

STILL SUFFERING IN SILENCE: CONTINUING HUMAN RIGHTS ABUSES IN ST. LOUIS CORRECTIONAL CENTERS

A Position Paper
by the
American Civil Liberties Union of Eastern Missouri



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St. Louis has a history of ongoing scandal surrounding its city jails. In the 1980s, the Schoemehl administration had the jail overcrowding scandal to manage. Then the ACLU carried out a 15-year lawsuit that resulted in a court mandate to build the current Justice Center. 2002 saw the firing of the corrections superintendent, 2009 marked the ACLU-EM's explosive report on drug-dealing, medical neglect and physical abuse, and 2011 witnessed the forced leave of a new superintendent and aldermanic hearings into fiscal mismanagement, understaffing, and underfunding from the Slay administration. The current year has seen the appointment of a new director of public safety and an interim corrections superintendent, but escapes, abuse and indictments of corrections officers have continued. As recently as August 17 of this year seven inmates filed a lawsuit alleging beatings by guards, threats and payments by guards to entice inmates to beat others, and bets placed by guards on gladiator-style contests. Two guards have been indicted for actions related to that case, and three were convicted of drug-dealing shortly after the 2009 ACLU report.

We have these periodic scandals because the conditions in the jails have been, and continue to be, scandalous.

It is time for more serious indictments, both literal and figurative, for the individual and systemic failures that are causing human rights abuses in the city jails. There is not a single government institution—municipal, state or federal—that has so far lived up to its obligations to protect persons who have not even been convicted of a crime. No one with the obligation to pay attention can pretend that they are ignorant of jail conditions. The information is too well known.

It is now past the time that we need to put in place substantial institutional reforms that will guarantee ongoing, effective oversight. The cure for chronic abuse is an agency with the authority to continually monitor conditions and consistently maintain standards. Anything less will be a short-term fix, and the city should no longer settle for less than a comprehensive solution.

The recent history of jail exposés and the search for solutions is illuminating. When the ACLU-EM report was published in 2009, it contained allegations of misconduct as seen by six corrections officers and a handful of inmates. Though the report was derided as hearsay by many in the press, the ACLU-EM subsequently heard from more than two dozen corrections officers verifying the substance of the charges. When the Public Safety Committee of the Board of Aldermen held hearings on the issue in May 2009, we were able to testify to numerous new allegations; the upshot was that the Board of Aldermen voted unanimously in June 2009 that the ACLU-EM should engage in negotiations with city officials. The Board's mandate was to create an independent oversight agency that could monitor conditions and make recommendations for reform.

The ACLU-EM met throughout the fall of 2009 and the first half of 2010 with Public Safety Director Charles Bryson, Corrections Superintendent Eugene Stubblefield, and JoAnn Williams, the head of the Carpenters Union, which represents the corrections officers. Alderman Terry Kennedy served as the Board of Aldermen representative. We came close enough to an agreement in fashioning the oversight agency that our proposal was sent to city attorneys for feedback. At that point city officials walked away from

the table. We never received the needed legal opinions and our negotiating partners stopped responding to emails.

We can only surmise why the administration made the strategic decision not to move forward with jail oversight. It was a setback for accountability and resulted in tragic outcomes for individual inmates. The ACLU-EM continues to receive complaints of outrageous brutality by corrections officers. Inmates are repeatedly beaten by guards in retaliation for real or perceived wrongdoing in the past. Witnesses verify their stories. One mother, while visiting her son, witnessed a guard attack and pummel her son about the face. The inmate was handcuffed and shackled before and during the attack, and had committed the offense of walking away from a spot where he was told to stand. Jail administrators have failed, for almost a year, to answer the grievance filed by the inmate despite attempts by the ACLU-EM to trigger compliance with the facility's own grievance policy. Another prisoner made a suicide attempt, brought on by his desire to escape the constant beatings he was experiencing. Two inmates not listed in the current lawsuit have come to us with claims that guards are paying inmates to beat up others. We know of at least one instance where attorneys have attempted to have their client transferred out of city jails to protect them from violence by the guards.

