

PC-MD-006-003

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

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JEROME DUVALL, *et al.*,

Plaintiffs,

PARRIS N. GLENDENING, *et al.*,Defendants.

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Civil Action No. JFM-94-2541

## CONSENT ORDER

Pending before the Court is plaintiffs' motion for preliminary injunctive relief regarding conditions of confinement due to excessive heat at the Women's Detention Center of the Baltimore City Detention Center ("WDC"). Based upon the pleadings and the entire record in this matter, including the stipulations of the parties herein, and having considered the evidence and arguments, the Court FINDS and RULES as follows:

1. This case is reopened and restored to the active docket in order to address current conditions of confinement at WDC and for the purpose of resolving all issues related to plaintiffs' motion for a preliminary injunction (filed August 16, 2002);

2. The relief granted by this Consent Order is narrowly drawn and extends no further than necessary to prevent irreparable harm and injury to plaintiffs, and the relief afforded by this injunction is the least intrusive means

necessary to prevent irreparable harm as the relief is limited to that which is necessary to prevent an unreasonable risk of harm and injury to the health and safety of plaintiffs. The Court further finds, based upon the unopposed evidence regarding current conditions at WDC, that the relief requested is otherwise appropriate, and the Court makes all necessary findings pursuant to 18 U.S.C. § 3626(a).

3. Defendants have agreed that they will neither challenge nor otherwise seek to modify the terms of this Order, without Plaintiffs' consent, for a period of 14 months from date of entry.

NOW, THEREFORE, the Court, ORDERS and DECLARES the following:

1. Defendants, their officers, agents, designees, and assigns, with input and review by plaintiffs and their medical experts, shall, within 14 days of entry of this Order, develop and implement a comprehensive protocol for intake screening to identify detainees who are, either because of a prior medical condition or because of the use of prescription medicines or otherwise, particularly susceptible to heat-related injury in the event of a heat emergency, as defined herein. Screening shall be conducted within the first 12 hours of an individual detainee's transfer to WDC from any other facility, including the Central Booking and Intake Center.

2. Pending development and implementation of this protocol, defendants shall immediately institute a temporary procedure for screening detainees, within 12 hours of their transfer to WDC, to include at a minimum the following:

- Use of medications that decrease blood flow to the skin, potentially compromising thermoregulation, to include:
  - Antispasmodics;
  - Diuretics;
  - beta-blockers;
  - calcium channel blockers; and
  - anti-Parkinson drugs;
- Use of psychotropic or other medications that increase sensitivity to heat or alter a person's sense of thirst, to include:
  - thyroid hormone;
  - neuroleptics (*e.g.*, Haldol, Prolixin, Navane, Mellaril, Stelazine);
  - tricyclic antidepressants (*e.g.*, Nortriptyline, Elavil, Limimpamine, Sinequan);
  - mood stabilizers (*e.g.*, Lithium, Tegretol, Valproic Acid);
- Medications that make the body less able to effectively thermoregulate, to include:
  - antihistamines, anticholinergics, phenothiazines, and benztropin mesylate;
- Recent use of alcohol, cocaine or heroin, or other drug that may compromise an individual detainee's ability to appreciate or respond to a heat-related condition;
- The existence of particular medical conditions, to include:
  - Dehydration;

- pregnancy;
  - hypertension;
  - hyperthyroidism;
  - diabetes;
  - heart condition;
  - kidney disease
  - other respiratory illness; and
  - age (65 years of age or older);
- Any additional factors to be determined through the exercise of sound medical judgment.

3. The screening protocol as required by ¶ 1 shall be in effect from May 1 through September 30 of each calendar year. In addition, the Medical Director for the Department of Public Safety and Correctional Services is hereby authorized and shall declare a "heat emergency" based upon a seven-day forecast of conditions during which inside temperatures at WDC are expected to exceed 90 degrees Fahrenheit or when the actual temperature within any portion of WDC used to house detainees reaches or exceeds 90 degrees Fahrenheit (or 88 degrees Fahrenheit and 35% relative humidity) for a period longer than four hours. The heat emergency shall continue to be in effect until such time as the daytime temperature inside the facility (as measured between 12:00 noon and 6:00 p.m.) remains below 90 degrees Fahrenheit (or 88 degrees Fahrenheit and 35% relative humidity) for a period of not less than three hours. The screening protocol as

required in ¶ 1 shall describe those additional actions to be required to respond to a declared heat emergency.

