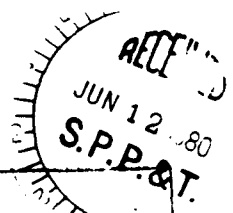
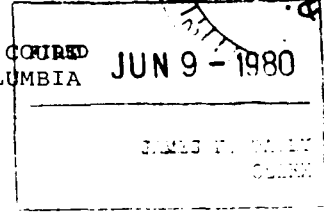




JC-DC-001-022



UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA JUN 9 - 1980



LEONARD CAMPBELL, et al.,)
)
 Plaintiffs,)
)
 v.) Civil Action No. 1462-71
)
 ANDERSON McGRUDER, et al.,)
)
 Defendants.)

FINDINGS OF FACT

1. On April 27, 30 and May 11, 1979, this court heard evidence concerning the treatment of mentally ill residents at the District of Columbia Jail ("Jail"). Witnesses included psychiatrists from the Forensic Psychiatry Office, which operates the Ugast Center (a facility near the Jail used for short-term treatment needs); a correctional officer and the Catholic chaplain who are familiar with conditions on Southeast 3, the unit of the Jail where these residents are housed; a psychiatrist now in private practice who formerly was in charge of the Ugast Center and provided psychiatric services on Southeast 3; and others.

2. On May 19, 1980 the court held another hearing to allow the parties the opportunity to update the record on the treatment of mentally ill residents at the Jail. Witnesses included the Health Services Administrator for the District of Columbia Department of Corrections; the Superintendent of the Jail; and the sole psychiatric nurse now operating at the Jail.

3. Southeast 3 is a unit of 80 cells in the Jail's Central Detention Facility (the "new jail" opened during the course of this litigation). When the new jail was opened, at about the same time as the Ugast Center, it was contemplated by corrections officials that Southeast 3 would serve as a follow-up unit to provide a healthier environment for mental patients who were being discharged from the Ugast Center but were returning to Jail, or

who were returning to the Jail from St. Elizabeth's Hospital. It was hoped that centralized housing of these residents would enable better health care to be provided to them.

4. The Southeast 3 unit, like all other housing units at the Jail, is under the control of the District of Columbia Department of Corrections. The day-to-day operation of the unit is controlled not by medical personnel, but by regular correctional officers with no particular training in the handling, treatment or management of mentally ill persons. In addition, the Department of Corrections has determined to keep other prisoners who are not mentally ill in the same unit, including persons held in punitive segregation for disciplinary violations; prisoners marked for "special handling" as escape risks or behavior problems; and inmates in protective custody. An inmate work crew or "detail" is used to assist in housekeeping at Southeast 3, and fights and friction between the "detail" inmates and the mentally ill residents are not uncommon. A correctional officer who had been assigned to Southeast 3 for 15 months felt that these frequent fights resulted from members of the detail crew wanting to "teach a lesson" to mentally ill patients about their bizarre, and sometimes annoying behavior.

5. Instances of bizarre behavior by mentally ill residents of Southeast 3 are routine. A log book kept in the unit by the corrections officers, and eye witness testimony, reflected at least two suicide attempts during 1979. The log also noted other instances of self-destructive behavior; residents pounding their heads or fists against the steel cell walls; inmates destroying their mattresses, ripping off all their clothes, or flooding their cells by plugging up the toilets, inmates urinating on the floor and smearing feces on the walls of their cells and on themselves; incoherent babbling, loud noises and shouting--in short, a bedlam.

6. Because there are inadequate numbers of corrections officers assigned to the unit, many of the residents are not taken out of their cells for daily recreation as required by this court's earlier orders. Instead they remain confined up to 24 hours a day. This "dead-locking" of patients is not done as seclusion might be in a mental hospital, on a doctor's order or medical finding that such treatment for a brief period might be beneficial to a disturbed or agitated patient. It is done out of necessity and indiscriminately by medically untrained corrections officers who, at periods of short staffing, cannot safely handle the men with only one guard and so do not remove them from their cells. Even when recreation is afforded, these residents (unlike those in the rest of the jail) still spend 22 hours a day confined in their cells.

