

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

DEC 2 2005

LUTHER D. THOMAS, Clerk

By:

J. Reed Deputy Clerk

FREDERICK HARPER, individually and on
behalf of all present and future inmates in the
Fulton County Jail in Atlanta, Georgia,

Plaintiff,

v.

DEPUTY TYRONE BENNETT, individually;
and FULTON COUNTY, GEORGIA; FULTON
COUNTY BOARD OF COMMISSIONERS,
KAREN HANDEL, Chairperson, ROB PITTS,
EMMA I. DARNELL, WILLIAM EDWARDS,
TOM LOWE, NANCY BOXILL, members, in
their official capacities;

Defendants,

MYRON FREEMAN, Fulton County Sheriff,
in his official capacity,

Defendant and Third Party Plaintiff,

v.

JIM DONALD, Commissioner Georgia,
Department of Corrections in his official capacity,
and the GEORGIA DEPARTMENT OF
CORRECTIONS,

Third-party defendants.

CIVIL ACTION

NO. 04-CV-1416-MHS

CONSENT ORDER

I. Introduction

1. This Consent Order resolves the dispute between the Plaintiffs, a class of inmates who are now or will be incarcerated in the future at the Fulton County Jail facilities in Atlanta, Georgia, and the Defendants, Fulton County, Georgia; the Fulton County Board of Commissioners and its members, in their official capacities; the Sheriff of Fulton County, in his official capacity, and the Commissioner of the Georgia Department of Corrections, in his official capacity, regarding conditions at the Fulton County Jail. The term “Defendants” herein refers to all of these defendants and their successors, agents, and assigns, with the exception of the Commissioner of the Georgia Department of Corrections and the Georgia Department of Corrections. The term “County Defendants” refers to Defendants Fulton County and the Fulton County Board of Commissioners and its members in their official capacities. The term “Sheriff” refers to the Sheriff of Fulton County in his official capacity. The term “State Defendants” refers to the Commissioner of the Georgia Department of Corrections and the Georgia Department of Corrections. Unless otherwise expressly provided herein, any obligations of this Consent Order related to the physical condition or maintenance of jail facilities shall not be the responsibility of the State Defendants.

2. Plaintiff Frederick Harper brought this action on June 22, 2004, pursuant to 42 U.S.C. § 1983, seeking compensatory and punitive damages, and

preliminary and permanent injunctive relief and declaratory relief for violations of his rights under the Eighth and Fourteenth Amendments of the U.S. Constitution. In his amended complaint, the Plaintiff alleges that he, and all people at the Jail, were confined in unconstitutional living conditions due to an excessive number of inmates in the Jail, an inadequate number of detention officers to ensure their safety, the breakdown of the ventilation, plumbing and laundry systems, and other circumstances.

3. The conditions at the Jail were described in a report of Dr. Robert Griefinger dated May 31, 2004, which is appended to this Consent Order as Appendix A.

4. The parties agree that Dr. Greifinger's report accurately described the conditions at the Jail on May 26-27, 2004 and agreed on July 7, 2004, to the appointment of a receiver by the court. See Consent Order of July 7, 2004, entered herein. On July 14, the Court appointed John Gibson as the Receiver. Order Appointing Receiver of July 14, 2004, filed herein. The Court swore John Gibson in as receiver on July 23, 2004, and he immediately took charge of the Jail. He served until January 1, 2005, when the newly elected sheriff of Fulton County assumed responsibility for the Jail.

5. The Plaintiffs, the Fulton County Sheriff, and the County Defendants have reached agreement as set out in this Consent Order with regard to all claims

for declaratory and injunctive relief on behalf of the class. Defendant Department of Corrections has agreed to perform the obligations imposed by it under this Consent Order. The parties agree that Dr. Greifinger's letter of May 31, 2004 and his September 14, 2004 follow-up report (Appendix A) provide an adequate factual basis for the Court to assess the conditions at the Jail and make findings herein.

6. The Court shall retain jurisdiction to enforce the terms of this Consent Order as provided by law.

7. The parties agree that a violation of the terms and conditions of this consent order does not alone establish the existence of unconstitutional conditions at the Jail or that any violation of an inmate's constitutional rights has occurred. No citation of contempt shall be issued for violation of the terms of this Order unless the dispute resolution procedures set out in Paragraph 112 have first been invoked and unless the Court has made a finding that such violation has led to unconstitutional conditions of confinement at the Jail or that the violation has led to violation of the constitutional rights of an inmate.

