

U.S. v. Forest City



JC-MS-009-005

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
1994
J. F. NORTON, CLERK
DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
CITY OF FOREST, MISSISSIPPI, et al.,)
)
Defendants.)

Civil Action No. 3:94-cv-
680WS

CONSENT DECREE

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I. DEFINITIONS

1. "Plaintiff" shall refer to the United States of America.

2. "Defendants" shall refer to the City of Forest, Mississippi, the Chief of Police of Forest, the Jail Administrator or Chief Correctional Officer of the Forest City Jail, the Mayor of Forest, and the Forest City Council members, and their agents and successors in office.

3. The acronym "FCJ" shall refer to the Forest City Jail.

4. The term "jailors" shall refer to the correctional officers employed by the City at the City Jail.

5. The term "inmate" or "inmates" shall refer to one or more individuals sentenced to, incarcerated in, detained at, or otherwise confined at the Forest City Jail. The term "special needs inmate" shall refer to those inmates who are suicidal, mentally ill, mentally retarded, under the influence of alcohol or other substance, or otherwise a danger to themselves or others.

II. BACKGROUND

6. On May 3, 1993, pursuant to its authority under the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997 et seq., the United States formally notified City of Forest officials of its intent to investigate conditions of confinement at the Forest City Jail.

7. On June 28 and 29, 1993, also pursuant to CRIPA, the United States toured FCJ with expert consultants in the field of

penology, correctional medical care, and environmental health and safety. On September 9, 1993, the United States issued a report/findings letter based on its investigation and expert tour which found that conditions at FCJ violate inmates' constitutional rights.

8. The parties to this Decree recognize the constitutional rights of the inmates confined at FCJ. In order to avoid litigation concerning the constitutionality of the care and confinement of inmates at FCJ, the parties agree to the provisions set forth in this Consent Decree.

III. SUBSTANTIVE PROVISIONS

A. Security and Supervision.

Defendants shall provide a safe and secure living environment to all inmates housed at FCJ. To this end, Defendants shall undertake corrective measures in each of the following areas.

9. Inmate supervision. To ensure adequate inmate supervision is maintained at FCJ, Defendants shall ensure that:

- (a) there is at least one (1) dispatcher on duty on each shift seven days a week;
- (b) to supplement the dispatcher's presence at the jail and other officers who may be on duty, a city police officer shall visit the jail at least once an hour to conduct security checks inside the main inmate housing unit and in other occupied cell areas;
- (c) each hourly security check by the officer shall be documented;
- (d) whenever female inmates are housed at FCJ, a female officer or dispatcher shall be present at

all times to provide female inmate supervision; and (e) no convicted felons, nor pretrial felons for whom there is good cause to believe present a danger to the facility, shall be confined at the jail. In addition, Defendants agree to hire such additional security staff as may be necessary to fully comply with the requirements of this order at the jail during peak periods of use.

10. Staff training. To ensure a safe and secure facility, Defendants shall implement a comprehensive jail officer training program, to include at minimum 80 hours of orientation training to newly hired officers who will provide supervision at FCJ (which training shall be provided as soon as possible to the time of the employment of the officer), and an additional 40 hours of in-service training each year thereafter. Such program shall entail, at minimum, training in the following areas: security and search procedures, use of force regulations and tactics, supervision of inmates, report writing, inmate and staff rules and regulations, rights and responsibilities of inmates, all emergency procedures, interpersonal relations, social/cultural life styles of the inmate population, communication skills, and training in first aid and the use of CPR, and training in HIV+ related issues.

11. Policies and procedures. Defendants shall develop and implement comprehensive policies and procedures for operation of FCJ consistent with professional standards. The policies and procedures shall be specifically tailored to the FCJ facility and

its operations. Such policies shall specifically include procedures for medical services, including procedures regarding HIV and AIDS related issues developed in conjunction with a physician or the local health department to provide for, inter alia, appropriate housing, treatment and counseling of HIV+ inmates.

12. Housing of juveniles. Defendants shall not house juveniles at the FCJ facility.

B. Out-of-cell/Exercise Time

13. Defendants shall ensure all inmates are afforded at least one (1) hour a day, five (5) days a week, out-of-cell time for the purpose of exercise. Such exercise time shall be provided outdoors, unless prohibited by inclement weather. To accomplish this requirement, Defendants shall construct an outdoor, fenced-in exercise area connected to the back, outer wall of the jail, which shall provide open space for inmates of no less than 100 square feet.

C. Attorney Visitation

14. Defendants shall provide inmates with unrestricted opportunity for inmate/attorney visitation in a secure, private room suitable for such visitation.

D. Medical Care

To ensure adequate medical care is provided to inmates housed at FCJ, Defendants have determined that they shall provide medical attention and services in accord with currently accepted correctional health care standards. To this end, Defendants

shall undertake corrective measures in each of the following areas.

