



FIGHTING FOR
CHILDREN'S RIGHTS
IN INSTITUTIONAL SETTINGS

The Rt Hon Lord McNally
Chair
Youth Justice Board
102 Petty France
London SW1H 9AJ

05 November 2015

Dear Lord McNally

SUITABILITY OF MTCNOVO TO CARE FOR VULNERABLE CHILDREN IN ENGLAND

Our organisations have a longstanding interest in the care and protection of children held at Rainsbrook secure training centre. We are therefore deeply troubled by the likelihood that the new contractor, MTCnovo, has no experience of running residential establishments for vulnerable children. Moreover, it would appear that MTC, the lead company in MTCnovo, is under legal supervision in respect of at least one US prison and has at least one class action lawsuit pending in relation to prisoner abuse.

If the information about MTC we have been able to collate from published material – set out below – is found to be accurate, we implore you to cease purchasing places at Rainsbrook secure training centre, as to do otherwise would risk the safety and well-being of children.

If you are satisfied that the company can properly care for vulnerable children, and keep them safe, we seek assurances about the background checks undertaken and the safeguards in place moving forward.

We have a series of questions that flow from the information collated below. During the contracting process, was the Youth Justice Board made aware of the judicial and civil society concerns in the US we outline in respect of adult prisons managed by MTC? What professional qualifications will MTCnovo managers and staff be required to have; and what ratio of staff to children will be followed during weekday and weekend shifts? Will there be any change to the numbers of children held in Rainsbrook? We understand the YJB monitor has been maintaining closer scrutiny of Rainsbrook since February's inspection; it would also be helpful to receive reassurances that this will continue during and after the transition to MTCnovo management.

We would appreciate reassurances on some other concerns:

- Please can you confirm that MTCnovo will be required contractually to notify all restraint injuries, every use of strip-searching and all child protection allegations to the local authority, consistent with the guidance issued last year by the Association of Independent Chairs of Local Safeguarding Children Boards and the NSPCC?
- Will the company permit access to Rainsbrook by interested groups such as ourselves and welcome external scrutiny?
- Will it respond to Freedom of Information requests, since its work with children will be completely funded by the taxpayer?
- Finally, has provision been made in the five-year contract for early termination should it be found that children have not been properly cared for, and protected, at Rainsbrook?

In response to a Parliamentary question from Lord Beecham on 5 October 2015, about the relevant experience of MTCnovo, and its human rights and equality record, Lord Faulks responded 22 days later:

“MTC and their main partner Amey were subject to robust and rigorous assessment at the pre-qualification stage of the competition. This included a thorough examination of health and safety, equalities, human rights and discrimination policies, and a requirement to demonstrate their experience of managing children and young people.

There were no findings of a breach in human rights or equality legislation.”¹

The minister’s response does not provide any details of the government’s assessment of MTCnovo’s experience “in running residential establishments that care for vulnerable children”, as requested by Lord Beecham.

We have conducted preliminary research and can find no evidence of either MTC or Amey having any direct experience of managing establishments that care for vulnerable children in the UK. What we have elicited in respect of MTC’s track record in the United States is disturbing.

On 29 September 2015, one month before the ‘financial close’ between the Ministry of Justice and MTCnovo in respect of Rainsbrook, a federal US judge allowed a class action to go ahead against the Mississippi Department of Corrections and MTC. In allowing the class action on behalf of all prisoners at East Mississippi Correctional Facility (EMCF), the judge ruled:

“The court finds there is sufficient evidence that defendants have failed to act in the face of actual or constructive knowledge that prisoners housed at CMCF (sic) were being denied humane conditions of confinement, including adequate food, shelter, medical and mental

health care, and safety.”²

The American Civil Liberties Union, which filed the petition for the class action with the Southern Law Poverty Center and the Law Offices of Elizabeth Alexander, reports:

“EMCF is a cesspool. Prisoners are underfed and routinely held in cells that are infested with rats and have no working toilets or lights. Although designated as a facility to care for prisoners with special needs and serious psychiatric disabilities, EMCF denies prisoners even the most rudimentary mental health care services. Many prisoners have attempted to commit suicide; some have succeeded. One prisoner is now legally blind after EMCF failed to provide his glaucoma medications and take him to a specialist, and another had part of his finger amputated after he was stabbed and developed gangrene.

The facility is dangerously understaffed, and prisoners routinely set fires to attract the attention of officers to respond to emergencies. Without sufficient staff to protect prisoners from violence, rapes, stabbings, and gang violence are rampant.”³

In August 2015, MTC lost the contract to run a prison in Arizona after the state’s Department of Corrections undertook an investigation into rioting and violence within the prison and found the company had a “culture of disorganization, disengagement, and disregard”.⁴

On 10 June 2015, the federal court extended the consent decree in respect of Walnut Grove correctional centre, in the state of Mississippi, ensuring it remains under judicial oversight. The decree was first issued in 2012 when the prison was under the control of another private provider. Despite MTC being handed the management of Walnut Grove in 2012, three years later District Judge Carlton Reeves found human rights violations persisted:

“While giving due credit to Defendants [Mississippi Department of Corrections and MTC] for the significant improvements made at Walnut Grove, the Court nonetheless finds that current and ongoing violations of the Eighth Amendment [protection from cruel and unusual punishments] exist at the facility. In order to adhere to its constitutional duty to the inmates, the Court cannot ignore the persistent threat to inmate safety...it is the Court’s obligation to supervise the continued work of the Defendant so that the necessary changes are implemented in the Walnut Grove facility to ensure that violations do not persist.”⁵