II. Definitions and Descriptions

8. The terms "Jail" and "Fulton County Jail" refer to the three facilities presently operated by the Fulton County Sheriff as the Fulton County Jail: the main building at 901 Rice Street which has a capacity of 2250 inmates, the Bellwood

Annex which has a capacity of 200, and the Marietta Annex which has a capacity of 100.

9. The main jail at 901 Rice Street consists of a three-story low rise structure joined to an elevator tower, providing access to two housing towers, designated the North Tower and the South Tower. The North side of the jail has seven floors where inmates are housed; the South side of the jail has six. Each such floor has six cellblocks, each containing 16 to 18 cells and a dayroom. Each floor also has a unit for exercise and an all-purpose unit used for sick call, legal and family visitation, counseling, and other purposes.

10. "Zone" refers to any one of the cellblocks, units for exercise or multi-purpose units.

11. "Staff" refers to any and all individuals involved in the administration of the Jail, deputies, detention officers, security specialists, and other employees, whether sworn deputies or civilian, and any other agents, successors, and assigns.

As used herein, "uniformed officer" refers to personnel trained and qualified to supervise inmates in the jail, whether sworn deputies of the Sheriff's office or civilians trained for such duties.

III. Terms and Conditions Necessary to Prevent Overcrowding, Provide for Appropriate Staffing, and Reduce Processing Time

A. Staffing and Security

12. The number of uniformed officers at the Rice Street facility and the two annexes shall not be decreased below the level authorized on June 1, 2005, unless such decrease is authorized by order of this Court. See Appendix B. The Board of County Commissioners shall not “freeze” or otherwise prevent the filling of positions presently authorized for security staff at the jail facilities without leave of this Court.

13. All Staff shall be trained with regard to the Jail's Jail Bureau Policies and Procedures Standard Operations Manual and be required to consult and follow the policies and procedures contained in it.

14. The Sheriff shall assign sufficient detention staff to provide transport, security and other functions necessary for the provision of medical care. The County Defendants shall provide sufficient detention staff for regular sick call and the prompt distribution of medications in all three facilities, and for prompt transport of inmates to and from any medical appointments or needed medical care, either in the facility or in the community. The Sheriff shall train detention staff to recognize and respond appropriately to signs and symptoms of mental illness.

15. The Sheriff shall require detention staff assigned to each floor to conduct security rounds inside each zone every hour.

16. All cell doors at the Jail shall be equipped with functioning locks which can be opened remotely from the tower. These locks shall be maintained in good working order.

17. All housing units shall have functioning emergency call buttons or intercoms in the day room at all times. On the medical floor of the Jail, each cell shall have a functioning emergency call button. Emergency call buttons and intercoms shall remain on except for good reason documented. This documentation shall be maintained as a log at the Jail.

B. Population Limits and Housing

18. The population of the 901 Rice Street facility shall not exceed an average of 2250 inmates daily in any calendar month so long as all housing units are being utilized. If one or more cellblocks are not being used, the population shall be reduced by the number of inmates normally housed in that part of the Jail. Other population figures in this Consent Order shall be adjusted in this manner. The population of Bellwood shall not exceed 200, and Marietta shall not exceed 100.

19. No inmate shall be required to sleep on the floor.

20. No more than two inmates shall be housed in a cell.

21. Defendant Commissioner of the Georgia Department of Corrections shall ensure that all inmates eligible for transfer to state prison facilities will be

removed from the Fulton County Jail or any other facility operated or leased for the housing of arrestees or inmates by the Fulton County Sheriff on a priority basis and transferred to a state facility as soon as possible after receipt of the paperwork necessary to effect the transfer.

C. Processing of Releases

22. The Sheriff shall implement and maintain procedures to provide for the release of Inmates from the Jail within a reasonable period of time, not to exceed 24 hours after receipt of court documents establishing that the inmate has received a signature bond, been authorized to post and has posted bond, had the charges against them dismissed, or otherwise become eligible for release. (The parties acknowledge that this time period may be exceeded for inmates subject to unreleased holds from other counties or governmental authorities.) The Sheriff will take all reasonable and prudent measures available to reduce the release time as much as possible and shall provide to the court and all parties to this Consent Order a monthly report of all inmates detained more than 24 hours after receiving a signature bond, posting bond, having the charges against them dismissed, or otherwise becoming eligible for release. The report shall state how long the inmate was detained after becoming eligible for release and the reason the detention exceeded 24 hours.

23. The Clerk of Fulton County Superior Court shall work with the Sheriff to accomplish real time disposition of court cases.

24. The Fulton County State Court shall work with the Sheriff to implement first appearance hearings at the jail beyond normal business hours by the use of video-conferencing, a judicial officer conducting such hearings at the jail, or other means.

