

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

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U.S. DISTRICT COURT
N.D. OF ALABAMA

GEORGE THOMAS, et al.,)
)
Plaintiffs,)
)
v.) CIVIL ACTION NO.
) CV 77-P-0066-S
TOM GLOOR, et al.)
)
Defendants.)
)

WILLIE ROY STUBBS, et al.)
)
Plaintiffs,)
)
) CIVIL ACTION NO.
) CV 77-P-0132-S
TOM GLOOR, et al.)
)
Defendants.)
)
_____)

DECLARATION OF STEVE J. MARTIN

Pursuant to 28 U.S.C. § 1746, I, Steve J. Martin, declare as follows:

1. I am over the age of eighteen and competent to make this statement.
2. I am an independent consultant in the field of corrections with almost 25 years experience in correctional administration. My resume is attached at the end of this declaration. I began my career as a correctional officer at the Ellis Unit of the Texas Department of Corrections in 1972. I have subsequently served as a casework intern in mental health programs with the

Federal Bureau of Prisons at the Federal Correctional Institution, Fort Worth, Texas; as a probation officer for the United States Probation and Parole office; and as an Assistant District Attorney in Tulsa, Oklahoma defending jail officials in civil rights litigation. In 1981 I joined the Texas Department of Corrections at Legal Counsel, and subsequently as General Counsel and Chief of Staff. I later served in the Texas Attorney General's Office as a Special Assistant Attorney General and as a consultant on prison and jail litigation.

3. In my service with the Texas Department of Corrections since 1981 I was involved in the development of policies and procedures in the areas of administrative segregation, inmate disciplinary procedures, inmate classification, use of force policies and procedures, and numerous other operational issues. Much of this work was related to compliance with court orders in Ruiz v. Estelle, the statewide prison conditions litigation brought by prisoners and the U.S. Department of Justice against the Texas Department of Correction. As Legal Counsel and General Counsel, I was responsible for the implementation of policies and the monitoring of compliance with those policies pursuant to the orders in Ruiz. As Chief of Staff I supervised the newly created office of Compliance, which took over the task of compliance monitoring. As Legal Counsel and General Counsel, I routinely visited prisons both in connection with Ruiz and other litigation and in connection with in-house agency investigations, e.g. of allegations of staff misconduct. As Chief of Staff, I was third the ranking official in the department and visited prisons nearly every week.

4. As an independent consultant, I have been retained by plaintiffs' counsel in numerous cases, and on several occasions by jail officials or other local authorities. I have made several hundred site visits to an estimated 300 prisons and jails outside the Texas Department of

Corrections, including, for example, state prisons in Arkansas, Missouri, Nebraska, Nevada, New Mexico, Washington, Ohio, Montana, Wyoming, Puerto Rico, New York, and California; and local jails in Lauderdale, Gulfport, and Grenada, Mississippi; Owensboro, Kentucky; Seattle, Washington; Houston, San Antonio, Austin and Lufkin, Texas; Detroit, Michigan; and New York City.

5. I have qualified as an expert in the field of corrections and have testified as such on more than thirty occasions, most in federal courts. I am the co-author of Texas Prisons: And the Walls Came Tumbling Down (Texas Monthly Press, 1987) and have published articles on correctional subjects in Texas Lawyer, Law and Society Review, Focus (the journal of the National Conference on Crime and Delinquency), Texas Tech Law Review, and the Texas Observer. I have also served on the adjunct or visiting faculties of six universities including the University of Texas School of Law.

6. In my career in corrections, I have spent countless hours observing and speaking with both inmates and staff in prisons and jails and evaluating their policies, procedures, and practices.

7. I was retained as an expert in this case by the United States Department of Justice. At the request of the Justice Department, I conducted a site visit of the Jefferson County Jails, in Birmingham and Bessemer, on July 22-23, 1997, to evaluate current conditions and the potential impact if the State of Alabama stopped or slowed its removal of state inmates from the Jails. I was asked to look especially at the impact, if any, of overcrowding on conditions at the Jails, and this affidavit is correspondingly focused.

8. During my visit, I toured the Jails and interviewed a number of Sheriff's Department

staff members, at both facilities, as well as the county official responsible for jail maintenance. I also reviewed numerous documents and spoke with a number of inmates.