The ACLU-EM too often hears from parents and other loved ones distraught with concern for the safety of their family members. Too often we have too little to offer in the way of remedies. We have disabused ourselves of the notion that jail administrators can or will protect those in their charge. We have sent voluminous amounts of information to the Justice Department's Civil Rights Division, but they have yet to pull the trigger (as far as we know) on a "pattern

and practice” investigation. We remain hopeful that they or local law enforcement will step forward with the many more indictments that are long overdue.

In the meantime, we will continue to push for the oversight mechanisms that we see as the only long-term solution. In the interest of creating a productive public discussion, below are the key elements that we propose for effective oversight. This document comes out of the substantial negotiations with the city as described above, but does not represent any agreement among those parties. We recognize as well that this is a working document that can only improve with further substantive input and cooperation from the stakeholders involved.

ACLU-EM Proposal for the Creation of a Corrections Independent Review Committee

The Corrections Independent Review Committee (CIRC) shall be an executive agency within the Department of Safety but shall have separate control over its budget. As an executive agency it shall have access to closed records and hearings under state statute. If necessary, the city shall make necessary changes to ordinances, civil service regulations, and negotiate with the Carpenters Union in good faith to achieve this access.

The CIRC shall consist of seven members:

- 1) A representative of the director of public safety
- 2) A representative of the Carpenters Union
- 3) A representative of the Board of Aldermen’s Public Safety Committee
- 4) A correctional practices expert
- 5) A medical expert

- 6) A judicial expert
- 7) A representative of a community-based organization with an interest in corrections issues

The first three members listed above shall be appointed by their respective agency or organization. The last four members listed shall be appointed by the Public Safety Committee of the Board of Aldermen from nominations made by the community.

The CIRC shall have two full-time staff, a director and an investigator, both of whom have experience and licensing as investigators.

The CIRC has two primary functions:

1. To serve as a monitor of inmate conditions at the St. Louis jails. In this capacity the CIRC will continually assess conditions, policies and protocols that bear on inmates’ constitutional and human rights. Based on those assessments, the CIRC, by majority vote, shall make formal recommendations regarding conditions, policies and protocols to the commissioner of corrections and the director of Public Safety whenever the CIRC believes that changes in conditions, policies and protocols would benefit the maintenance of constitutional and human rights.

The CIRC shall remain mindful of federal, state and local laws, policies and protocols, and best correctional practices governing jails in general and the city jails in particular.

The areas of concern for the CIRC include but are not limited to the following:

- medical and mental health
- food
- ADA compliance

- inmate complaints relating to policies, procedures and individual incidents
- physical conditions
- misconduct of staff
- education, training, recruitment and supervision of staff
- daily facility operations
- inmate programs and re-entry planning
- security

In order to fulfill its obligations the CIRC shall:

- have full access to all facilities upon request;
- have full access to all official documents, databases, etc.; the CIRC shall maintain full confidentiality of any documents or records that are not public records under state statute;
- have full cooperation of all staff consistent with staff's due process rights;
- conduct both scheduled and unannounced visits of any part or all of the facility at any time. The CIRC must adopt procedures to ensure that unannounced visits are conducted in a reasonable manner;
- conduct periodic reviews of policies related to any pattern of problems that are uncovered;
- maintain a regular schedule of physical availability to inmates. A room or area will be designated for this purpose and CIRC personnel shall not move freely throughout the facility without prior notification of jail authorities. CIRC protocols shall insure due process rights of all inmates;
- have the authority to conduct voluntary confidential interviews with any person, including line staff and inmates, and the authority to hold public events, concerning the facility's operations and conditions. Any interviews that are not initiated by staff shall require written notification to the staff involved, including notification that the staff member is entitled to have a union and/or legal representative present at the interview;

- work with corrections officials to ensure that procedures are in place for facility administrators, line staff, inmates, and others to transmit information confidentially to the CIRC about the facility's operations and conditions;
- work with corrections officials to ensure that adequate safeguards are in place to protect individuals who transmit information to the CIRC from retaliation and threats of retaliation;
- receive a written response from the appropriate corrections official to any written recommendations approved by a majority vote of the CIRC, stating what action was taken and why.