IV. Other Terms And Conditions

A. Staffing and Security

25. The Sheriff shall assign at least three uniformed officers to supervise the inmates in the six cellblocks on each side of each floor at the Rice Street facility on all shifts seven days a week. In addition, one supervisor shall be stationed on each floor and at least one person shall be stationed in the tower to observe the cellblocks on each side from the tower. The Sheriff shall report to the Court each month when there are fewer than three officers in a cellblock on any shift and the reason for there being fewer than three.

26. Whenever the number of inmates on the floor on one side at the Rice Street facility exceeds 224, the Sheriff shall deploy on that floor at least one additional uniformed officer for every 25 inmates over 200 on all shifts seven days a week until the population decreases to 204 or less. If the Sheriff is unable to deploy the officers required by this paragraph within 10 days after the number of

inmates requires it, the Sheriff shall find other housing for enough inmates to reduce the inmate population on the floor to a level for which he has the minimum staffing required by the provisions of this Consent Order.

27. If inmates are housed at those facilities, there shall be 5 officers and a supervisor at Bellwood and 3 officers and a supervisor at Marietta, for all shifts.

28. Maintaining sufficient personnel to meet these staffing levels 24 hours a day seven days a week is necessary for the safety and security of inmates and jail personnel and shall be a high priority of the Sheriff. The Sheriff shall employ various measures to maintain sufficient personnel, including, but not limited to the use of overtime, temporary reassignment of personnel, and filling any vacancies as promptly as possible.

29. The Sheriff shall maintain administrative staff at the Rice Street facility adequate to complete processing of: new inmates as soon as possible and no later than within 8 hours of commitment; inmates in time for first appearance on the next available court date; and inmates for release as soon as possible and in any event within 24 hours of notice and receipt from the court of paperwork establishing their eligibility for release.

30. The Sheriff shall ensure that detention staff shall conduct regular and random searches for weapons throughout inmate housing units, common areas, and all-purpose rooms.

31. The Sheriff shall ensure that there shall be sufficient detention staff to ensure that a detention officer is available to be present, as requested by the nurse, at all times during pill distribution.

B. Population Limits and Housing

32. The Sheriff shall maintain at the Jail a classification system that specifies at least three levels of custodial control. Any revisions in the classification system shall be documented, provided to counsel for the Plaintiffs, and maintained in the Jail Bureau Policies and Procedures Standard Operations Manual.

33. The Sheriff shall on a weekly basis notify the Chief Judge of the Superior and State Courts, the Chief Magistrate, the District Attorney, the Solicitor General, the chiefs of each police force in the county, the public defenders, and counsel for the Plaintiffs of the total population of the three jail facilities and the number of beds available for men and for women at the facilities on the day of the report.

34. The Sheriff shall on a daily basis provide the magistrates or judges conducting first appearance hearings in both Superior and State Court with the number of beds available for men and for women in the jail facilities before the start of first appearance hearings each day.

35. Whenever the inmate population at the Rice Street facility reaches or exceeds 2100 and other housing is not available, the Sheriff will take the following actions:

a. Notify the judges and magistrates of the State and Superior Courts, the District Attorney, the Solicitor General, and the chiefs of each police force in the county, that the Jail is near capacity, inform them of the number of beds available at the Jail and request that it be taken into account with regard to releasing arrestees on citation, setting bond, sentencing and sentencing modification,

b. Review inmate records for early releases or home arrest.

36. The Sheriff shall maintain a list of other facilities where beds are available. If the number of inmates in the Rice Street facility exceeds the number that can be housed two to a cell, the Sheriff may house inmates on bunks in the day rooms while making efforts to decrease the population and find alternative housing in order to reduce the overall inmate population to capacity within forty-five (45) days. If the population of the Rice Street facility remains over 2250 for twenty (20) consecutive days, the Sheriff shall find alternative housing, place inmates on home arrest pursuant to statute, implement early release, or take such other action as he deems appropriate to reduce the population to 2250.

37. In addition to the actions being taken by the Sheriff, if the Rice Street population exceeds 2250 for twenty (20) consecutive days, the Public Defender

shall provide a list of inmates deemed eligible for release to the District Attorney who shall examine such list to determine whether an agreement can be reached on the release of said inmates. If an agreement is not reached by the Public Defender and District Attorney, the list will be submitted to the Chief Judge who after review, may authorize the release of inmates from the list as deemed appropriate.

