



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

NOV 30 1993

Rooks & U.S. v. Herring

Mr. Jerold Dean
President
Conecuh County Commissioners
Jackson Street, Courthouse Square
Evergreen, Alabama 36401



JC-AL-007-002

Re: Notice of Intention to Intervene in
Rooks v. Thigpen, Civil No. 92-0316-AH-M.

Dear Mr. Dean:

Pursuant to Section 5 of the Civil Rights of Institutionalized Persons Act, 42 U.S.C. Section 1997 et seq., we are writing to advise you that the United States intends to intervene as a party plaintiff in Rooks v. Thigpen, Civil No. 92-0316-AH-M ("Rooks").

Based on our review of the facts of Rooks, we have reasonable cause to believe that the defendants in that matter are responsible for the deprivation of inmates' constitutional rights pursuant to a pattern or practice of resistance to those rights. Set forth below are (i) the alleged conditions which deprive inmates of their constitutional rights, (ii) the supporting facts giving rise to the alleged conditions, and (iii) the minimum measures we believe may remedy the alleged conditions.

We understand that the Conecuh County Jail confines both pretrial detainees and post-conviction inmates. 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 the pretrial 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, ___ U.S. ___, 111 S.Ct. 2321 (1991); Rhodes v. Chapman, 452 U.S. 337 (1981). When convicted

training. The medication distribution system is inadequate. Medication is distributed by individuals who lack appropriate training. Proper procedures for keeping track of medications and their distribution are virtually non-existent. There is inadequate dental care.

The facility lacks adequate written policies and procedures with respect to medical care. Particularly dangerous is the absence of written policies for handling inmates admitted while intoxicated, and female inmates who are pregnant. The existing policy for disease control is inadequate. The jail fails to screen inmates for communicable diseases. There is no housing of inmates based on physical or mental illness, suicidal impulses, intoxication, or chemical dependency.

2. Mental health care. There are no written policies and procedures regarding provisions of mental health services to inmates. Additionally, there currently is no mental health professional available to examine inmates or for consultation to assist in inmate assessments and treatment.

3. Inadequate suicide prevention practices. The facility fails to provide adequate procedures for suicide prevention. Significantly, there is no written suicide prevention policy, and staff receive no training in the subject. Further, inmates at risk for suicide are not placed in an appropriate cell, i.e., one that allows for adequate observation and possesses physical features that would hinder suicide. There are also features in other cells that present suicide risks, e.g., overhanging metal rods.

III. Deficient Environmental Health and Safety.

1. General sanitation and personal hygiene. The facility is unsanitary. Numerous mattresses are torn, cracked and dirty. Toilets, showers and sinks are not adequately cleaned. Cells are dirty, and all surfaces are covered with accumulated dust, mildew, rust and peeling paint. The jail fails to provide inmates with materials to maintain personal hygiene, such as toothbrushes, toothpaste, razors, towels, clean sheets, sufficient feminine hygiene products, and materials with which to clean their cells.

2. Infestation. The jail is infested with insects and vermin.

3. Lighting. Lighting levels are inadequate. Each cell is lit by only one light bulb, making reading and writing extremely difficult. Inmates in the bottom bunks are almost in the dark. The low levels of light would result in significant eye strain if inmates tried to read.

4. Ventilation. There is no source of fresh air and cells are unventilated.

5. Plumbing. Many toilets fail to function properly. Hot water is not always available for showers or washing.

6. Potable water. The jail lacks sufficient potable water for inmates to drink.

7. Fire safety. The jail fails to protect inmates from harm due to fires. There are combustible materials throughout the facility. The jail's electrical system is faulty, and subject to electrical shorts. There are no policies or procedures to address fires or other emergencies. There is no two-way communication system by which inmates can inform staff of a fire or other emergency. Because each cell must be unlocked by hand, there would be insufficient time to evacuate in an emergency. There are no manual fire alarms or emergency lights. There is only one exit from living areas of the jail.

8. Emergency preparedness. Numerous deficiencies exist with respect to emergency preparedness. There are no emergency evacuation plans posted in the housing units, and inmates are not instructed what to do in case of an emergency. Further, there is no fenced or secure discharge area for inmates, and at night there is at most only one guard on duty.

9. There are times -- usually weekends -- when the facility is so crowded that inmates must sleep on the floor.

IV. The Jail's Failure to Provide Adequate Exercise/Out-of-Cell Time.

The facility fails to provide inmates adequate exercise or out-of-cell time. Most inmates are essentially confined to their housing areas 24 hours a day. Some inmates are confined to their cells 24 hours a day. Exercise is necessary to maintain health and to reduce the potential for violence within the jail.