15. Screening. Defendants shall ensure all inmates upon intake are medically screened, utilizing a standard medical screening form, by appropriately trained staff and that all screening forms indicating a medical condition are reviewed by a qualified medical professional and become part of the inmate's medical record.

16. Sick call. Defendants shall ensure that sick call for FCJ inmates is regularly scheduled and conducted by a physician or RN at least once a week. In the event of medical emergencies, i.e., where an inmate expresses a need to be examined by a medical professional immediately, Defendants shall either have the inmate immediately examined by a medical professional at the jail, or shall immediately transport the inmate to a nearby hospital.

17. Medication administration. Defendants shall ensure that all officers who administer prescription medications to inmates are appropriately trained in medication distribution and in the observance and recognition of harmful side effects.

18. Tuberculosis (TB) and other communicable diseases. In all cases of inmates confined at FCJ for seven days or more, Defendants shall commence a current practice of administering a PPD test for TB with the results of the test forwarded immediately to a medical professional. If the test result is positive, the inmate shall be immediately scheduled for a chest

x-ray, with appropriate medical care and attention including isolation to be provided thereafter as indicated. Defendants shall also conduct historical screening for other communicable diseases during the inmate intake process.

E. Mental Health Care/Suicide Prevention

Defendants shall provide adequate mental health services and suicide prevention services to FCJ inmates. To this end, Defendants shall undertake corrective measures in each of the following areas.

19. Mental Health Screening. Defendants shall revise its medical screening form to include sufficient inquiry and assessment regarding mental illness and potential risk of suicide in accordance with professional standards. The mental health and suicide risk portion of the screening questionnaire shall be administered by medically trained staff and reviewed by qualified medical or mental health personnel.

20. Mental health consultation/evaluation. For inmates identified as mentally ill or in need of mental health treatment, Defendants shall enter into a formal arrangement with a local mental health professional and/or agency to provide on-call consultation, evaluation, and crisis intervention services, and shall ensure appropriate suicide precautionary measures and inmate treatment and observation are provided per the mental health professional's evaluation.

21. Suicide Prevention Program. Defendants shall develop and implement written policies and procedures on suicide

prevention and the treatment of special needs inmates, which shall include, but not be limited to, the following:

- a) the appropriate housing of all special needs inmates;
- b) the establishment of two levels of supervision of special needs inmates -- "constant watch" and "close watch". Special needs inmates not identified as currently suicidal shall be assigned to "close watch" supervision and visually monitored by FCJ staff at regular intervals of not more than fifteen minutes; special needs inmates who are currently suicidal shall be assigned to "constant watch" supervision and, if not transferred to a local hospital, shall be housed in a medical unit or other appropriately safe environment, and shall be visually monitored at all times by a jail officer. Jail officers shall log all monitoring in a separate suicide watch book.
- c) the communication of information relating to special needs inmates between and among all FCJ staff members, between arresting and transporting officers and FCJ staff, between FCJ staff and jail administration, and between FCJ staff and the special needs inmate;
- d) the notification by FCJ staff to local or state mental health authorities that a special needs inmate (except intoxicated) has been admitted to the

Jail;

- e) the notification to the special needs inmate's family (except those inmates incarcerated for intoxication) that he or she has been admitted to FCJ;
- f) the assessment of all special needs inmates as soon as reasonably possible by a qualified mental health professional to assess the inmate's level of suicide risk;
- g) the establishment of a mechanism by which FCJ staff will communicate with health care providers regarding the status of potentially suicidal inmates or inmates who have recently attempted suicide;
- h) the establishment of a mechanism by which FCJ staff will refer potentially suicidal inmates and inmates who have recently attempted suicide to mental health care providers or facilities for placement;
- i) the documentation of all attempted and completed suicides and notification to jail administrators, outside authorities and family members of all attempted and completed suicides;
- j) the establishment of follow-up and administrative review procedures for all attempted and completed suicides, including the determination of what changes, if any, are needed in the Suicide Prevention Program;

22. Staff training. As part of the jail officer training program required by Section A., subpart 10, herein, Defendants shall ensure that each officer is adequately trained in recognizing common symptoms of mental illness, mental retardation, and suicidal behavior, and is trained in suicide prevention measures. Specifically, Defendants shall provide each officer with suicide prevention training by a jail suicide prevention expert or a qualified mental health professional to include, but not be limited to, the proper officer response to a suicide or suicide attempt (including how to cut down a hanging victim and other first-aid measures), the identification and screening of special needs inmates, and training regarding high-risk groups and periods for suicides and suicide attempts.