38. Whenever less than 15 or fewer beds remain available for women, the Sheriff shall take the measures set out in paragraph 35 in order to prevent, if possible, the number of women from exceeding the number of beds for women. If the number of women exceeds the number of permanent beds, two beds to a cell, for women by 10 or more for twenty days or more, the Sheriff shall find alternative housing, place inmates on home arrest pursuant to statute, implement early release, or take such other action as he deems appropriate to reduce the population so that it does not exceed the number of permanent beds, two beds to a cell, for women.

39. Upon inquiry, plaintiff's counsel shall be provided the Jail population count on any day.

C. Replacement, Repair and Preventive Maintenance of Mechanical, Plumbing and Electrical Systems

40. The maintenance of the physical structures that are used to house inmates by Fulton County, including the 901 Rice Street facility, the Bellwood Annex and the Marietta Annex, and the mechanical, plumbing, and electrical

systems shall be the responsibility of the County Defendants operating through the General Services Department of Fulton County.

41. The County Defendants shall inspect manholes 4 through 14 on the sewer line serving the Rice Street Facility no less than quarterly and shall pump these manholes as required to insure that sewage does not back up into the housing areas on the first floor of the Rice Street Facility. The County Defendants shall work with City of Atlanta officials to insure that there are no cross connections problems in the water and sewer pipes serving the Rice Street Facility and shall cause any such problems to be corrected as soon as practicable. In the event these actions do not lead to a resolution of the problem of sewage backing up into the housing areas, the County Defendants and the Plaintiffs will discuss and will bring to the Court for its review additional remedial actions needed to resolve the problem.

42. By July 1, 2009, County Defendants shall repair and upgrade as needed and appropriate the plumbing in the jail facilities, including but not limited to replacing fixtures in cells where needed; making such repairs as needed to ensure that all toilets, faucets and showers work properly; reinstalling those fixtures which are not properly affixed to the walls and the plumbing system; removing electrical hazards from showers; and, installing shutoff control devices.

43. The County Defendants shall by July 1, 2009, complete the following work at the 901 Rice Street facility:

- (a) replace the heating, ventilation and air conditioning equipment (HVAC), including the air handling units, terminal units and exhaust fans, associated ductwork and piping;
- (b) replace air grilles in the cells, dayrooms, corridors and support areas;
- (c) replace existing building energy management system with a direct digital control energy management system;
- (d) replace power disconnect and motor starter for all the HVAC equipment and modify electrical equipment to support new HVAC equipment;
- (e) install new lighting fixtures in all living areas in the towers at 901 Rice Street and salvage and reuse existing lighting fixtures in the low rise building at 901 Rice Street;
- (f) install new acoustic ceiling tile;
- (g) remove and replace chillers, cooling towers and chilled water pumps at the central plant.
- (h) upgrade the electrical capabilities of the facility at 901 Rice Street, including its generators, so that sufficient amounts of electricity are provided to the facility at all times and power outages are avoided.

44. The County Defendants shall by July 1, 2009, renovate the four employee/inmate elevators at 901 Rice Street as necessary to insure the safe and reliable operation of each elevator. The County Defendants shall by July 1, 2009, renovate the two public elevators at 901 Rice Street as necessary to insure the safe and reliable operation of each elevator.

45. The County Defendants shall issue requests for proposals to accomplish the goals of Paragraphs 42, 43, and 44 no later than November 1, 2005, and shall commence the renovations as soon as practicable thereafter.

46. The County Defendants, through the Fulton County General Services Department and retention of engineering, construction and other appropriate firms, shall bring all of the jail facilities into compliance with the electrical, fire, plumbing, mechanical and other applicable codes of Georgia and Fulton County.

47. The County Defendants, through the Fulton County General Services Department and/or consultants, contractors and other means, shall carry out a program of preventive maintenance to minimize disruptions of the operation of the jail facilities due to mechanical failures.

48. The County Defendants shall employ sufficient maintenance staff to identify maintenance needs, carry out routine maintenance and promptly make repairs where needed. When on-site maintenance staff is unable to repair some part of a critical system such as HVAC or heating, County Defendants shall

immediately secure a qualified person to make the repair. Dated work orders for both routine and extraordinary maintenance, including descriptions and dates of actions taken, shall be maintained at the Jail.

49. The Sheriff shall inform inmates of and shall have ready access to “Maintenance Repair Forms” such as the one appended as Appendix C to notify staff of maintenance needs. Maintenance Repair Forms shall be available to inmates at all times. The Sheriff shall arrange through a lock-box or other means a way for inmates to submit such forms. The Sheriff will screen requests to eliminate duplicate and frivolous requests.

50. Once notified by the Sheriff, the County Defendants shall address maintenance repairs in a timely fashion and in order of severity, as set forth in the maintenance contract. All responses to “Maintenance Repair” forms shall be documented and maintained at the Jail.

