

DCF chief may go to jail

Lucy Hadi faces contempt charges for failing to get mentally ill inmates out of jail.

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Published November 22, 2006

If the head of the Florida Department of Children and Families doesn't get mentally ill inmates out of the Pinellas County Jail soon, she might join them behind bars.

A Pinellas judge Tuesday charged DCF Secretary Lucy Hadi with seven counts of indirect criminal contempt for failing to get the inmates out of the jail. The maximum penalty for each of those counts is five months and 29 days in jail.

Asked by the St. Petersburg Times whether he would jail Hadi, Circuit Judge Crockett Farnell responded: "Oh, I'd love to. I'll do whatever I have to do to get somebody's attention."

Farnell's order is the latest move by judges and lawyers statewide who are trying to clear local jails of the mentally ill.

Hadi is to be arraigned on the charges Dec. 14. It was unclear whether a state agency head has ever been jailed on contempt charges. **Pinellas-Pasco Public Defender Bob Dillinger** said he doesn't recall it happening in his 30-year legal career.

State law requires DCF to move mentally incompetent inmates out of local jails and into mental health facilities within 15 days. But the DCF wait list for beds swelled this year to more than 300 people, and inmates have languished in jail for an average of about three months. Some have harmed themselves during the long waits.

The issue has generated statewide outrage among judges, lawyers and advocates for the mentally ill. It also has gained nationwide attention, including a front-page article in the New York Times last week. The prospect of an agency secretary going to jail should only stoke the fire.

"If the secretary were put in handcuffs or put behind bars, it would not create more beds," DCF spokesman Al Zimmerman said after Farnell issued his order. "But I can tell you that if it would create more beds ... she would do it in a heartbeat."

When told of that comment, Farnell responded: "Well, good. Let's let her try that, because that would certainly get the governor's attention."

Farnell's order already apparently has.

"We in no way think this latest order is a constructive way to effectively address the issue," said Kristy Campbell, a spokeswoman for Gov. Jeb Bush.

But **Dillinger**, whose office has acted on behalf of many of the 30 or so mentally ill Pinellas inmates, called Farnell's actions courageous.

Calling DCF arrogant, Farnell has issued court orders over the last five weeks requiring the agency to remove mentally sick inmates from the jail within 15 days or face a \$1,000 fine per inmate per day.

But the agency hasn't removed all those inmates and intends to appeal the ruling.

"You just can't ignore court orders," **Dillinger** said. "And when citizens ignore court orders, they often go to jail. And with government, you can't have two sets of rules."

Other Florida counties also have taken DCF to task over the issue. Hillsborough County sued the agency, as did inmates in some South Florida jails. A judge in North Florida threatened to have a mentally sick inmate dropped off at Hadi's office if the agency didn't remove him from jail.

DCF officials have said they don't have the money to create more beds and haven't been able to keep up with a burgeoning population of mentally ill inmates.

But Zimmerman announced Tuesday that DCF had found about \$5-million in administrative funds that the agency plans to use for more beds.

He said it was unclear Tuesday how many beds that money would create, how fast it would happen or where the beds would be.

Those beds will be in addition to 87 beds added last month, which brought the number of beds statewide to about 1,400.

"If this doesn't do it, then we'll have to look under even more couch cushions to find more spare change," Zimmerman said.

Zimmerman said DCF was looking for funding options long before it was taken to court.

"All the court hearings have created a lot of attention, but for months now we have been working to find a way to increase the number of beds," Zimmerman said. "This was not a problem brought to our attention by any court."

DCF officials say judges statewide are declaring inmates incompetent for trial nearly twice as often as they were eight years ago, creating the logjam. Last year, about 1,483 inmates were declared incompetent, up from 863 commitments in 1998-99.

To meet the need, **Dillinger** speculated that DCF might have to rent beds at private facilities. He said those beds can cost up to \$800 per day. He said DCF should have secured funding for more beds long ago.

Farnell said he doesn't empathize with DCF's predicament.

"I can't empathize with them because those people who are suffering are their responsibility," the judge said.

The 15-day rule kicks in once a judge issues an incompetency order, but the average stay in jail has been about three months as the waiting list has ballooned. The list of mentally ill inmates waiting for beds in mental health facilities in Florida was at 298 this week, Zimmerman said.

This creates problems for local jails, which have trouble handling mentally ill inmates, many of whom committed simple misdemeanors and can't afford bail.

At least two inmates, including one in Pinellas, poked out their eyes during their long waits.

Farnell said he also was distressed that DCF wasn't offering to help the jails provide mental health services to these inmates.

"They're not doing anything. That's the bottom line," Farnell said. "All I'm doing is trying to get somebody's attention."