23. Suicide prevention equipment. Defendants shall purchase and maintain in an area easily accessible to the cellblock appropriate rescue equipment, i.e., a rescue tool for rapid cutting of fibrous materials utilized in attempted hangings, disposable rubber gloves, a CPR pocket mask, and any other equipment Defendants deem appropriate, to ensure that staff can effectively intervene in the event of attempted suicide.

F. Environmental Health & Safety.

Defendants shall provide FCJ inmates with adequate food, clothing and shelter. To this end, Defendants shall undertake corrective measures in the following areas.

24. General sanitation. Defendants shall maintain the jail in a clean and sanitary manner. Defendants shall continue to

ensure all inmates are provided sufficient supplies with which to keep their cells clean.

25. Hygiene. Defendants shall provide all inmates with clean linen and bedding supplies, and ensure inmates are provided a clean exchange of such supplies on a weekly basis. Defendants shall also provide all inmates with personal hygiene supplies to include provision to each inmate of soap, toothpaste, toothbrush, toilet paper, and shaving equipment, and the hygienic supplies needed by female inmates.

26. Food service. Defendants shall continue to ensure all inmates receive three (3) meals a day. All meals shall be nutritionally adequate, as determined and so documented by a certified dietician. Further, Defendants shall ensure that food is served to the inmates at appropriate temperatures, i.e., hot food at no less than 140 degrees fahrenheit, and cold food at no more than 45 degrees fahrenheit.

27. Lighting. Defendants shall provide adequate lighting, i.e., lighting measuring at a level of no less than 20 footcandles, in all inmate living areas.

28. Ventilation. Defendants shall ensure adequate ventilation is maintained in all inmate living areas.

29. Plumbing. Defendants shall repair or replace all defective plumbing at FCJ and thereafter maintain the plumbing so as to ensure safe distribution of potable water and the proper removal of waste and waste water within the cell housing areas.

G. Fire safety.

30. Defendants shall ensure FCJ is maintained in an adequately fire safe condition. To this end, Defendants shall ensure that:

- (i) evacuation plans are strategically posted throughout the jail;
- (ii) staff is trained in fire suppression and evacuation procedures;
- (iii) all smoke detectors are functional;
- (iv) all emergency lighting is functional;
- (v) all fire extinguishers are routinely checked and serviced;
- (vi) all mattresses are fire retardant, i.e., made of material that is adequately fire safe;
- (vii) a secure, fire safe area is provided for inmate evacuation;
- (viii) fire drills are conducted on a regular basis, i.e., at least once every six months;
- (ix) the local fire department shall conduct annual inspections, and Defendants shall implement resulting recommendations.

IV. TIMING OF COMPLIANCE

31. Except where otherwise specifically indicated, the Defendants shall implement all provisions of this Order by no later than April 1, 1995.

32. The Defendants shall, every 90 days following the signing of this Order, file with the Court and with copy to the United States a status report stating how the Defendants are complying with each requirement of this Order.

33. If Defendants fail to timely comply with the requirements of this Order, the United States shall have the right to seek additional relief from the Court.

V. GENERAL PROVISIONS

34. During all times while the Court maintains jurisdiction over this action, the United States shall have unrestricted access to copies of all documents, records and recordings which relate to the implementation of this Order, and to all staff and facilities as necessary to address issues affected by this Order.

35. The Defendants shall immediately explain the terms of this Order to all persons connected with FCJ, including FCJ staff and Police Chief's deputies, in order to ensure that they understand the requirements of this Order and the necessity for its strict compliance. All FCJ staff members and other individuals providing services required by this Order shall sign a statement indicating that they have read and understood this Order. Such statement shall be retained by the Defendants. The Defendants shall require strict compliance with this Order by their respective employees, agencies, assigns, or successors.

36. The parties contemplate that at such time the Defendants have achieved compliance with the terms and objectives of this Order, and have maintained such compliance for a

sustained period of one year or more, the parties shall jointly move this Court to vacate this Order and to terminate the Court's jurisdiction over this action. Should Defendants believe that substantial compliance with the terms and objectives of this Order have been accomplished at any time before this date, Defendants may unilaterally move this Court for termination of this litigation. Defendants shall bear the burden regarding any such unilateral motion to demonstrate by full and convincing evidence that Defendants have complied with all terms of this decree.

Agreed to by:

COUNSEL FOR UNITED STATES:

Date: _____, 1994

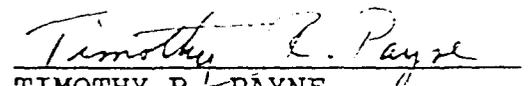
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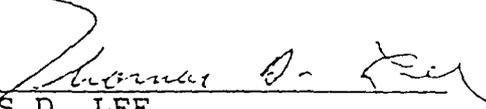
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Date: August 23, 1994


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It is hereby Ordered, this the _____ day of _____,
1994.

UNITED STATES DISTRICT JUDGE