D. Ventilation and Temperatures

51. The Sheriff shall adopt and implement the “Excessive Heat Policy” appended hereto as Appendix D. The policy shall be included in the Jail's Jail Bureau Policies and Procedures Standard Operations Manual. A determination shall be made at medical screening at intake of those inmates vulnerable to heat injury, including aged or pregnant inmates, inmates with chronic illnesses, and

inmates taking certain medications and taken into account when establishing the inmate's medical profile.

52. The Sheriff shall ensure that the heat index is measured and reported on every shift where the reported ambient temperature is 80° or higher or the recorded heat index on the housing area is 88° or higher. Where the reported ambient temperature is 80 degrees or higher or the recorded heat index on the housing area is 88 degrees or higher then the "Excessive Heat Policy" shall be implemented by the Sheriff. Instruments used to measure temperatures and relative humidity shall be calibrated weekly.

53. The ventilation system in the cells shall provide at least fifteen (15) cubic feet per minute of circulated air per occupant. Additionally, cells shall have no less than four (4) air changes per hour.

54. The Sheriff shall provide inmates with additional clothing and blankets when the temperature falls below sixty-five (65) degrees Fahrenheit.

55. The Sheriff shall ensure that inmates being transferred from the Jail to the courthouse on a bus with no air conditioning shall be provided access to fresh ice water during the course of the trip and while waiting on the bus.

E. Environmental Health and Safety

56. The Sheriff shall provide inmates adequate cleaning supplies to clean and disinfect their living areas on a daily basis. When using cleaning supplies,

appropriate protective clothing and equipment shall be available for use by inmates and staff.

57. The Sheriff shall ensure that all safety and cleaning equipment is cleaned and stored in a safe manner. This equipment shall be maintained in good working order.

58. The Sheriff shall ensure that kitchen staff, including contracted employees and inmate workers, receive training which includes the reasons for and meaning of taking temperatures of food and delivering food quickly.

59. The Sheriff shall develop policies and procedures for maintaining the sanitation and environmental cleanliness of the Jail, which will be included in Jail Bureau Policies and Procedures Standard Operations Manual. Plaintiffs' counsel shall be permitted to review and comment on the policies and procedures prior to their final adoption.

60. The Sheriff shall ensure that all housing areas, including showers, sinks, and common areas are thoroughly and safely disinfected and cleaned on a regular basis to control mold and Staphylococcus.

61. The Sheriff shall ensure that the dishwashing machines in the Jail kitchen shall have a "final rinse" water temperature of one hundred-eighty degrees (180) Fahrenheit with a nozzle pressure of 15-10 psi. The time and conveyor

speed of water hitting the dish, utensil, or tray shall conform to the operating manual of the dishwasher.

62. The Sheriff shall cause the air quality in cells and day rooms to be documented by a qualified individual on a regular basis. This documentation shall be maintained at the Jail.

63. During the existence of this Consent Order, an environmental specialist retained by plaintiffs' counsel shall be allowed twice a year to inspect the Jail, speak with inmates and staff; inspect documents; take photographs of environmental conditions and take samples on a date and at a time approved by the Sheriff.

F. Plumbing

64. The County Defendants shall maintain toilets, showers, and sinks in good working order. The County Defendants shall develop a preventive maintenance schedule and policy for upkeep of the plumbing system.

65. All inmates in the Jail shall have access to fresh drinking water twenty-four (24) hours per day seven (7) days per week.

66. No inmate shall be housed in a cell with standing water in the cell. No inmate shall be housed in a cell with a toilet that does not work or a sink that does not work.

67. The County Defendants shall clean up any and all sewage leaks within two (2) hours of becoming aware of them.

68. The hot water temperature in all showers and sinks in the Jail shall be between one hundred (100) degrees and one hundred twenty (120) degrees Fahrenheit. There shall be at least one (1) working shower in each zone. All sinks shall have working cold and hot water.

69. All electrical wiring in showers shall be covered according to code such that no live wire is exposed.

G. Laundry

70. The Sheriff shall provide all inmates with at least three (3) sets of clean Jail uniforms and underwear per week upon being assigned to a housing zone. All inmate linens and towels shall be exchanged for clean linens and towels at least twice weekly.

71. The Sheriff shall permit only those inmates and staff trained in the proper use of all laundry equipment to use the equipment. Training shall include instructions regarding laundry procedures - how long clothes are to wash and dry, the amount of detergent to be used, the temperatures required to disinfect the materials being washed, the requirement that clothes be completely dry, and similar information - shall be maintained in writing.

