



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

December 5, 1995

The Honorable James L. Eason
Mayor, City of Hampton
Office of the Mayor
22 Lincoln Street
Hampton, Virginia 23669

Re: Notice of Findings from Investigation of
Hampton City Jail

Dear Mayor Eason:

On February 8, -1995, we notified you of our intent to investigate the Hampton City Jail ("HCJ") 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 HCJ staff extended to us and our consultants their cooperation, for which we wish to convey our thanks. HCJ staff continued to provide supplemental documentation of changed practices which also served to assist our evaluation.

In making our findings, we recognize that HCJ 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

CRIPA Investigation



JC-VA-003-002

punishment. Wilson v. Seiter, 501 U.S. 294 (1991); Rhodes v. 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 Hampton City Jail violate the constitutional rights of prisoners housed there.

The Hampton City Jail was built in 1962, with major and minor renovations completed in 1979, 1990 and 1992. The Jail is a three (3) story building with a reported capacity of 160. On the day of our tour the Jail housed 342 inmates. On average, the Jail routinely houses 400 inmates, with a high of 469 several months prior to our tour.

During our investigatory tour, we were informed of the City's plans to renovate and add an addition to the existing jail, and to participate in an upcoming regional jail. We understand that these plans may correct a number of the issues identified. Nevertheless, these steps alone are insufficient to remedy the deficiencies we have found. Further, a number of the current policies and procedures are deficient.

I. Correctional Deficiencies.

A. Incidents of violence. There is an unseemly level of violence occurring within the Jail, specifically, inmate-upon-inmate assaults. Our consultant reviewed numerous documents detailing occurrences of inmate fights. Moreover, numerous prisoners reported that fights among inmates occur routinely.

H CJ's severe crowding results in increased tension, which is a primary cause for inmate-upon-inmate violence. Indeed, in one instance, an inmate was assaulted and urinated on by several other inmates while he attempted to sleep. The only apparent motivation for the assault was the location of the inmate's mattress on the table near the urinal. In another incident, four inmates were individually assaulted within 20 minutes by a group of inmates. According to the incident report, "unknown inmates were overheard saying they would continue to beat people up until their cell was no longer crowded." Clearly, such violence stemming from crowding is unacceptable. According to our consultant, the level of overall violence within H CJ is unacceptably high resulting in an untoward risk of harm to inmates.

Additionally, our consultant noted that H CJ's reporting practices result in an undercount of inmate-upon-inmate assaults in that several separate incidents are recorded on one incident report. Adequate reporting of acts of violence is critical as this information is necessary to determine where best to deploy staff resources.

B. Out-of-cell/exercise time is insufficient. HCJ fails to provide adequate out-of-cell opportunities for exercise. HCJ has an outdoor recreation yard, however, the possibility of any individual inmate having access to the outdoor yard on an acceptable routine basis is remote. Inmates are allowed outside once every week and a half at best.

Dayroom areas fail to provide adequate opportunities for indoor exercise. There is no exercise equipment. Inmates tie sheets to bed fixtures in order to perform exercise (e.g., pull-ups). Exercise is necessary to reduce tension and maintain physical and mental health. In light of the severe crowding, the lack of regular opportunities for exercise at HCJ also poses a security problem. Indeed, on one occasion HCJ's Emergency Response Team had to be summoned to quiet a disturbance in the Jail. The disturbance was sufficiently serious as to require the Emergency Response Team to use a chemical agent on inmates. The resulting incident report noted that "inmates began to make demands about recreation and food."

C. Classification is deficient. HCJ does not have a written, objective classification system. While HCJ officials make common sense efforts to classify inmates, the classification system is, as a practical matter, an artificial separation strategy as opposed to true classification of inmates. Further, the severe crowding compromises the ability of HCJ staff to maintain even the basic separation of violent from nonviolent inmates.

D. Staffing is deficient. HCJ does not have adequate staffing to provide necessary supervision of housing units and inmate transport. Our consultant concluded that HCJ needs additional staffing to operate safely and to provide the minimally-acceptable level of services.

Notably, the overall layout of the housing dormitories is staff intensive. The housing units are designed in a linear arrangement, which means that officers must walk along corridors to determine what activity is occurring in any given dormitory. The layout, along with the severe crowding, poses a significant hindrance to effective supervision practices.

E. Housing deficiencies. HCJ uses a double bunk bed in the cell designated for intoxicated arrestees, i.e., "drunk-tank." Our consultant concluded that the use of the bunk bed, given its physical configuration, is unsafe in light of the often erratic behavior of intoxicated inmates.

