



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

December 5, 1995

The Honorable William E. Ward
Mayor, City of Chesapeake
Office of the Mayor
City Hall
306 Cedar Road
Chesapeake, Virginia 23320

Re: Notice of Findings from Investigation of
Chesapeake City Jail

Dear Mayor Ward:

On February 8, 1995, we notified you of our intent to investigate the Chesapeake City Jail ("CCJ") pursuant to the Civil Rights of Institutionalized Persons Act ("CRIPA"), 42 U.S.C. §1997 et seq. Consistent with the requirements of CRIPA, the purpose of this letter is to advise you of our findings from this investigation, the supporting facts, and to recommend necessary remedial measures.

Our investigation consisted of a tour of the facility with expert consultants, the examination of documents, and extensive interviews with prisoners and staff at the facility. We were accompanied on our tours by three consultants: a penologist, a medical expert, and a fire safety/environmental sanitarian, all with expertise in jail facilities. Throughout the course of this investigation, City officials and CCJ staff extended to us and our consultants their cooperation, for which we wish to convey our thanks.

In making our findings, we recognize that CCJ confines both pre-trial detainees and post-conviction inmates. In general, inmates may not be subjected to conditions that are incompatible with evolving standards of decency or deprive them of their basic human needs while incarcerated. See Estelle v. Gamble, 429 U.S. 97 (1976). With respect to the pre-trial detainees, the Fourteenth Amendment prohibits punishment of these persons and restrictive conditions or practices that are not reasonably related to the legitimate governmental objectives of safety, order and security. Bell v. Wolfish, 441 U.S. 520 (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, 501 U.S. 294 (1991); Rhodes v.

CRIPA Investigation



JC-VA-002-002

Chapman, 452 U.S. 337 (1981). When convicted prisoners are not, as here, separated from pre-trial detainees, the Fourteenth Amendment standard applies to all inmates. Based on our investigation, we believe that conditions at the Chesapeake City Jail violate the constitutional rights of prisoners housed there.

The Chesapeake City Jail has two main sections, one built in 1962 and the other built in 1987. The Jail has a reported capacity of 213 inmates. On the day of our tour the Jail housed 472 inmates. On average, the Jail houses between 450 and 500 inmates, with a high of 556 inmates several months prior to our tour.

We realize that the City is currently constructing a jail addition and that the City plans to participate in a regional jail. These steps alone are insufficient to remedy the deficiencies we have found. Further, a number of current policies and procedures are deficient.

I. Correctional Deficiencies.

A. Incidents of violence. Inmate-upon-inmate assaults at CCJ are frequent and routine. According to incident reports, a number of these fights were sufficiently serious as to require medical care.

Our consultant concludes that severe and dangerous crowding, coupled with an extremely high level of idleness, creates an unusually tense environment at CCJ which leads to violence.

1. Crowding. As noted above, CCJ's rated capacity is 213 and yet it routinely houses over 450 inmates at any given time. Contrary to acceptable correctional practices, numerous inmates sleep on mattresses on the floor. The daily population of CCJ is so far over its design capacity that our consultant concluded that such density of population is not acceptable under any standard.

Additionally, the overcrowding of the Jail makes it difficult to classify inmates properly in order to separate incompatible inmates. This practice is unacceptable.

City officials are currently constructing a new jail which will replace most of the current Jail. Construction is expected to be completed by January 1996. Significantly, if the new jail were in use today, it would open at 70 percent of its capacity. In light of predictable increases in jail population as a result of recent legislation in Virginia, our consultant expressed concerns regarding the adequacy of the new jail addition. Notably, CCJ's construction plans provide for possible additions to the new jail, that is additional wings may be built at a later

time. The additions may be needed earlier than anticipated by CCJ officials.

CCJ inmates spend nearly all of their time in the same cramped housing unit to which they are assigned and where nearly every space is occupied. Indeed, the dayroom areas are so crowded with inmates that they are virtually unusable for any kind of physical activity. Inmates throughout the Jail continually complained to our consultant about other inmates being "in your face." Such crowded conditions inevitably creates friction and tension which, in turn, leads to violence.

2. Staffing and supervision. CCJ fails to provide adequate inmate staffing and supervision. Our consultant concluded that some officers do not conduct required rounds of the housing units. Moreover, while CCJ received additional staff two years ago, the level of staffing fails to keep up with the burgeoning inmate population. Indeed, CCJ remains over 40 staff positions deficient. Staffing, which is ordinarily important and crucial in any secured facility, becomes even more important in a severely crowded facility like CCJ. In sum, the level of officer staffing is inadequate for the population routinely housed at CCJ.

