



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

The Honorable Jack L. Marshall  
Mayor  
City of Tupelo  
117 North Broadway  
Tupelo, Mississippi 38802

NOV 17 1993

Re: Notice of Findings of Investigation,  
Tupelo City Jail

Dear Mayor Marshall:

On May 3, 1993, we notified you of our intent to investigate the Tupelo City Jail (hereinafter "TCJ") 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.

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). In making our findings, we are aware that many of the individuals confined at TCJ are pretrial detainees or persons not convicted of any crime. 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. 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.

Department of Justice attorneys, accompanied by four consultants (a penologist, a medical doctor, a health and safety expert, suicide prevention expert), toured TCJ on June 17, 1993. During this tour, we interviewed the Chief of Police, jail staff, and inmates. We also examined records maintained at TCJ and evaluated other records provided by the facility.

U.S. v. Tupelo City



JC-MS-017-002

Numerous conditions at TCJ violate the constitutional rights of inmates confined therein. These constitutionally violative conditions and the required minimum remedial measures that TCJ must implement are set forth below:

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

A. Staff Training and Supervision of Inmates. In 1992, TCJ replaced its existing jail staff with four new full-time jailers. Staff training records indicated that only one of the four jailers had completed a basic jail officer training course. Staff training is necessary to ensure the safety of inmates and the security of the jail.

The jail uses police officers on patrol to substitute for the jailers during their breaks. This is an acceptable practice if the officers have received some jail training, patrol the jail while on duty, and are familiar with and are able to execute the jail's emergency plans. We found no evidence, however, that TCJ has met any of these conditions. Furthermore, TCJ does not have a female staff member to supervise female inmates.

The inmate trustees in the facility are not adequately supervised. For example, we discovered that at least one trustee charged other inmates \$2.00 for a meal tray and 25 cents "service charge" to get them canteen items. Proper supervision of the trustees would preclude such practices. In addition, a number of the inmates possessed butane lighters. Butane is a highly flammable substance. These lighters can be used for numerous purposes which could threaten the security of the jail and the safety of the inmates.

B. Racial Segregation. Jail officials openly stated that they have two drunk tanks -- one for caucasians and the other for people of color. This practice of making housing assignments based exclusively on race violates the Fourteenth Amendment and Title III of the Civil Rights Act of 1964, 42 U.S.C. § 2000b.

C. Classification. Aside from keeping men separate from women, the jail has no formal classification policy or procedure to separate, for example, aggressive, violent inmates from vulnerable inmates. Classification is essential for maintaining the jail's security and inmates' safety.

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

A. Medical Resources and Access to Medical Care. Access to medical care at TCJ is deficient. Medical screening is conducted by a corrections person who does not have any medical training or medical background. It does not include screening for

berculosis or substance abuse. Also, 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. Additionally, the screening form is not always used or fully utilized by the staff. As such, serious medical conditions are not consistently identified through the use of the screening form. For example, in March of 1992, an inmate incarcerated on a charge of resisting arrest and public drunkenness died in his cell two days after his arrival. The jail failed to complete the "Officer-Inmate Questionnaire" section of its screening form despite the fact that the inmate was in the facility for two days. Also, we could not locate a Receiving Screening Form for another inmate who died in custody.

TCJ has no formal sick call policy and procedure. In general, inmates request to see a physician through the jailer or inmate trustee. Trustees should not have any role in determining access to medical care by inmates. The jail fails to provide follow-up care for serious medical problems, and adequate evaluation and follow-up care to inmates with identified chronic illnesses.

TCJ's medication distribution system is inadequate. Generally, the jailer distributes medication to the inmates. However, on occasion, an inmate trustee is placed in charge of distributing medication. Several inmates complained that they were given medication irregularly and not in accordance with physician directions. For example, the medical log confirmed a diabetic inmate's complaint that he received his insulin doses at varying times during the day, instead of in the morning as prescribed. Such erratic timing of insulin administration can contribute to serious complications of diabetes.

The jail also fails to ensure that inmates take their medications. Several inmates had envelopes containing medications which were administered to them at the jail. TCJ's staff only erratically record the administration of medications to inmates and it does not require inmates to acknowledge receipt of the medications.

**B. Mental Health Care and Suicide Prevention.** The facility does not provide inmates with adequate access to mental health care services. Especially egregious is the lack of appropriate care for inmates who have not committed any crime and who are being held under Mississippi's "Lunacy Law."