HCJ uses a single cell on the third floor to isolate female prisoners when necessary. The cell is located behind a solid steel door in order to provide sight and sound separation from male inmates housed on the floor. The steel door and the

location of the cell, however, prevent routine observation by security staff of an inmate housed in the cell. Indeed, the steel door makes it impossible for staff to even determine whether the cell is occupied without opening the door. No logs are maintained to ensure the proper supervision of the isolated inmate. Our consultant advised HCJ officials that proper supervision must be afforded when this cell is in use to ensure the safety of the inmate.

F. Inadequate legal access. HCJ does not have a law library or legal assistant to provide legal assistance. The former library has been converted to a dormitory to house inmates. The Jail has, however, recently purchased a CD-ROM containing state law. HCJ had not yet promulgated written policy and procedures for the use of the program.

G. Visitation practices are discriminatory. HCJ's visitation hours discriminate against female inmates. In short, male inmates are allowed visitors on the weekends, while female inmates are only allowed visitors on Monday morning. This practice has a discriminatory effect.

II. Deficiencies in Medical and Mental Health Care and Suicide Prevention.

A. Medical services are inadequate. The physician for HCJ does not conduct rounds through the housing units. Further, the physician only conducts sick call on Fridays which means that an inmate with an urgent problem who comes into HCJ on the weekend (a common time for arrests) must wait nearly one week before seeing a physician.

Our consultant expressed significant concerns regarding the environmental conditions of housing unit 3-1-C, the unit designated for recovering surgical and medical inmates-patients. This area is poorly ventilated, remotely located from immediate medical care, and unsanitary. Inmates in this unit must sleep on cots which are not suitable for convalescing.

B. Inadequate treatment of infectious diseases. HCJ fails to adequately document the implementation of tuberculosis testing. This data is absolutely essential to the decision-making process regarding inmate-patient treatment and epidemiological follow-up. HCJ's failure to consistently document this information compromises the health of inmates.

HCJ fails to provide adequate follow-up care for inmates who are HIV positive. Specifically, inadequate paperwork is received from consulting physicians. This practice is unacceptable as it is vitally important to monitor the status of HIV patients.

C. Inadequate suicide prevention. While no suicides have occurred in the past five years at HCJ, our consultants noted significant deficiencies in HCJ's suicide prevention program. Specifically, HCJ has deficiencies in supervision of suicidal inmates. In addition, suicide cells are inadequate.

HCJ places suicidal inmates in isolation cells equipped with video cameras. The officer in the central control room is responsible for monitoring the video cameras and documenting the necessary supervision of suicidal inmates. The control room officer has a variety of duties and remains extremely busy. Total reliance upon video surveillance under any circumstances is inappropriate. Our consultants determined that the varied responsibilities of the control room officer at HCJ further compromises necessary monitoring of suicidal inmates. Indeed, log sheets checked by our consultant were not up to date as required by HCJ's policy. In short, relying upon remote supervision from an already hectic guard station to perform frequent close supervision of suicidal inmates is inadequate.

Cells used to house suicidal inmates contain fixtures which could lead to suicides. Specifically, these cells have shelves with fixed clothing hooks and bunks with holes, both of which are conducive to hanging.

D. Intake screening and examination are deficient. HCJ fails to adequately screen newly arrested inmates, increasing the possibility of failing to detect inmates who are at high risk for life-threatening problems, e.g., suicidal ideation, seizure disorders, insulin dependent diabetics, pregnant inmates, or alcoholics with acute withdrawals. This deficiency can and does result in rapid demise and sudden deaths, which are frequently avoidable, according to our consultant, with adequate receiving screening.

The medical care professionals do not record basic medical information, e.g., vital signs, when conducting initial examinations of inmates. Furthermore, HCJ's medical staff utilizes an intake form, last revised in 1985, which our consultant found to be deficient. The form was originally designed as a screening form to be used by correctional officers rather than licensed medical staff. Consequently, the form fails to inquire about necessary medical information.

Our consultant concluded that HCJ's medical screening form is so inadequate that it poses an immediate life-threatening hazard. City and Jail officials were notified at the conclusion of our investigatory tour that this form needed immediate correction. Jail officials have subsequently submitted a draft revised screening form which is adequate.

E. Prenatal care is inadequate. Prenatal services are provided by the Hampton City Health Department. Necessary follow-up documentation is not returned to the Jail with the inmate-patient upon return from the Health Department Clinic. This practice is unacceptable as it threatens the continuity of care provided to these inmates. The failure to provide such documentation is a violation of generally accepted medical standards.