72. The Sheriff shall maintain separate laundry carts for clean clothes and soiled clothes, and carts shall be clearly labeled indicating clean clothes or soiled clothes.

73. Dissolvable laundry bags shall be located in an area that is easily accessible during an emergency for collection of clothes, linens, and other laundry items that become contaminated with blood or bodily fluids.

H. Housing

74. All cells in the Jail shall be equipped with adequate lighting. Lighting in the cells shall be at least twenty (20) foot candles at desk level and at the grooming station pursuant to Jail Bureau Policies and Procedures Standard Operations Manual No.1100-01.

75. All cells shall have a working day light. No inmate shall be confined in a cell without a working light.

76. Noise levels in the inmate housing units shall not exceed 70 dBA (A Scale) during the daytime and 45 dBA (A Scale) at night. "Night" shall be defined as from 11:00 p.m. until breakfast is served. "Daytime" shall consist of all other times. See Jail Bureau Policies and Procedures Standard Operations Manual No. 1100-03.

I. Legal and Family Visits

77. The Sheriff shall allow legal visits at the Jail from 7 a.m. until midnight seven days a week. The County Defendants shall install telephones in the attorney visiting booths to facilitate confidential communications between attorneys and clients.

78. The County Defendants shall ensure that all steel grating covering windows in any visitation booth shall be removed and replaced with plexiglass or glass panels that make it possible for the inmate to see the visitor.

J. Medical Care

79. The Sheriff shall require the medical vendor to ensure that medication administration records specify what medications are provided, when, and by whom. If the prescribed medications are not provided, these records shall specify the reason that they are not. All staff distributing medication must observe medications being taken by the recipient inmate as they are distributed.

80. The Sheriff shall ensure that all negative pressure indicators in the tuberculosis isolation rooms shall be checked and maintained in good working order. If a negative pressure indicator is broken, it shall be repaired promptly.

81. The Sheriff shall ensure that all dental equipment shall be re-sterilized prior to each use. All sterilization and re-sterilization procedures shall be clearly

documented in writing and followed at all times. This documentation shall be maintained at the Jail.

K. Inmates with Physical Disabilities

82. The County Defendants shall ensure that there is housing for men and women inmates with physical disabilities and such housing shall conform to applicable guidelines provided by the United States Department of Justice pursuant to the Americans with Disabilities Act ("ADA"), including but not limited to, wheel-chair accessible cells, bathroom facilities, and shower facilities; and handrails and ramps to access shower facilities.

83. The County Defendants shall ensure that visitation areas are accessible to physically impaired inmates or appropriate accommodation made to ensure that they have the same access to visitation as all other inmates.

L. Mentally Ill Inmates

84. The Sheriff shall cause a mental health screening to be conducted on each person brought to the Jail. If during the intake assessment, the inmate is able to identify credibly his or her medication, the intake nurse shall refer the inmate to the main clinic to a physician or a physician's assistant who will continue the medications immediately. There shall be no unreasonable disruption in the continuity of medication. The intake medical provider shall ask each inmate identifying their medication to sign a release of information so that confirmation of

any treatment and medication administration and other relevant information can be exchanged as soon as possible.

85. Defendants shall employ a full-time board-certified psychiatrist. The psychiatrist's duties shall include, but not be limited to, evaluating treatment plans; review the prescriptions provided to mental health inmates; and oversee the creation, implementation, and revision of policies and procedures addressing mental health inmates.

86. The Sheriff shall provide staff assigned to the Jail, the courthouse, and transport duty with training in recognizing, responding, and working with mentally ill and mentally retarded people.

87. The Sheriff shall ensure that when a mentally ill inmate is identified during intake, the discharge planners at the jail shall be notified promptly.

88. Agencies providing support services to mentally ill and homeless people, such as Social Security Administration and those trained in administering benefits, shall be provided reasonable access to inmates to determine their eligibility for public benefits and begin the process of applying before they are released.

89. The Sheriff shall provide or arrange transportation for mentally ill and homeless inmates who are ordered by the court to enter day reporting or in-house treatment facilities.

90. The Sheriff shall ensure that court-ordered evaluations of inmates for competency to stand trial, insanity or other reasons shall be conducted within one week of such order.

91. The Sheriff and the Fulton County Defendants shall ensure that mentally ill inmates found incompetent to stand trial but remaining at the Jail awaiting transfer to Georgia Regional Hospital shall be reviewed each month to determine whether competency has been regained or other placement may be located.

92. The Sheriff shall provide to the courts each week a list of inmates the jail staff has identified as having substantial mental health issues. This list will be distributed to Public Defenders, Superior Court Expeditors, and any other parties necessary to assist in making appropriate recommendations for disposal of their cases.