7. Both the plaintiffs' and defendants' doctors provided expert psychiatric testimony that confinement in Southeast 3, and particularly in dead-lock status, was anti-therapeutic and deleterious to the mental health of the persons housed there. The corrections officers who work on that unit themselves recognized the inadvisability of keeping seriously disturbed individuals in such conditions. Admitted in evidence was a 1979 memorandum from three corrections officers on Southeast 3 to their commanding officers listing a number of residents who, in the view of the guards, needed "immediate and thorough psychiatric attention." The guards continued: "The Housing Unit of SE-3 does not provide the necessary services needed to assure the safety, custody and welfare of these individuals. Many times our only recourse is to lock them behind the cage doors of security cells 21-24." (Emphasis in original).

8. In addition to the stresses of the environment, another significant factor affecting the treatment of mentally ill residents of Southeast 3 is the absence of medically trained

personnel for handling and monitoring these patients. The corrections officers are admittedly not qualified to observe possible adverse reactions to medication, or the deterioration of a resident's condition. Records were introduced reflecting one particular resident who initially refused to come out of his cell to see a psychiatrist. Thereafter, because he was not a behavioral problem, he was left untreated in his cell for several additional months and when forcibly brought to a doctor was found to be experiencing an acute schizophrenic episode.

9. Delivery of medication is usually performed not by nurses, but by "Medical Technical Assistants." These assistants have never been trained for such work. The psychiatrists who work on Southeast 3 admitted that they could not be certain that medications were received. Other monitoring of drugs such as lithium carbonate seems to be inadequate at best. Medical records introduced at the hearing showed the issuance of doctor's orders for the taking of blood samples to determine serum lithium levels, (a necessary monitoring device), but no such testing was performed for months afterwards. Dr. Lee, the Jail Medical Director, testified that he would never prescribe lithium carbonate in a jail setting, because of the need for careful laboratory monitoring of this dangerous drug. Expert testimony, and evidence from the Physician's Desk Reference, a standard work, confirmed the importance of careful monitoring.

10. The Department of Corrections previously took the position in this case that the Jail was not an appropriate place for treating or holding mentally ill persons. Nevertheless, the record is clear that a substantial number of seriously ill persons are held on Southeast 3 under very stressful conditions and for long periods of time. One of the residents whose records were presented to the court, who had attempted and nearly succeeded in killing himself while confined in Southeast 3, was arrested in

February 1979, when he escaped from St. Elizabeth's Hospital, and at the time of the April 1979 hearings had a trial date scheduled on a misdemeanor charge in the Superior Court for August 1979.

11. The conditions of mentally ill residents at the Jail discussed above were established during hearings in April and May of 1979. Subsequent to those hearings the defendants informed the court that a task force had been set up and a plan produced to insure adequate mental health care to residents at the Jail. This "Plan for the Improvement of Mental Health Services for Inmates of the District of Columbia Adult Detention Facility" ("Plan") was filed with the court on December 26, 1979. In a Report to the Court of the same date defendants stated that "in an effort to improve services in Southeast 3 and Southwest 3, ten mental health technicians, three psychiatric nurses and eight additional correctional officers will be hired to furnish services to inmates"

12. The May 19, 1980 hearing revealed that very few of the improvements outlined in the Plan had been implemented and hardly any of the 21 personnel defendants committed themselves to hire had in fact been employed. Although there is evidence of some small movement in the direction of securing new staff on the part of the defendants, after the date when the most recent, May 1980, hearing was scheduled, the defendants' record in complying with its own promises of December 1979 and its own Plan is dismal. For example, in December 1979 the defendants assured the court that ten mental health technicians would be hired to serve Southeast 3 and Southwest 3. For the past six months there have been only two half-time mental health technicians to serve the entire Jail. As a defense witness and the sole psychiatric nurse now serving the Jail stated, "We don't have enough staff to do everything we need to do."