Further, HCJ does not have an electronic fetalscope, a device necessary to ensure the proper monitoring of pregnant inmates and their fetuses. An electronic fetalscope is also necessary to permit Jail medical staff to follow basic recommendations of a consulting gynecologist. Additionally, HCJ fails to provide basic prenatal education.

F. Inadequate access to dental services. Inmates' access to dental care at HCJ is substandard. Our consultant received numerous complaints from inmates regarding significant delays in accessing dental services. Indeed, HCJ records indicate that inmates wait six to eight weeks to be seen by the dentist.

G. Medical staff training is deficient. Our consultant noted that many of the medical staff at HCJ lack significant knowledge about correctional health care standards, including the constitutional right of inmates to receive adequate medical care.

H. Medical copayment program needs monitoring. Our consultant noted concerns regarding HCJ's copayment program and its effectiveness in addressing serious medical needs. HCJ fails to maintain essential data regarding the copayment program to determine the effectiveness of the program. While a payment system is not illegal per se, all inmates, irrespective of their ability to pay, must receive adequate and timely medical treatment.

III. Environmental Health and Safety Deficiencies.

A. Fire safety is deficient. HCJ has serious electrical hazards. The electrical wiring in two converted dormitories, exposes inmates to live wires. Indeed, in one of the dormitories our consultant discovered live electrical wiring exposed over the shower. This posed an immediate life threatening hazard which our consultant and Hampton's Deputy Fire Marshall agreed should be immediately disconnected. Notably, two months prior to our visit, Hampton's Fire Department also cited the jail for electrical problems.

Additionally, our consultant found significant amounts of inmate clothes hung on cell bars for laundering purposes throughout the facility. This poses a danger, as such unacceptable amounts of combustibles increase the possible spread of fire and interfere with evacuation in the event of fire.

B. General sanitation is inadequate. The general sanitation of the Jail is grossly inadequate. The severe crowding throughout HCJ places a great demand on both the physical plant and staff. A general lack of cleanliness existed throughout the Jail, especially in inmate housing areas. Our consultant found roaches and debris in housing units.

C. Failure to utilize universal precautions. Universal precautions, e.g., use of protective material to clean spills of blood and other bodily fluids, are not routinely used at HCJ. This is unacceptable. It poses a significant potential threat to the health of inmates.

D. Plumbing is deficient. Plumbing problems exist throughout the Jail. Because of severe crowding, the number of plumbing fixtures would be inadequate for the number of inmates using them even if they were all functional. However, throughout the facility toilets, lavatories and showers are in extremely poor repair.

E. Ventilation is inadequate. There is an insufficient amount of fresh air in the housing areas of the Jail. Nearly all of the intake vents in the Jail are blocked by debris, e.g., grease, paper or cardboard. Inadequate ventilation increases the potential for the spread of infectious, communicable diseases throughout the Jail.

F. Food services are deficient. The food service operation is deficient. Problems exist in food temperatures, food handling, and food contact surfaces. Indeed, the temperature in the food storage cabinet was 85 degrees fahrenheit on the day of our inspection. Improper food temperature poses a danger to the health of inmates.

G. Lighting is inadequate. The Jail does not provide adequate lighting for inmates. The lighting in many of the units measured far below 20 footcandles. Indeed, a number of the housing units were dark because the light fixtures were broken. Inadequate lighting leads to possible eye strain and inhibits adequate cleaning and maintenance of cells and personal hygiene.

IV. Remedial Measures Regarding Correctional Deficiencies.

A. Incidents of violence. Take immediate measures to significantly reduce the inmate population. Inmates must be provided safe sleeping accommodations, i.e., a bed. HCJ must

also explore long-term housing solutions in addition to planned construction.

Records regarding violent incidents must be recorded separately and evaluated at appropriate intervals to enable Jail administrators to properly deploy security personnel.

Security and supervision of inmates must be significantly enhanced to reduce violence and otherwise ensure the reasonable safety of inmates. Conduct and properly document routine, and as needed, sporadic visual inspections of the housing areas. Staff should assume a proactive rather than reactive role to prevent inmate assaults.

B. Out-of-cell/exercise time. Inmates must be provided with exercise, outdoors when weather permits, one hour per day, five days per week. Reasonable exercise equipment and activities should be provided for both indoor and outdoor exercise.