B. Out-of-cell/exercise time is insufficient. CCJ fails to provide adequate out-of-cell opportunities for exercise. Inmates at CCJ are confined for months and possibly years, with no opportunity for exercise outdoors. Our consultant found this practice to be unconscionable. While CCJ has an outdoor recreation yard, our consultant concluded, based on the condition of the yard (e.g., significant amount of leaves, tall grass) that it had not been used in a long time. Indeed, the recreation deputy, who began the position at the end of 1994, informed our consultant that he had never taken a group of inmates outside, but that "maybe next month" inmates would be taken outside for outdoor exercise.

CCJ has a multi-purpose room/gym for purposes of indoor recreation. The room is equipped with a ping pong table, exercise equipment and a universal weight machine. Inmates, however, only have access to this indoor recreation area once every two and a half weeks.

In sum, out-of-cell opportunities for exercise at CCJ are woefully inadequate.

II. Deficiencies in Medical Care.

Our consultant concluded that the health care and health related conditions at CCJ are substandard and inadequate. The extreme crowding creates unhealthy conditions. It is the

underlying or contributing cause of many, although not all, of the problems and deficiencies in the health care system.

The severe crowding at CCJ is unhealthy according to our medical consultant as it increases the potential for transmission of infectious diseases.

Furthermore, our medical consultant discovered that beds are allocated to inmates purely on the basis of seniority (i.e., length of time in the Jail). CCJ fails to make any provision to provide beds for infirm inmates and pregnant women in the latter half of their pregnancy to prevent them from sleeping on the floor. This is unacceptable as it may further exacerbate the existing medical conditions of inmates or expose them to unacceptable health risks.

A. Deficiencies in screening and treatment of infectious diseases. The tuberculosis ("TB") screening and treatment program for infectious diseases at CCJ is woefully inadequate. CCJ does not have a formal infection control program or an infection control manual. There is no effort to monitor TB skin test conversions, which would indicate disease transmission in the Jail. No log or tabulation of results of TB skin tests is maintained, so it is not possible to ascertain the rate of TB infection.

Furthermore, several inmates told our consultant that their skin tests were not read. Still other inmates reported that they were told not to present themselves for a reading unless they had a reaction. This instruction is an inappropriate delegation of medical responsibility to the patient-inmate.

Our consultant noted deficiencies in CCJ's treatment of HIV positive inmates. Medical staff report that they are not qualified to draw blood for HIV testing. Consequently, scheduled tests for HIV are significantly delayed. Further, CCJ fails to have a policy that mandates a chest x-ray on all HIV positive inmates.

B. Inadequate access to medical services. Inmates at CCJ access medical care by submitting a medical care request slip. The slip often serves as written communication between the inmate and medical staff, without physical examination of the inmate-patient. Our consultant discovered that a number of the exchanges via the sick call slip were argumentative in nature and bordered on being punitive. Such responses did not inform inmates how to care for their health and how to seek medical care appropriately. Inappropriate responses to sick call slips impede access to health care.

Access to health care at CCJ is also impeded by the fee system. CCJ not only charges inmates a copayment for medical services, but also charges exorbitant prices for over-the-counter medications and prescription medications. These practices have significant implications for public health. Specifically, CCJ charges inmates infected with tuberculosis for necessary medication, which notably can be obtained free of charge. CCJ also charges pregnant inmates for pre-natal vitamins, and chronic care patients for chronic care medication (e.g., insulin). Our consultant found these practices to be potentially quite dangerous from a public health standpoint. For example, one inmate medical record indicated that CCJ medical staff had difficulty persuading an inmate who tested positive for tuberculosis to take necessary medication (INH, pyridoxine) because the inmate did not want to pay the required ten dollars.

Significantly, while CCJ inmates have no opportunity to earn money, they are responsible for medical copayments as well as purchasing hygiene items, unless indigent (maintain a zero balance in inmate account for 30 consecutive days). Although a payment system is not illegal per se, it is imperative that all inmates receive adequate medical treatment, regardless of their ability to pay.

C. Medical policies and procedures are deficient. CCJ does not have a medical policy and procedure manual for medical services, including chronic care treatment. CCJ only maintains an assortment of disjointed memoranda and very few treatment protocols. Further, CCJ does not have a quality assurance program, an essential process to formally assess the quality of medical services provided to inmates.

