadequate ventilation can facilitate the occurrence of tuberculosis and other pulmonary diseases.

B. **Food Preparation and Handling.** The handling and preparation of food in the kitchen is unsanitary. Foods that can breed botulism, i.e., mayonnaise, salad dressings and the like, were not refrigerated after use but rather maintained on cupboard shelves in the kitchen where the temperature reached 89 degrees. We also observed food left uncovered where roaches snacked on it. Later, the same food was served to inmates. The kitchen was infested with roaches, and rodent and roach feces were found in dry foods such as grits, rice and flour.

C. **Fire Safety:** The lack of fire safety precautions is dangerous and potentially life-threatening. The jail is located on the third floor of the courthouse building; only one exit exists, however, for any type of evacuation. No fire drills are conducted. In addition, the antiquated cell (key) locking

system, polycarbonate mattresses, exposed electrical wiring, and the absence of fire evacuation plans, subject inmates to undue risk of harm from fires.

In an April 1993 report, issued in compliance with a Federal Court Order, the Mississippi State Fire Marshal's Office reported that the jail lacked an automatic fire suppression system over the stove, used overloaded extension cords and had broken exit lights.

II. MEDICAL AND MENTAL HEALTH CARE AND
SUICIDE PREVENTION ARE INADEQUATE.

A. Medical Care. Medical services are not provided on-site at Sunflower. Lack of access to immediate medical services threatens the health and safety of inmates confined to the jail. There are no policies, procedures or staff training for intake screening, nor any medical authority which advises the jail personnel on medical issues relating to infectious or contagious diseases. For example, no screening program exists for detection of tuberculosis. Without proper medical intake screening, illnesses or mental health problems may go undetected, thus threatening the health of inmates and staff alike. In addition, there is no formal sick call policy. For example, if an inmate complains of an illness, the jail dispatcher who lacks any medical training asks general questions and electively decides if the inmate seeking medical attention will be permitted to see a physician.

Moreover, inmates who are on medication upon arriving at the jail must supply their own medications or have a family or friend bring it to them. Otherwise, the inmate has to wait until an elective appointment is made to see the physician. One inmate with a known history of hypertension and heart disease advised that he had not received any medication since being booked (five days) at the jail. The absence of a medical records system prevents follow-up medical care of inmates with chronic diseases such as diabetes, the AIDS virus, alcoholism or tuberculosis. Members of the jail staff recalled that after a case of inmate tuberculosis the previous year, the entire corrections staff was tested for tuberculosis, but not any of the inmates.

Medications (including narcotics and syringes) are kept in an unlocked and unsecured cabinet in the dispatcher's office. The dispatcher dispenses the medication in reused paper cups, which can result in contamination of the medications. Trustees deliver the medication to inmates. Inmates should not be entrusted with such medical care responsibilities. Further, untrained persons should not dispense medications. Sunflower keeps no medication records nor does it monitor to ensure drugs are ingested by the inmates when dispensed. Insulin was stored

in a food refrigerator. Medications should always be stored separate from food.

There are no medical supplies on site aside from aspirin, tylenol and band-aids. Officers are trained in cardiopulmonary resuscitation (CPR) but not certified. In addition, there are no emergency procedures in place at the jail except for transport to the local hospital. There is no dental screening or formal contract with any dentist to provide dental services.

B. Mental Health Services. Sunflower lacks policies and procedures for screening and identifying inmates with mental illness. The jail makes no special provision for providing mental health services to or housing for its mentally ill inmates. The Sheriff emphatically stated that mental health care is not provided unless so ordered by a court. For example, one inmate who had been a patient at the state mental hospital and is now incarcerated at Sunflower, stated he was hearing voices telling him to hurt himself. He did not receive any medical attention or medication for three weeks. Since the jail does not provide any psychotropic medication to inmates, the inmate is dependent on family or friends to maintain his medications.