9. This declaration is based on the information obtained during that visit, and my expertise in corrections.

The Jails: Background

10. The Birmingham and Bessemer Jails are both relatively new facilities, opened in 1984 and 1988, respectively. The cellblocks are similar in both facilities: they have six or seven cells on a tier, and there are either one or two tiers. Each cellblock includes a dayroom adjoining the cells, with tables and chairs, a toilet and a shower.

11. The typical cell in both the Birmingham and the Bessemer Jail is approximately 70 square feet; some have only one bed, but most have been equipped with a second bunk. Each one has a small desk, a window, and a sink and a toilet. In both facilities, each cell typically houses one to three inmates. If there are more inmates than beds, one or more inmates sleep on a mattress on the floor. (The cells used to house women in Birmingham are bigger, and hold more people; they each have three beds, and house four or five inmates.)

12. In general, inmates are confined to their cellblocks essentially 24 hours each day. They spend nights and several hours of each day in their individual cells, with their cellmates. The remaining time, inmates are required to be in the dayrooms. Meals are served in the cellblocks, and inmates eat them in the dayrooms. (Twice a week, inmates spend an hour or so in a covered outdoor recreation space. There are also occasional GED classes and chapel, for which inmates leave their cells. In addition, inmate trustees or workers perform job duties that can require them to go other places in the Jail.)

13. Both Jails are direct observation facilities, meaning that supervision of inmates is by Sheriff's Deputies who watch the inmates from a control room or from other areas outside inmate housing areas. Staff can see into the dayrooms, but there is only a small window on the cell doors, so staff cannot see into the cells unless they enter the cellblock and stand close to a cell.

14. The Birmingham Jail is a highrise building; inmates are housed on eight floors. The typical floor has seven separate cellblocks, each assigned a letter (A-G), and an outdoor recreation space. The Bessemer Jail is a two story facility, with all the inmates housed on the second story. It is divided into North and South sides, and each side has four cellblocks, and an outdoor recreation space.

15. Both the Birmingham and Bessemer Jails were designed to be single cell jails. Their configuration and the size of the cells and the dayrooms are based on single cell population numbers.

16. The Birmingham Jail has a design capacity of 620, including special management and isolation cells. Including only ordinary inmate housing, the capacity is 584. If every ordinary housing cell were double bunked, the ordinary housing capacity would be 1035 (one cellblock is unoccupied at any given time, so that it can be painted). The population of the Birmingham Jail on July 22, 1997 was 1233. Of these, 804 were living tripled up in double-bunk cells designed for one inmate. (Triple celling is especially prevalent on the eighth and ninth floor, where most of the inmates categorized as "violent" are housed.) In addition, 52 female inmates were housed four women to a three-person cell, and 35 female inmates were housed five women to a three-person cell. Thus, in total, 891 inmates (72%) in the Birmingham Jail were housed in cells where one or more persons were sleeping on the floor.

17. The Bessemer Jail has a design capacity of 120, including special management and isolation cells. There are approximately 110 cells available for ordinary housing. The population of the Bessemer Jail on July 22, 1997 was 209. There were 52 inmates, or one quarter of the population, living tripled up in cells designed for one, and with beds for two.

18. The Jefferson County inmate population is growing steadily; between 1990/91 and 1996/97, the population doubled. Between January and July 1997, the population in the Birmingham Jail increased by 10%.

19. Of the 1442 inmates housed in both Jails on July 22, 1997, 182 were state inmates, either newly eligible for transfer, or already processed at a state facility, but housed temporarily at the Jails in order to go to court or for some other reason. According to jail staff, the state takes inmates at the rate of 28 per week.

20. Although inmate population has doubled in the past six years, there has been no concurrent increase in the number of security staff at the Jails. The number of security officers has stayed constant since 1988, at 182 (140 at the Birmingham Jail, creating a staff:inmate ratio of approximately 1:9, and 42 at the Bessemer Jail, creating a staff:inmate ratio of approximately 1:5). These officers staff both facilities, twenty-four hours a day, every day.