D. Medical staffing. There is insufficient medical staff to provide adequate medical services at CCJ. The Jail has a contract with a medical doctor who is on-site three (3) times per week. The Jail's on-site medical staff is comprised of an LPN chief medical officer and five correctional assistants. Notably, neither the chief medical officer nor the correctional assistants are trained or qualified to perform physical examinations or diagnose medical conditions. Furthermore, the on-site medical staff does not have the ability to prescribe medications. This further compromises the adequacy of the medical care provided.

E. Medical facility is inadequate. While the conditions in the medical unit are very neat, clean and tidy, our consultant concluded that it is inadequate to provide sufficient medical care to CCJ's large population. The size of the medical clinic at CCJ is too small to provide effective medical care. It is not large enough to even perform adequate pelvic examinations. Furthermore, medical equipment at CCJ is also deficient.

F. Medical records are deficient. Recordkeeping is deficient. The medical records do not contain problem lists or flow sheets, data which would make inmates with serious medical problems readily identifiable to health care professionals. Indeed, medical records are maintained in a manner which makes review of the material difficult.

G. Dental services are inadequate. All dental care is provided off-site. On average, only four patients per week receive dental care. During the time of our on-site investigation, CCJ was six weeks behind in providing dental services.

H. Mental health services are inadequate. Necessary routine mental health services are not provided to inmates. Mental health services are provided for crisis intervention only.

III. Environmental Health and Safety Deficiencies.

A. Fire safety is deficient. CCJ does not conduct fire drills. Further, there has been no training in the use of the Jail's air breathing tanks.

Additionally, unacceptable and dangerous amounts of combustibles, such as hanging clothing and bags of paper, are present throughout CCJ housing units. This practice is dangerous as it increases the possible spread of fire and interferes with evacuation in the event of fire.

B. General sanitation, personal hygiene and severe crowding. Numerous inmates complained of roaches in the housing areas. As a practical matter necessary cleaning supplies are not available and, even if available, one housing unit is so crowded that it cannot be cleaned properly.

Inmate clothing laundered by the Jail do not appear clean. Inmates are required to wash their personal clothing (i.e., undergarments) in buckets or in toilets. This practice is unacceptable.

The Jail maintains a biohazardous waste container for used sanitary napkins in the shower area with easy access by inmates. The container is only emptied once per week. This practice is unacceptable.

C. Plumbing is deficient. Numerous plumbing fixtures in CCJ are in ill-repair and inoperative. In at least two areas, our consultant found plumbing leaking onto the mattresses of inmates sleeping on the floor. This is unacceptable.

Further, CCJ does not have an adequate amount of showers for the number inmates housed at CCJ. This leads to unsanitary shower facilities, poor hygiene and transmission of disease. Most of the showers do not have adequate ventilation when in use; consequently there is a build-up of scum and mold. Indeed, most of the showers are filthy.

D. Ventilation is inadequate. CCJ fails to provide adequate fresh air in the housing units to adequately prevent the transfer of infectious diseases. Numerous air vents are blocked, resulting in significant restrictions to air flow. In one housing unit there is no air flow at all.

E. Food services are deficient. The food at CCJ is not served at the correct temperatures. Food contact surfaces are not thoroughly cleaned and sanitized. Further, food service personnel do not perform their duties consistent with generally accepted sanitation standards.

IV. Remedial Measures Regarding Correctional Deficiencies.

A. Incidents of Violence. Immediate action must be taken to significantly reduce the severe crowding. Inmates must be provided safe sleeping accommodations i.e., a bed, and each ensured adequate square footage. No pregnant inmate or medically infirm inmate may be kept overnight at the Jail without a bed upon which to sleep.

Security and supervision of inmates must be significantly enhanced by increasing the number of qualified deputies and other security personnel to reduce violence and otherwise ensure the reasonable safety of inmates. Records regarding violent incidents must be evaluated at appropriate intervals to enable jail administrators to properly deploy security personnel. Visual inspections of the housing areas must be conducted and properly documented. Inspections of the housing areas must not be compromised due to staff scheduling or shortfalls.

Ensure appropriate compliance with CCJ's objective classification system.

B. Out-of-cell/exercise time. Inmates must be provided with exercise, outdoors when weather permits, one hour per day, five days per week.