There have been three suicides at TCJ since 1987. TCJ's staff has not received any jail suicide prevention training. Furthermore, we found no evidence that the jailers were trained in first aid or certified in CPR. The staff lacks the knowledge to detect or assess unusual or significant behavior and to prevent harmful incidents. For example, according to his death

port, former inmate Rickey Russe "apparently faked a self-inflicted injury to himself" and possessed "numerous dosage units of prescription drugs" upon his arrest in May of 1987. The jailers, however, did not take any suicide prevention measures and he successfully committed suicide within several hours after his arrest.

The jail lacks adequate procedures for suicide prevention screening. Although TCJ uses a screening form for determining whether an inmate's behavior suggests the risk of suicide, it serves no purpose because none of the jailers have been trained to identify the signs and symptoms of suicidal behavior.

A general order instituted in 1992 requires the jailers to check on any sick, suicidal, or inmate detained under the "lunacy law," every 15 minutes and to log such a check. Despite the fact that TCJ housed several mentally ill and suicidal inmates during the reviewed time period, the jail check sheets did not reflect 15-minute observations. Generally, the inmates confirmed that jailers walk through the cell blocks at thirty minute intervals. Before being corrected by a supervisor, a jailer stated that suicidal inmates were observed every 30 minutes.

TCJ's staff failed to adequately report potential, attempted and completed suicides. We found very few incident reports and officer statements regarding the five deaths at TCJ. Several suicide attempts had occurred without any documentation by the facility.

The housing units for mentally ill, drunk, and suicidal inmates jeopardize the lives of the inmates housed therein. According to the staff, suicidal inmates are usually put in one of the drunk tanks and, if their self-destructive behavior continues, they might be moved to the padded cell or isolation cell. The drunk tanks have exposed light fixtures or fixtures covered with wide-gauge mesh screens and wide-gauge mesh screens attached to the cell bars, which offer numerous opportunities for an inmate to commit suicide. As discussed in the health and safety section below, the padded cell and isolation cell are unfit for human habitation.

### III. TCJ HAS SERIOUS ENVIRONMENTAL HEALTH AND SAFETY DEFICIENCIES.

A. Physical Plant Maintenance. Physical plant maintenance is completely inadequate. We found defective plumbing, inadequate ventilation, and nonconforming electrical wiring throughout the facility. Numerous toilets and sinks did not operate properly. The ventilation system failed to provide an adequate supply of fresh air and air exchange. The nonconforming wiring in the facility increases the potential for an electrical fire or electrocution of inmates.

Lighting levels were grossly substandard throughout the housing areas. The lack of lighting inhibits adequate cleaning and maintenance of cells and increases the potential for accidental injuries.

B. Environmental Sanitation. There was a substantial buildup of soil residue and filth in showers, toilets, and sinks. Also, there was active infestation of roaches throughout the living areas. We found numerous torn mattresses in the cells. Torn mattresses prevent adequate cleaning and sanitizing so as to prevent disease transmission.

C. Padded Cell and Disciplinary Isolation Cell. Both the disciplinary isolation cell and the padded cell are unfit for human habitation. Both cells contain no means of ventilation, either mechanical or natural, for minimum air exchange. The isolation cell was filthy and had dried fecal matter on the floor and on the toilet fixture. The sink was filthy and inoperative in supplying both tempered and cold running water. Lighting in the cell was completely deficient. The padded cell was covered with padded foam which was installed in the 1960's, and there was no indication that this material met minimum fire safety standards. Additionally, the cell contained no artificial or natural lighting. Finally, this cell was not equipped with either a toilet or a sink.

D. Availability of Bedding, Clothing, and Personal Hygiene Items. The jail does not provide sheets, towels, pillows, and clothing to inmates. Although the facility allows visitors to give these items to inmates, it makes no provision for inmates who do not receive such items. The jail fails to ensure that inmates are supplied with toothbrushes, toothpaste, and razors. These items are necessary for maintaining proper hygiene.

E. Fire Safety. The storage room across from the drunk tanks contained flammable and combustible materials, e.g., oil-based paints, paper products, gas cans, a chainsaw motor, and motor oil. The jail's cell door keys were unmarked. Thus, there is no means of quickly unlocking cells and releasing individuals in cell block areas in the event of a fire or other emergency necessitating immediate evacuation. Several exit lights in the facility were not working. The shower curtains in the facility were not flame retardant. There were non-flame retardant polyurethane mattresses and pillows throughout the facility. Also, we found numerous plastic trashbags throughout the facility. These bags emit toxic fumes upon ignition. Finally, the hard-wired fire alarm system was inoperative and there were no smoke detectors.