M. Safety and Emergency Procedures

93. Comprehensive emergency policies and procedures conforming to National Commission on Correctional Healthcare ("NCCHC") and American Correctional Association guidelines shall be developed and implemented by the Sheriff. The emergency policies and procedures shall provide for immediate and appropriate response to any medical, fire, severe weather, riot, or other unforeseen emergency that could arise, and provide for drills at least twice a year. The

comprehensive emergency policies and procedures shall be in writing and made a part of the Jail Bureau Policies and Procedures Standard Operations Manual.

Plaintiffs' counsel shall be provided an opportunity to review and comment on the policies and procedures prior to their final adoption.

94. The Sheriff shall ensure that all uniformed staff at the Jail are trained in the proper use of fire safety equipment. Training in the proper use of fire safety equipment shall include quarterly retraining. All staff training and re-training in the use of fire safety equipment shall be documented and maintained at the Jail.

95. The County Defendants shall ensure that all fire doors in the Jail shall be maintained in good working order. All emergency equipment shall be maintained in good working order.

96. The Sheriff shall ensure that all uniformed staff and contracted medical staff shall be trained in administering CPR, and appropriate devices to prevent the spread of disease shall be made available on each floor in case of emergency.

97. The Sheriff shall ensure that the Jail fire system and equipment shall be tested quarterly. The Jail fire system and equipment shall be inspected and maintained annually. All inspections and findings shall be documented and maintained at the Jail. All sprinkler heads in the Jail shall be checked periodically

to ensure that they are clean of any debris. All sprinkler heads shall be maintained in good working order.

98. The County Defendants shall ensure that any electrical outlet that is located within twenty-four (24) inches of a sink or source of running water shall be equipped with a ground fault circuit interrupter or disconnected from electrical circuit.

99. The Defendants shall ensure that telephones located in the day rooms of the dorms shall be maintained in good working order.

100. The Sheriff shall ensure that recorded images of what occurs in the jail shall be kept for at least 10 days before the medium upon which they are recorded is reused. Any inmate that sustains an injury while incarcerated at the Jail shall be photographed pursuant to the Photographing Inmates Policy attached hereto at Appendix E.

N. Inmate Grievance Procedure

101. The Sheriff shall maintain a grievance procedure at the Jail. Upon admission to the Jail, inmates shall receive the inmate handbook or other document describing the grievance procedure and providing at least one grievance form. The handbook or other document shall inform inmates how to obtain additional forms, how to complete the forms, and submission of the forms. This information shall

also be set out on a laminated document and posted in each of the cellblocks housing units in the Jail.

102. Grievance forms shall be available to inmates at all times. Inmates shall receive a duplicate copy of their grievance forms at the time of their submission. All grievances shall be administered and responded to in accordance with the Jail Bureau Policies and Procedures Standard Operations Manual, No: 1900-08.

V. Monitor

103. The parties shall select a monitor subject to approval by the Court to inspect the Jail at least once a quarter and provide a report to the Court and the parties. If the parties are unable to agree on a monitor within 30 days of the entering of this order, the parties will each submit to the Court the names of three suggested monitors, and the Court will select a monitor.

104. The Monitor shall have access to any and all documents (including minutes, reports, and other documents), Jail staff, class members, and any other information, as he or she deems necessary to provide the Court with reports on the Jail.

105. The Sheriff and the Fulton County Defendants shall ensure the Monitor shall be paid by Fulton County defendants at a rate of \$90 per hour,

including for travel time (not to exceed five hours each way), for inspection of the jail (not to exceed 24 hours per visit) and for writing a report (not to exceed 10 hours for each report) and reasonable expenses, or such amounts and for such time periods as the Fulton County defendants and plaintiffs shall mutually agree are reasonable. The Monitor's visits shall be quarterly. If the Monitor identifies the need for additional specialists or experts to assist the Monitor in discharging his or her duties under the Order, he or she shall notify the parties of the need and reasons. If the parties are unable to reach an agreement concerning the Monitor's request for additional assistance, the request shall be submitted to the Court.

VI. Class Certification

106. Parties stipulate to and the Court hereby finds that this action is properly maintained as a class action. The plaintiff class is hereby certified as consisting of all inmates who have been since the date of the filing of the Complaint in this action, are now, or will in the future be incarcerated at the Fulton County Jail in Atlanta, Georgia.