V. Remedial Measures Regarding Medical and Mental Health Care.

A. Screening and treatment of infectious diseases. Develop and implement a formal infection control program. Ensure that skin test conversions are monitored so as to accurately ascertain the rate of TB infection. Ensure that all PPD implants are read by trained CCJ medical staff and the results are appropriately recorded.

Ensure compliance with CCJ's policy regarding HIV testing. All HIV seropositive inmates must have an annual chest x-ray.

B. Access to medical services. Ensure that medical staff do not respond to sick call slips in a punitive manner or manner that impedes access to medical services.

CCJ must evaluate its fee charging system to determine the effectiveness of its medical services program, the adverse consequences of the disincentive to seek care, and the specific problem areas that require resolution. CCJ must ensure that all inmates, irrespective of their ability to pay, receive adequate and timely medical treatment. Necessary medications must be made reasonably available to inmates.

C. Medical policies and procedures. Create and implement comprehensive written policies, procedures and protocols regarding the provision of medical care. Develop and implement a comprehensive quality assurance program.

D. Medical staffing. Ensure adequate staff of medical professionals to meet the medical needs of inmates. The on-site medical staff must include physician assistants and/or nurse practitioners who are trained and qualified to perform physical examinations, diagnose medical conditions and prescribe medication.

E. Physical plant. Increase the size of the medical unit sufficiently to address the medical needs of inmates. Ensure that the physical examination of female inmates upon admission includes a pelvic examination. At a minimum the following must be provided: one examination room with a mechanical table suitable for pelvic examinations and minor surgery; a second examination room with a simple exam table; office space with desk surfaces for the staff including the physician; and separate spaces for medical records and for medications.

F. Medical records. Ensure that medical records are maintained in a manner consistent with medical standards.

G. Dental services. Ensure that adequate and timely dental services are provided. At a minimum, 20-25 inmates per week should be able to receive dental services. Dental services must not be limited to extractions.

H. Mental Health. Ensure that adequate mental health services are provided to inmates on a routine basis. Create and implement comprehensive policies and procedures for the provision of mental health care. Create and implement suicide precautions. Ensure that all staff are trained in recognizing and promptly referring to qualified professionals, individuals exhibiting

common symptoms of mental illness and suicidal behavior. Ensure that necessary routine mental health services are provided.

VI. Environmental Health and Safety.

A. Fire safety. CCJ must routinely conduct and document fire drills throughout the facility on each shift. CCJ should provide training in the use of its air breathing tanks.

Ensure the removal of unreasonable amounts of combustibles, including clothing which is hung on or attached to cell bars, and other combustible materials from the housing areas.

B. General sanitation. Review, implement and document compliance with a Jail housekeeping plan. Ensure routine cleaning of all housing and toilet areas, particularly shower areas.

Ensure that inmate laundry is properly cleaned.

The biohazardous waste container in the female dormitory area must be removed and secured in a locked area. Covered containers for sanitary napkins may be utilized in each female area but must be emptied daily into the biohazardous container that is in a secured area.

C. Plumbing. Repair, maintain and clean all plumbing fixtures. Provide an adequate number of showers for the number of inmates in each cell block. Proper ventilation of the showers must be provided.

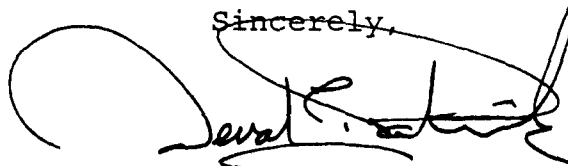
D. Ventilation. Ensure that inmates are provided adequate ventilation.

E. Food services. Ensure that food is served at proper temperatures to protect against food-borne illnesses. Ensure proper handling of food and drinks. Food personnel must be trained accordingly.

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). We expect to hear from you as soon as possible, but no later than 49 days after receipt of this letter, with your response to our findings and a description of the specific steps you have 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 unlawful conditions.

We look forward to working with you and other City 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 Shanetta Y. Brown, 202/514-0195, the attorney who is assigned to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval L. Patrick". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Deval L. Patrick
Assistant Attorney General
Civil Rights Division

cc: Mr. Clarence V. Cuffee
Chesapeake City Manager

Ronald S. Hallman, Esquire
Chesapeake City Attorney

Mr. John R. Newhart
Sheriff, Chesapeake City Jail

Helen F. Fahey, Esquire
United States Attorney
Eastern District of Virginia