V. The Jail's Failure to Provide Adequate Access to Counsel.

Inmates have little or no access to a law library or legal materials.

MINIMUM REMEDIAL MEASURES

To rectify these deficiencies at the jail and to ensure that constitutional conditions are achieved, we believe that the following minimum remedial measures must be implemented:

I. Security and Supervision.

1. Staffing and supervision. The jail must provide additional staff and/or monitoring of inmates sufficient to ensure inmates' safety and security.

2. Staff training. All staff must receive adequate training in small jail operations to ensure the safe and secure operation of the jail.

3. Policies and procedures. A policies and procedures manual for operation of the jail must be developed and implemented to encompass, inter alia, the various functions of the jail, responsibilities of staff, use of force and restraint devices by staff, and adequate emergency response procedures.

4. Classification. The jail must separate persons convicted of serious crimes, and violent or aggressive persons, from others.

II. Medical and Mental Health Care and Suicide Prevention.

1. Medical care. To ensure provision of adequate medical care to inmates, the facility must: ensure appropriate management of intoxicated inmates; establish a sick call procedure that ensures requests for treatment are reviewed in a timely manner by a person trained to evaluate such requests and that the granting or denial of treatment is documented in writing; ensure that medical care is provided in a timely manner by a qualified medical professional; provide appropriate training to staff on administering medications and their potential side-effects; and provide TB screening for all inmates incarcerated seven days or more and provide screening for other communicable diseases. The jail must develop and implement adequate, written policies and procedures governing access to and delivery of medical care. The jail must develop a housing system to ensure segregation of inmates who are suicidal, chemically dependant, intoxicated, or physically or mentally ill.

2. Mental health care. The jail must provide mental health screening and treatment of serious mental conditions, and develop and implement appropriate written policies and procedures.

3. Suicide prevention. Staff must be trained in identification and monitoring of inmates at risk of suicide. Successful suicides and serious suicide attempts must be investigated to determine how and why they occurred. Finally, appropriate written policies and procedures regarding these matters must be developed and implemented. Additionally, the facility must provide an adequate "observation cell," and eliminate risks posed by physical features conducive to suicide, such as shower stalls.

III. Environmental Health and Safety.

1. General sanitation. The jail must be cleaned and maintained in a sanitary manner. Inmates must be provided appropriate items to maintain personal hygiene and materials with which to clean their units.

2. Infestation. The jail must provide adequate extermination of insects and vermin.

3. Lighting. The jail must provide adequate lighting in inmate living areas.

4. Ventilation. The jail must provide adequate ventilation in inmate areas.

5. Plumbing. Inmates must have hot and cold running water in sinks and showers, toilet leaks must be timely repaired, and plumbing sufficient to meet the needs of the jail population must be provided.

6. Potable water. The jail must provide inmates with adequate amounts of potable drinking water in appropriate containers at all times.

7. Fire safety and emergency procedures. To provide adequate fire safety, the jail needs to: post evacuation plans in the housing units and ensure staff and inmates are educated regarding egress procedures in case of fire emergency; provide a secure evacuation area for inmates; ensure smoke detectors are functional; regularly conduct fire drills; ensure emergency lighting is functional; conduct documented internal fire safety inspections; and provide mattresses to inmates that are fire safe.

8. Overcrowding. Inmates without bunks due to short term excess capacity must be provided with adequate alternative sleeping arrangements, and may not be required to sleep on the floor.

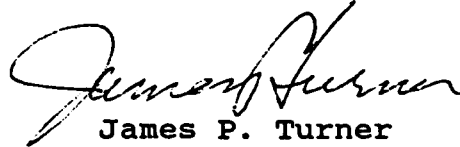
IV. Exercise/Out-of-Cell Time.

Inmates must be afforded at least one hour of exercise outside the housing unit a minimum of five times per week.

V. Access to Counsel.

The facility must provide inmates with reasonable access to a law library.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division

cc: Mr. Edwin L. Booker
Sheriff Conecuh County
Jackson Street, Courthouse Square
Evergreen, Alabama 36401

Mr. Larry Farrell
Chief Deputy Conecuh County
Jackson Street, Courthouse Square
Evergreen, Alabama 36401

Edward J. Vulevich, Esquire
United States Attorney
Southern District
of Alabama