C. Suicide Prevention. Sunflower fails to provide adequate screening procedures for suicide prevention. There is no written suicide prevention protocol nor any mechanism to identify suicidal inmates. The limited intake screening procedures are performed by dispatchers who have no medical training at all. Because the screening form is not properly utilized to identify potential life-threatening problems or crises, the only way an inmate can receive medical attention is to request it. Similarly, Sunflower does not have appropriate, safe housing for suicidal inmates. Although the Sheriff stated that the jail had never housed a suicidal inmate, the suicide prevention consultant discovered just the opposite. Records indicate two instances of attempted suicide within the last 12 months. A juvenile attempted suicide by hanging himself from bars of his cell. He was subsequently stripped naked and housed by himself, but was not given any medical/mental health assessment of his problems or injuries. Likewise, another inmate slashed himself with a safety razor, but was not properly assessed or monitored.

Our suicide prevention expert observed all cells to have exposed fixtures, air vents, bars, electrical wires and cords -- thereby offering numerous opportunities for inmates to attempt suicide or seriously injure themselves. Furthermore, the Sheriff's Department does not have a policy for reporting attempted or successful suicides, nor are staff required to complete incident reports.

III. SUPERVISION, SECURITY AND CLASSIFICATION OF PRISONERS IS SERIOUSLY DEFICIENT.

A. **Supervision and Security.** The consultant penologist determined that the most dangerous and life-threatening condition in the facility is the lack of adequate supervision of the inmates and lax security precautions. Sunflower does not provide any permanently assigned full-time staff at the jail. On all three eight-hour shifts, seven days a week, the routine supervision of inmates is provided by one staff person who also functions as the dispatcher and the booking officer. Supervision and security is further compromised by the fact that the location of the dispatcher/booking/jailer post has no line of direct sight to the inmate cells and living areas, and is barely within shouting distance of most inmates. This configuration lends itself to potential violence, inmate assaults and suicide attempts. During this investigation, Department representatives witnessed the dispatcher leave his loaded nine millimeter handgun on his desk in the unlocked, unattended glass-enclosed office in full view of inmates and staff. The dispatcher's office is also the repository for all medications. The cabinet housing the medications was also unlocked and easily accessible.

We also observed knives and other culinary implements that could be used as weapons lying in open areas of the kitchen and in unsecured and unlocked drawers where trustees and inmates moved freely about.

B. **Classification.** Sunflower has no written policy or procedure for inmate classification and housing assignment. The facility relies on personal knowledge of the booking officer to determine security risk and how and where such individual should be confined in the jail. It is an extremely dangerous practice to co-mingle violent, predatory inmates with vulnerable inmates who are subject to victimization.

MINIMUM REMEDIAL MEASURES

We have been advised that, due to the severe nature of structural deficiencies and environmental and health problems at Sunflower, a new jail is to be constructed. However, during the intervening period until a new, adequate jail is constructed and opened, Sunflower must implement the following minimum remedial measures to ensure that constitutional conditions of confinement are achieved:

I. ENVIRONMENTAL HEALTH AND SAFETY

1. Eliminate severe building hazards and unsanitary conditions. Sunflower should contract with a pest control company to rid the entire jail of vermin and roaches and the building should be thoroughly cleaned.

2. Provide running water in washbasins and repair toilet leaks. Plumbing sufficient to meet the needs of the jail population must be provided.

3. Provide for routine physical plant maintenance to ensure the timely repair of deficiencies, including, but not limited to, repair of exposed electrical wiring and faulty plumbing, and to ensure adequate ventilation and lighting.

4. Provide inmates with potable water and food free of infestation.

5. In order to provide adequate fire safety, Sunflower 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; immediately install an automatic fire suppression system over the stove in the jail's kitchen; immediately discontinue the use of extension cords as replacements for electrical outlets; repair all exit lights and conduct fire drills on a regular basis; remove all polyurethane mattresses and pillows; ensure that fire suppression equipment is regularly inspected and maintained and that staff are trained in its use; label cell doors keys so that they are readily identifiable.

