Big Prison Break

June 1, 2000 By Tim Kingston

Three years ago, in Shumate v. Wilson, a California court ruled that HIV treatment and other medical care in two of the state's women's prisons were substandard and ordered that the prisons be monitored by the court. Inmates in the two Central Valley institutions—California Institute for Women in Frontera and Central California Women's Facility in Chowchilla—welcomed the protective order.

The California Department of Corrections then asked U.S. District Judge William Shubb to dismiss the Shumate case, citing a favorable report by the court-appointed assessor. Lawyers for the prisoners, including the American Civil Liberties Union, disagreed, pointing not only to the deaths of 13 women prisoners since the ruling, but to other signs of substandard medical care. For example, some women learned their HIV and hepatitis C status only by chance while reviewing their medical charts; treatment for liver disease was also often inadequate.

Plaintiffs' attorneys were not the only ones critical of the institutions. The Fresno Department of Health Services paid a surprise visit to the Chowchilla prison's health centers in April 1999 and found, according to the official report, that patients had catheters "dragging on the ground," got "little to no assistance with personal hygiene" and received insufficient amounts of food. They also found that the facility failed to "treat individuals with dignity and respect."

As for the court-appointed assessor, Michael Keating, he conducted no such surprise visits (none was required) and maintained that his scheduled assessments were adequate. "None of the reviewers felt that surprise visits were necessary," he said, adding that he did review plaintiffs' complaints, even though they were not included in his final assessment. "We kept the report as it was," he said.

In January 2000, both sides expected Shubb to rule in favor of the Department of Corrections. But the judge decided that the prison system had failed to protect the confidentiality of women HIVers, thus violating Shumate, even if it had improved medical conditions overall. He extended the protective order for six months.

Keating called the decision unfair, asserting that the prisons had eventually changed their disclosure process to ensure confidentiality. Cynthia Chandler of Legal Services for Prisoners with Children, the law office representing the prisoners, said it wasn't tardiness but "arrogance." She said, "Part of the original settlement agreement was to change a basic form so that women were not outed by having paperwork with their HIV status on it." The prison changed HIV on the form to

chronic infectious disease 1, a phrase that Chandler said fools no one. “They refused to comply. That is why the case is still alive.”

For the prisoners, “it was a mixed victory,” said Judy Greenspan of California Prison Focus’ HIV in Prison Committee. “We don’t think the facility has ever been in compliance,” she told POZ. “We are concerned that any improvements will be wiped out and care will revert to the way it was five years ago.”

Legal Services attorney Chandler said that’s already happening. When the assessor was appointed, she observed, there was a sudden influx of medical staff and a marked improvement in care. “After the assessor left, the [new] staff were moved out,” she said. “We are already seeing the effect of the termination of the assessor’s review.”

Department of Corrections public information officer Terry Thornton flatly denied those charges: “This claim that we only made these improvements for the assessor’s benefit is not true.” Both sides now have until late June to dry their gunpowder and prepare for further legal fireworks.

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