The June 2015 court decision refers to an allegation of sexual abuse by a prison officer employed by MTC:

“On March 7, 2015, three inmates at Walnut Grove allege that an officer forced them to perform sexual acts on him, promising them that refusal would result in retaliation by gang members... The incident is still under investigation but video surveillance shows the officer

in the cell of two of the inmates for an extended period during the time in question, a fact that was confirmed at the hearing.”⁶

In February 2015, tear gas was used to control around 2,000 prisoners at the MTC-run Willacy ‘tent city’ prison for ‘criminal aliens’ in Texas. The prisoners were apparently protesting about inadequate medical care.⁷ The American Civil Liberties Union subsequently wrote to the US Department of Justice urging an independent investigation into the “uprising”. Its letter concluded, “if MTC’s operation of Willacy is found to have fallen below relevant standards (including constitutional requirements, correctional management standards, standards of care for medical and mental health services, or [the Federal Bureau of Prisons] contractual requirements), [the Federal Bureau of Prisons] should decline to exercise its option to renew the contract for Willacy with MTC on August 31, 2015”.⁸ Within a fortnight of this letter, the Federal Bureau of Prisons appears to have cancelled MTC’s contract to run Willacy.⁹ In June 2014, ACLU published a report on its investigations into private prisons, including Willacy. This stated:

“The ACLU conducted dozens of interviews with prisoners at the Willacy County Correctional Center in 2012 and 2013. What we found was overwhelming despair. The men we interviewed felt warehoused and forgotten.”

Allegations of prisoner abuse reported in this document included:

- The majority of prisoners were held in dormitories in tents, with bunk beds “spaced only a few feet apart”; “reportedly housed so tightly that when they lie in their bunks, their feet can touch the bunk next to them”
- In 2009, a former nurse at the prison reported “extreme temperatures, inadequate nutrition, medical staffing shortages, and long delays for critically needed health care” and “The level of human suffering was just unbelievable”
- In 2011, the US news programme *Frontline* reported “stories of racial, physical, and sexual abuse of detainees” at the prison¹⁰
- Prisoners’ “basic medical concerns are often ignored or inadequately addressed by staff”; “when a prisoner has a toothache stemming from a possible cavity or infection, the only treatment Willacy will provide is extraction”
- Misuse of ‘special housing units’ (solitary confinement), as places of punishment for minor infractions, to warehouse people with mental health problems and to house new inmates “because there is no space available in the Kevlar tents used as general population dorms”
- Toilets and showers were “in the open with no partitions”
- “Squalid” conditions, with insects crawling around and “constantly overflowing” toilets; “clothes are washed without detergent and mixed in the same laundry loads as mops and other cleaning equipment”

- Of five prisons in Texas then detaining ‘criminal aliens’, “Willacy appears to offer the least amount of programming. Many prisoners reported that they were not aware of any educational classes... A few prisoners mentioned guitar classes (with guitars donated by a local church) and hobby crafts (though they report access is limited by the requirement that prisoners purchase their own supplies”
- Lack of recreation space: “one small yard for every 400 prisoners”.¹¹

The US watchdog Project on Government Oversight (POGO) reports on its website that there have been 10 findings of misconduct in MTC’s discharge of US federal government contracts since 1995. Two additional cases are pending.¹² Two of the settled cases concern the death of a prisoner. A young man hanged himself at Santa Fe correctional facility run by MTC in 2002. A Department of Justice investigation found his death was the result of inadequate mental health care. In the same prison, in 2004, a man was beaten to death. The third case, also settled, was brought by a woman who alleged she was raped and sexually assaulted by male detainees and then illegally strip-searched at the same prison.

We thank you in anticipation for responding to our serious concerns.

All good wishes



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References

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² www.washingtontimes.com/news/2015/sep/29/judge-allows-class-action-lawsuit-over-mississippi/; www.aclu.org/cases/prisoners-rights/dockery-v-epps;
www.splcenter.org/sites/default/files/documents/classcertgranted.pdf

³ www.aclu.org/cases/prisoners-rights/dockery-v-epps

⁴ www.azcentral.com/story/news/arizona/politics/2015/08/26/arizona-kingman-riot-cause-corrections-department-report/32432963/; <http://uk.reuters.com/article/2015/08/27/us-usa-prisons-arizona-idUKKCN0QW02M20150827>

⁵ www.aclu.org/sites/default/files/field_document/decision_june_11_2015_1.pdf

⁶ Footnote 19, page 21 of judgment:

www.aclu.org/sites/default/files/field_document/decision_june_11_2015_1.pdf

⁷ www.dailymail.co.uk/news/article-2963535/2-000-Willacy-County-inmates-armed-pipes-seize-control-Texas-prison.html

⁸ www.aclu.org/sites/default/files/assets/aclu_letter_to_oig_re_willacy_3.9.15_-_final.pdf

⁹ www.theguardian.com/us-news/2015/mar/17/controversial-texas-prison-faces-closure-after-government-cancels-contract

¹⁰ More information is available here: <http://www.pbs.org/wgbh/pages/frontline/lost-in-detention/>

¹¹ www.aclu.org/warehoused-and-forgotten-immigrants-trapped-our-shadow-private-prison-system

¹² www.contractormisconduct.org/contractors/132