Inmate Management

21. Based on their commitment offense and whatever criminal history is available to them, jail staff categorize each inmate as "violent" or "non-violent." State and county inmates, pre-trial or post-trial, are all housed together, but staff try to separate the "violent" and "non-violent" inmates.

22. In the Birmingham Jail, one floor houses only female inmates, and the rest of the

floors house only male inmates. Of the seven male floors, one floor houses inmate trustees, two floors are medical and other special management, and four floors are general population. Generally, two general population floors are used to house only inmates categorized as "violent" (including one maximum security cellblock for difficult to manage inmates). One floor has only "non-violent" inmates. One floor has a "violent" cellblock, five "nonviolent" cellblocks, and a protective custody/administrative segregation cellblock.

23. In the Bessemer Jail, the North Side is used to house general population inmates classified as "violent." The South Side houses "non-violent" general population inmates, trustees, and inmates with special medical needs.

24. There are at least three major street/inmate gangs represented in the inmate population — the Bloods, the Crips, and the Disciples. In order to avoid violence by members of one gang against members of another, jail staff attempt to separate members of the different gangs, but sometimes cannot, because of space limitations.

Physical Plant Maintenance

25. The fact that both Jefferson County Jails are operating at over double their design capacity causes much-accelerated deterioration of the physical plants. So much reactive maintenance is necessary that no preventative maintenance is being done. According to county officials, the County is just barely able to maintain the plumbing, locking mechanisms, food service, and security equipment. For example, the food service at the Birmingham facility runs 24 hours a day, to serve the requisite 4400 meals; no expansion of this number is feasible.

26. At any given time, one entire cell block in the Birmingham Jail cannot house inmates, because it is being painted. (Painting the entire facility at this rate takes over a year, and

when it is completed, maintenance workers start over again.) Painting the Bessemer facility also requires emptying one cell block at a time, but only for a month or two of the year.

Conclusions

27. The Jefferson County Jails are seriously overcrowded and understaffed. The result is a currently unsafe, dangerous jail. Right now, the Jails are the sites of frequent fights, group assaults, and extortion. Any population increase would further aggravate the current unsafe conditions. To increase the population by one hundred inmates — four weeks of state transfers — would render the situation untenable.

28. Because there are so few empty beds at any given time, even with triple celling, any attempts at classification at the Jails are compromised. One of the purposes of classification is to attempt to separate inmates, so that inmates most likely to be preyed upon are kept apart from inmates most likely to commit acts of aggression, such as assault or extortion.

29. Space limitations make it difficult for the Jails to implement more than their one categorization (violent/non-violent, by offense). More refined management of inmates, taking their individual characteristics (such as any history of institutional predatory behavior) is difficult given the scarcity of space to single cell dangerous or vulnerable inmates.

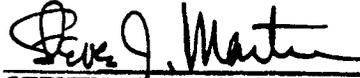
30. The Jails' practice of barring inmates from their cells, requiring them to stay in the dayroom for extended periods in such crowded conditions, creates dangerous situations in several ways. First, the sheer number of inmates crowded together — 29-35 — in a dayroom intended for one-half to one-third as many creates tension and leads to violence. Second, it is impossible for so few staff to know what is going on among such large groups of inmates, in order to supervise them. Finally, the practice leaves an inmate unable to avoid a violent

confrontation, if he knows that trouble is brewing. An inmate who has been threatened with assault might, for example, be able to avoid the situation if he could stay in his cell for a period of time. If there were more staff or fewer inmates, it would be possible to do hourly "lock-in/lock-outs," so that inmates could be allowed to decide whether they wanted to stay in or out of their cells at any given time.

31. My review of the documentation and interviews of inmates reveals that these conditions do indeed have the expected result. There are very frequent fights at the Jails, often leading to injury. There are group assaults, in which a large group of inmates gang up on one or two victims. This type of assault occurs frequently enough that the inmates have a name for it — "cludge." The Jails' incident reports and other documents are replete with examples of violence. It is my expert opinion that this violence is caused, directly and indirectly, by overcrowding and understaffing, and that its level would increase if the population of the Jails is allowed to expand.

I make the foregoing statement freely and voluntarily.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 31st day of July, 1997, in Austin, Texas.



STEVEN J. MARTIN