VII. Scope of Relief; Impact

107. The parties, with the exception of the State Defendants, agree and stipulate, based upon the entire record, and the Court hereby finds, that the prospective relief set forth in this Consent Order is narrowly drawn, extends no further than necessary to correct the violations of the plaintiffs' federal rights, and

is the least intrusive means necessary to correct these violations. The parties, with the exception of the State Defendants, agree and stipulate, and the Court hereby finds that this Consent Order will not have an adverse impact on the public safety or the operation of the criminal justice system. The State Defendants agree that paragraph 21, the only one placing duties upon the State Defendants, extends no further than necessary to correct the violations of the plaintiffs' federal rights, is the least intrusive means necessary to correct these violations, and will not have an adverse impact on the public safety or the operation of the criminal justice system. Accordingly, the parties, with the exception of the State Defendants, agree and stipulate, and the Court finds, that this Consent Order complies in all respects with the provisions of 18 U.S.C. §3626(a). This Consent Order is not intended to have any preclusive effect except between the parties in this action. This Consent Order does not resolve, adjudicate, or bar the damages claims of any former, present, or future class members.

VIII. Modification and Enforcement

108. The Court shall retain jurisdiction to enforce the terms of this Order as provided by law.

109. The Sheriff and his staff shall provide a copy of this Consent Order to all of their agents, representatives, and employees in any way connected with the custody of class members. At least three copies of this agreement shall be

maintained in the Jail's library. Inmates who have questions about the provisions of this Consent Order shall be referred to plaintiffs' counsel by providing the names, telephone number and address of counsel.

110. Plaintiffs' counsel shall continue to have reasonable access to class members, documents maintained at the Jail and the Jail facility, including unannounced, escorted walkthrough visits of the Jail on a quarterly basis. Plaintiffs' counsel shall also be permitted communication with defendants directly, including their agents and employees, in order to monitor compliance with the terms of the Consent Order.

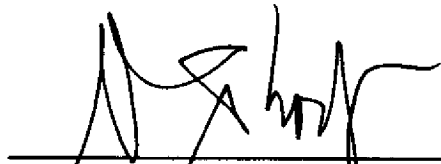
111. Any party may seek to modify any part of this Order for good cause shown. The parties acknowledge that these terms and conditions may require modification or situational variances to meet changed circumstances. Any party may initiate a modification or variance from the terms of this Consent Order by making a written request for such modification or variance to all parties to this Consent Order. If no party objects to the request within ten days, the party may submit the request to the Court for its consideration. If any party objects to a proposed modification or variance the dispute resolution procedures set forth in Paragraph 112 of this Consent Order shall be invoked. Once the dispute resolution procedures are invoked the parties shall comply with the Consent Order as written until the parties reach agreement or a modification is approved by the Court.

112. The parties stipulate and agree that any party aggrieved by an alleged violation of any term of this Consent Order or who seeks a modification or variance from any term of this Consent Order may request a dispute resolution conference with all parties for the purpose of seeking a resolution of the grievance or agreement on a proposed modification or variance. The Conference shall be held within ten (10) days of the receipt of written notice of the request for the Conference. All parties shall seek in good faith to resolve the dispute. In the event the parties are unable to resolve a dispute, any party may seek a determination from the Court resolving the dispute.

113. The parties agree and the Court finds that this Consent Order as well as previously entered orders of the Court created a material alteration of the legal relationship between the Plaintiffs and Defendants and therefore, Plaintiffs' counsel are entitled to the award of attorneys' fees from the County Defendants and Sheriff under *Buckhannon v. West Virginia Department of Health and Human Resources*, 533 U.S. 598 (2001). In the event that the Plaintiffs and Defendants are unable to resolve by agreement issues relating to Plaintiffs' claim for attorneys' fees, Plaintiffs may petition the Court within thirty days of the date on which the Court enters this Order.

114. Any party may move to terminate this Consent Order two years after the date the court enters it.

SO ENTERED THIS 21st DAY OF December, 2005.



Judge Marvin H. Shoob
United States District Court for the
Northern District of Georgia

WE CONSENT:

For the Plaintiff Class:



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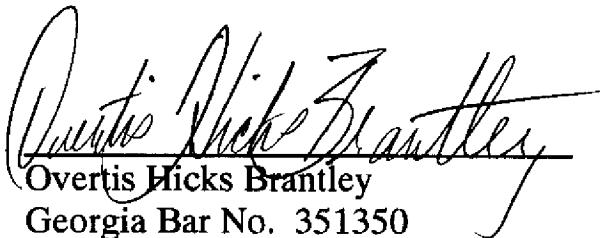
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For the Fulton County Defendants:

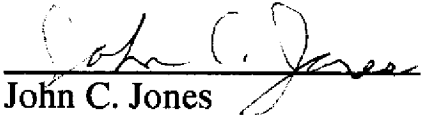


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