MEMORANDUM AND ORDER

The United States Court of Appeals for the District of Columbia affirmed this court's original order of November 5, 1975 requiring the transfer of mentally ill residents within 48 hours. Campbell v. McGruder, 580 F.2d at 548-50 (1978) (Bazelon, C.J.). At the same time, the Court of Appeals permitted defendants in "isolated situations" constituting "exceptional cases" to submit a written report to this court noting the "special cause" for non-compliance. Id. at 550. Since that court's March 30, 1978 ruling this court has been inundated with hundreds of such "exceptional" deviations from the 48-hour stricture. These reports detail case after case of a mentally ill resident receiving substantial amounts of psychotropic medicine who the defendants feel is not in need of hospitalization.

Given the history of neglect at the Jail and the defendants continued protestation that they have no control over, and restricted access to, any mental health facility apart from the small, 30-bed Ugast Center, the court is disturbed by the defendants' repeated, "exceptional" conclusion that a mentally ill resident need not be hospitalized and can be adequately treated in a Jail that has seen little improvement in the treatment of the mentally ill since the inception of this case.

Hearings over the past year convince the court that the mentally ill residents of the District of Columbia Jail have yet to receive the minimum level of treatment required by the Constitution. Campbell v. McGruder, *supra*. Shortage of staffing on Southeast 3 has even resulted in the deprivation of recreation and limited freedom for mentally ill residents that other residents at the Jail routinely expect and receive. The court cannot escape the conclusion that to be mentally ill and to be transferred to Southeast 3 is to be relegated closer to oblivion than to treatment.

The court hereby reaffirms its original order requiring transfer within 48 hours of all mentally ill residents to a facility appropriate for treating such residents. The court will stay this order for 60 days. Within 60 days from the date of this order, defendants shall cease to house within the District of Columbia Jail any resident diagnosed as mentally ill, unless they have fully implemented the December 1979 "Plan for the Improvement of Mental Health Services for Inmates of the District of Columbia Adult Detention Facility," and otherwise complied with this order. Specifically, before continuing to house mentally ill residents at the D.C. Jail after a period of 60 days the defendants shall: (1) fully implement the December 1979 Plan, including hiring a minimum of ten full-time mental health technicians, three full-time psychiatric nurses and eight full-time correctional officers in addition to the normal complement of three full-time correctional officers assigned to the Southeast unit. Such personnel shall be assigned exclusively to serve the needs of the Jail's mentally ill patients.

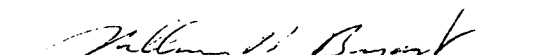
(2) supplement the December 1979 Plan as follows:

- (a) develop procedures to obtain in a timely fashion the medical history and records of prior hospitalization and treatment of all mentally ill residents;
- (b) develop procedures to insure that untrained personnel and particularly other inmates will not have access to mentally ill residents.

It is worthy of emphasis that complying with its own Plan does not in any manner relieve the defendants "from their obligations to attend promptly and appropriately to the medical needs of detainees whose incarceration prevents them from finding their own treatment." Campbell v. McGruder, 580 F.2d at 550. Rather, this court will postpone issuing its own specific mandate while the defendants implement their Plan in an effort to bring the D.C. Jail up to the minimum standards of decency required by the

Constitution. If even a good faith implementation of the defendants' Plan fails to achieve this standard, the court will be forced to address the issue yet again, without affording the defendants the luxury of styling their own reform. Too much time has passed since the callous disregard of the welfare of mentally ill residents at the Jail became clear to all. The court will strictly enforce the 60-day time limit set above. It is therefore,

ORDERED that the defendants comply with the above mandate within 60 days.


UNITED STATES DISTRICT JUDGE

Date: June 9, 1980