C. Classification. Develop and implement an objective classification system.

D. Staffing and supervision. Improve Jail staffing to ensure adequate surveillance and supervision of prisoners.

E. Housing deficiencies. Ensure safe housing, including sleeping arrangements, in cells used to hold inebriated inmates.

Ensure that proper supervision is maintained of isolation units.

F. Access to the courts and reading materials. Develop and implement policies and procedures to ensure reasonable access to legal materials.

G. Visitation. Visitation opportunities shall be substantially similar for male and female inmates.

V. Remedial Measures Regarding Medical and Mental Health Care.

A. Medical services. Implement the following recommendations as delineated below.

The sick call schedule for HCJ's physician should be reevaluated in terms of its adequacy. At a minimum, the physician should consider conducting rounds through inmate housing units at least once a week.

Ensure that recovering surgical inmates and inmates in need of constant medical attention are appropriately housed.

B. Treatment of infectious diseases. Ensure appropriate documentation of tuberculosis testing. Ensure appropriate treatment and epidemiological follow-up.

Ensure that the care of HIV inmates is appropriately monitored. Ensure that necessary paperwork is received from consulting physicians.

C. Suicide prevention. Ensure that suicidal inmates are housed under appropriate supervision. Video monitoring alone is not appropriate. Ensure that such supervision is properly documented.

Ensure appropriate housing for suicidal inmates. Fixtures which are conducive to attempting suicide must be corrected or removed.

D. Intake screening. HCJ must draft and implement clear policies to ensure the documentation of basic medical information in inmate medical records, particularly information gathered during initial examinations/screenings of inmates.

E. Prenatal and other gynecological services. Ensure that outside consultants provide a written summary of their findings regarding services provided to inmates. Indeed, such summaries are so critical that our consultant recommends that the receipt of such summaries by Jail officials should be a condition of payment to the consultants.

An electronic fetalscope (doppler) must be purchased immediately to ensure the proper monitoring of pregnant inmates and their fetuses and ensure that Jail medical staff is able to follow basic recommendations made by a consulting doctor.

Provisions must be made to ensure that prenatal inmates-patients receive basic prenatal education.

F. Dental services. Ensure that access to dental care is provided in a timely manner. Dental services should not be limited to extractions.

G. Medical staff. Ensure that medical staff receive appropriate training regarding important issues in correctional health care.

H. Medical copayment program. Essential data regarding the effectiveness of the copayment program, the adverse consequences of the disincentive to seek care, and the specific problem areas that require resolution, must be maintained to ensure that all inmates, irrespective of their ability to pay, receive adequate and timely medical treatment.

VI. Environmental Health and Safety.

A. Fire safety. Ensure the removal of unreasonable amounts of clothing which are hung on or attached to cell bars.

The electrical wiring in the two converted dormitories must be immediately disconnected to prevent inmate access to live wires. Eliminate all hazardous electrical conditions and electrical violations cited by the Fire Marshal.

B. General sanitation. Thoroughly clean the entire Jail. Review and implement, with appropriate documentation of compliance, the Jail housekeeping plan. Ensure routine cleaning of all housing areas.

C. Universal precautions. Staff should be thoroughly trained how to respond to situations in which blood or other bodily fluids are present via the use of universal precautions. Supervisors must ensure that such precautions are used routinely. HCJ must develop and promulgate a written policy and procedure to that effect.

D. Plumbing. Ensure that all plumbing fixtures are operational and maintained in working order. Ensure that sufficient showers, lavatories and toilets are provided for inmates.

E. Ventilation. Ensure proper ventilation in all housing areas.

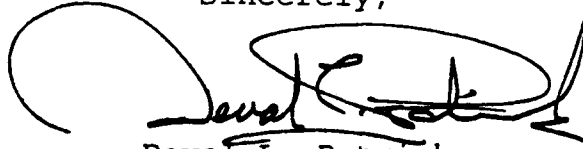
F. Food services. Ensure that food service operations are within acceptable food and health standards. Ensure that food is served to inmates at proper temperatures to protect against food-borne illnesses.

G. Lighting. Provide lighting adequate for reading and sanitation in the housing areas.

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 the attorney in the Special Litigation Section assigned to this matter, Shanetta Y. Brown, 202/514-0195.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval L. Patrick". The signature is stylized with a large, looping initial "D" and a long, sweeping underline.

Deval L. Patrick
Assistant Attorney General
Civil Rights Division

cc: Mr. Robert J. O'Neill, Jr.
Hampton City Manager

A. Paul Burton, Esquire
Hampton City Attorney

Mr. B. J. Roberts, Sheriff
Hampton City Jail

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