II. MEDICAL AND MENTAL HEALTH SERVICES AND SUICIDE PREVENTION

To ensure provision of adequate medical care at Sunflower, the jail must:

1. Immediately contract for the provision of medical and psychiatric services to its inmates including the provision of prenatal care for its female inmates. The facility must immediately develop written procedures for the screening of all inmates upon intake, particularly for pregnancy, chronic illnesses and communicable diseases. The screening should be documented and must be performed by a health care professional or an appropriately trained jail staff personnel.

2. Immediately remove dispatchers and trustees from all health care responsibilities, including the distribution of medications and evaluation of sick call requests.

3. Medication should be distributed and administered by a health professional or staff persons trained in medication administration and side-effects of drugs commonly used at the jail.

4. Establish a sick call procedure that ensures that requests for treatment are reviewed in a timely manner by an appropriately trained individual and the granting or refusal for such medical attention is documented in writing.

5. Ensure that inmates have access to mental health care for their serious mental health problems and to crisis intervention services as needed. Require at least one jail corrections staff on each shift to be certified in Basic Life Support Cardiopulmonary Resuscitation.

6. Procure appropriate rescue equipment (e.g., a tool for cutting fibrous material, disposal rubber gloves and a CPR face mask), to ensure effective staff intervention should a crisis arise.

7. Develop and implement procedures regarding identification of inmates at risk of suicide.

8. Provide appropriate suicide prevention training to corrections staff.

9. Provide a safe "observation cell" for inmates at risk of suicide. Such inmates should be frequently and regularly monitored and such monitoring shall be documented in writing.

10. Repair and retrofit each cell containing obvious protrusions and objects that are conducive to suicide attempts. Purchase emergency equipment and train staff in its use.

III. SECURITY AND CLASSIFICATION OF INMATES

1. Immediately hire and deploy adequate jail staff to ensure proper supervision of inmates.

2. At a minimum, the dispatcher/booking/deputy position must be supplemented by additional full-time corrections officers including dispatchers, to provide for two staff members in the facility, on all shifts, seven days a week.

3. Develop and implement written policies on inmate supervision that provide for visual checks on each inmate at regular intervals. Written records of such checks should be maintained for review by subsequent shifts and supervisors.

4. Implement a basic classification plan that separates inmates based on appropriate factors, including, but not limited to, whether the inmate is a pretrial detainee or convicted of a

crime, the charge, known behavioral problems and history of violence.

5. Contraband such as kitchen knives and other culinary implements should be secured in a locked cabinet to prevent theft and be inventoried after each meal.

IV. CONDITIONS OF CONFINEMENT RE SUNFLOWER COUNTY FARM/CAMP MINIMUM SECURITY FACILITY.

The approximately 20-bed minimum security facility located in a remote rural setting in the County houses those inmates with minimum sentences and youth offenders. A ruptured and unrepaired septic system produced backed-up human waste and rather foul odors in the area used for inmate exercise. Serious roach and vermin infestation was rampant. The mechanical ventilation in the housing area of the building was inadequate to provide a minimum supply of fresh air and to exhaust unclean air. Air only circulated when electrical fans belonging to inmates were turned on; therefore, there were instances when no air was being circulated through the building because of fear of overloading electrical extension cords. Inadequate ventilation increases the potential occurrence of infectious communicable diseases.

MINIMUM REMEDIAL MEASURES

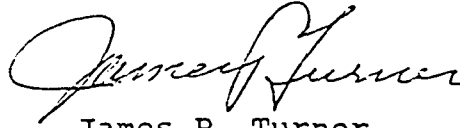
Repair and properly maintain the Farm/Camp's septic system. Ensure that there is an adequate supply of fresh water in all housing areas. Provide adequate ventilation in the living areas and secure appropriate electrical cords for inmate use in order to lessen the chance of electrical fires and electrocution. Contract for pest control services to eradicate the infestation of roaches and vermin.

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.

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

Sincerely,



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Acting Assistant Attorney General
Civil Rights Division

Johnny R. McWilliams, Esquire
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