2. To monitor inmate complaints and the inmate grievance process. In this capacity the CIRC is to work with the commissioner of corrections to insure the grievance process is impartial, fair, and successfully implemented. In order to fulfill this obligation the CIRC is to:

- receive a monthly spreadsheet summary of all Informal Resolution Requests (IRRs), both complaints and appeals, that are filed. Included in the summary will be the staff responses to same. The spreadsheet covering any given month shall be delivered by the commissioner of corrections or his representative by the seventh day of the following month. The CIRC shall also receive copies of all IRRs, complaints and appeals, and the responses to same, related to critical incidents such as suicide, homicide, assault and use of force that results in the need for medical care. The CIRC shall also receive any IRRs, complaints and appeals, and responses to same, upon approval by a majority vote of the CIRC and a written request filed with the appropriate corrections authority;
- create an incident evaluation system to determine if responses were timely, addressed the issue raised, were based on a thorough investigation, had been decided properly, and appropriately carried out;

- report its evaluations with any accompanying recommendation to the commissioner of corrections and the director of public safety as they are completed, with the exception of the evaluation of follow-up, which shall be completed and reported when follow-up is complete. The file on an IRR, complaint or appeal shall not be considered closed until the evaluation is filed and the appropriate corrections official has responded to any recommendation stating whether s/he agrees with it and what if any steps have been taken in regard to the recommendation;
- upon request by a majority of its members, have full access to monitor interviews, disciplinary hearings and any other aspects of an investigation that result from an IRR, complaint or appeal. The CIRC must receive agreement from the public defenders office when required to preserve attorney/client privilege. No compelled information attained by the CIRC shall be used in criminal proceedings, unless the same information is obtained from a source which does not preclude its use in court. The CIRC shall not make recommendations about discipline in individual cases.

The CIRC shall have the authority to use an array of means to gather and substantiate facts, including observations, interviews, surveys, documents, recorded reviews, video and tape recordings, reports, statistics, and performance-based outcome measures.

The CIRC shall have the mandate to work cooperatively and constructively with the Department of Public Safety, the Division of Corrections, and all their staff.

The CIRC shall have the mandate to monitor implementation of its recommendations to determine if proper follow-up was achieved.

The CIRC members and staff shall take an oath to preserve the appropriate confidentiality for all its proceedings and shall be subject to dismissal and any relevant legal liability if confidentiality is broken.

Reports: The CIRC shall issue an annual report in which it gives statistical breakdowns of the number and types of complaints, the number and types of critical incidents, the number of evaluations in which it found problems, the number and type of recommendations made, and the number of times those recommendations were agreed with and acted upon. The report shall also include the number and type of site visits, inmate interviews or letters received, the number of letters and interviews that had to do with specific categories of complaint, any evaluations resulting from the site visits, any policy and protocol recommendations made and the background for such recommendations, and the extent to which recommendations were accepted and acted upon.

The commissioner of corrections shall be provided the opportunity to review monitoring reports and provide feedback about them to the CIRC before their dissemination to the public, but the release of the reports is not subject to approval from outside the CIRC.

Reports shall apply legal requirements, best correctional practices, and other criteria to objectively and accurately review and assess a facility's policies, procedures, programs, and practices; identify systemic problems and the reasons for them; and proffer possible solutions to those problems.

Subject to privacy and security requirements as determined by the CIRC and based on state statutes and any applicable contracts, the CIRC's reports shall be public, accessible through the Internet, and distributed to the media, the jurisdiction's legislative body, and its top elected official.

The commissioner of corrections is required to respond publicly to CIRC reports, to develop and implement in a timely fashion action plans to rectify problems identified in those reports or to explain to the appropriate administrative and legislative officials why they are not doing so, and to inform the public semi-annually of their progress in implementing these action plans.