F. Provision of Water. TCJ fails to provide inmates with sufficient water or other liquids. Given the extremely hot temperatures and the lack of adequate ventilation in the

acility, inmates must be provided with sufficient liquids and ice to prevent dehydration and to maintain proper body temperature.

G. Food. TCJ serves food at improper temperatures, which increases the likelihood of spread of food borne illnesses.

IV. TCJ DOES NOT PROVIDE ITS INMATES WITH AN ADEQUATE OPPORTUNITY FOR OUT-OF-CELL EXERCISE.

The facility does not provide inmates with any opportunity for out-of-cell exercise. Exercise is necessary to maintain inmates' health and mental well-being.

V. TCJ DOES NOT PROVIDE ITS INMATES WITH REASONABLE ACCESS TO LEGAL MATERIALS.

The jail does not have a law library. The jail does not inform inmates of their ability to access the local law library. We did not find any evidence that inmates were taken to the local law library. Thus, TCJ fails to provide inmates with reasonable access to legal materials.

MINIMUM REMEDIAL MEASURES

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

I. Security and Supervision.

1. Require all jailers to complete a basic training course for jailers. Jailers must be trained in recognizing the signs of mental illness and suicidal tendencies.

2. Ensure that all inmates, including inmate trustees, are properly supervised. When the jail houses female inmates, the jail should have a female staff person available.

3. Immediately cease segregating inmates by race in the drunk tanks.

4. Remove butane lighters from all housing areas.

5. Develop and implement a classification plan that is appropriate for TCJ's inmate profile and physical plant.

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

1. Provide adequate medical care to TCJ inmates. Such care should include timely evaluation of sick-call requests by a qualified medical professional, treatment for communicable

eases, chronic illnesses, and follow-up care for serious medical problems. The jail should implement an appropriate sick-call system to ensure that appropriate action is taken.

2. All inmates must be screened for medical problems, mental health problems and suicide ideation upon intake by a qualified health care professional or other appropriately trained person. TCJ must also screen for substance abuse problems, tuberculosis and other communicable diseases.

3. Ensure that a local mental health professional is available for consultation services and on-site evaluation of inmates when necessary.

4. Contract with a pharmacist or other appropriate health professional to manage medication at TCJ. Medications must be safely stored and properly monitored. TCJ 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. Medication must be distributed to inmates by a health professional or a corrections staff person who has received training in medication administration and recognition of side-effects of drugs commonly used at the jail.

5. Revise TCJ's policy manual to include specific procedures regarding suicide prevention.

6. Immediately cease using the padded cell and the disciplinary isolation cell to house any inmates, including those who are suicidal or mentally ill. Remove suicide hazards from the drunk tanks, and ensure they are adequately ventilated. Provide drunk, mentally ill, and suicidal inmates with safe, appropriate housing.

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

8. At least one jailer on every shift must be CPR certified.

9. 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 toothbrushes, toothpaste, and razors. Also, provide inmates with towels, washcloths, bed linen, and clothes, as needed. Replace torn mattresses.

3. Repair deficiencies in the ventilation system, heating system, electrical wiring, lighting fixtures, and plumbing. Living areas must be properly ventilated and adequately lit.

4. Food must be served at appropriate temperatures.

5. In order to provide adequate fire safety, TCJ must: install an adequate smoke detection and alarm system; remove trashbags from cells; remove combustible materials from the storage room; install flame retardant shower curtains; color-code or touch-code the cell door keys; repair exit lights; and remove polyurethane mattresses and pillows and replace them with fire retardant mattresses and pillows.

6. Inmates must be provided sufficient liquids to ensure that they do not become dehydrated.

#### IV. Opportunity for Out-of-Cell Exercise.

Afford inmates supervised out-of-cell exercise for a minimum of one hour, five times per week. Preferably, exercise should be outdoors; however, the facility must provide indoor exercise space and equipment if outdoor exercise is not possible.

#### V. Access to Legal Materials.

Provide inmates with reasonable access to legal materials.

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 that you have taken or 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,

A handwritten signature in cursive script, appearing to read "James P. Turner".

James P. Turner  
Acting Assistant Attorney General  
Civil Rights Division

cc: Mr. Billy V. White  
Chief of Police  
City of Tupelo

Guy Mitchell, III, Esq.  
Tupelo City Attorney

Alfred E. Moreton, III, Esq.  
United States Attorney  
Northern District  
State of Mississippi