4. Defendants shall, by August 24, 2002, complete installation of air-conditioning units in housing units within WDC in order to provide adequate air-conditioned space for not fewer than 160 inmates. In addition, defendants shall, by August 31, 2002, retrofit a portion of the 4<sup>th</sup> Floor Unit in order to provide 50 additional beds in air-conditioned space, to be used to house detainees who are quarantined and who have been determined to be at risk of heat-related illness in the event of a heat emergency. Until this additional space is available, individuals who must be quarantined and who have been determined to be at risk for heat-related illness will initially be assessed to determine whether their medical condition requires that they be placed in alternative housing. If their condition is determined to be stable, they may be housed in quarantine, but will be provided a physical examination as promptly as possible. In the event of an intervening heat emergency, these individuals will be seen at least twice daily by a medical professional, and will be provided respite in air-conditioned space consistent with the schedule for other detainees.

5. Defendants shall, with input and review by plaintiffs and their medical experts, within 14 days of entry of this Order, develop and implement a comprehensive protocol for the housing and handling of detainees determined through screening or other medical review, as provided in ¶¶ 1 and 2 of this Order, to be at risk for heat-related illness. The protocol may include a medically

appropriate process for stratification of risk, for use if and when the number of non-quarantined detainees who are determined to be at risk of heat-related illness exceeds the number of beds in air-conditioned bed space in non-quarantined housing.

6. At a minimum, beginning immediately upon entry of this Order, and pending completion of comprehensive medical protocols as required by ¶¶ 1, 5 and 7 herein, defendants shall, within 6 hours of the declaration of a heat emergency, utilize all available bed spaces in air-conditioned dormitories to house detainees identified to be at risk for, or actually suffering from, any heat-related illness or condition. In the event the number of detainees considered to be at risk or suffering from heat-related illness or condition exceeds the number of beds available in air-conditioned housing, defendants shall immediately undertake to manage this population by conducting an individual medical assessment by a qualified medical professional, which shall be properly documented in the detainee's medical records, and by developing where appropriate an individual treatment plan to assure that the detainee can safely remain in non-air-conditioned housing for the duration of the heat emergency. Defendants shall permit plaintiffs' attorneys and medical experts to monitor defendants' compliance with this paragraph, and shall provide plaintiffs' counsel and medical experts reasonable access to medical files, medical professionals and detainees for this purpose.

7. Defendants shall, with input and review by plaintiffs and their medical experts, within 14 days of entry of this Order, develop and implement a

comprehensive protocol for managing the health and safety of all other detainees, not determined by medical professionals to be at any greater risk of heat-related illness because of preexisting medical condition, during a heat emergency. Such a protocol shall include, for example, issues relating to patient education regarding risks and symptoms of heat-related medical conditions, periodic access to temperature-controlled environments, limits on activities, availability of and access to liquids, and periodic access to, and/or assessment by, a healthcare professional. This protocol shall also include specific recommendations regarding the temperature above which housing units within WDC shall be determined to be unsafe for housing of detainees under any circumstances during the duration of a declared heat emergency.

8. It is expressly understood that this Order shall in no way prejudice plaintiffs' right to immediately apply to this Court for additional relief in the event they believe that defendants' efforts to comply with this Order are inadequate or jeopardize the health and/or safety of detainees.

9. Until further order of Court, defendants shall provide to the Court and counsel, on a weekly basis, a written report regarding defendants' compliance with the requirements of this Order, including specifically: daily readings of actual temperature and relative humidity for all areas used to house detainees at WDC; the dates and duration of any declared heat emergency during the previous week; and in the event of a heat emergency, the number of inmates identified as being at risk of heat-related illness, and whether and when those

individuals were transferred to air-conditioned housing. The report shall also identify the number of detainees determined to be at risk who were not transferred to air-conditioned space, and how the safety and health of those individuals was managed by the facility. Notwithstanding the provisions of ¶ 3 of the preamble to this Order, either party may request modification of this reporting requirement upon reasonable notice and hearing by the Court.

10. Defendants shall immediately undertake a preliminary study to determine whether additional space within the facility can be air-conditioned or otherwise improved to provide additional bed space of detainees determined to be at risk of heat-related illness during a heat emergency. Defendants shall provide the Court and counsel with a preliminary written assessment, on or before September 9, 2002, including reasons why specific housing units at WDC cannot be readily or immediately air conditioned or modified to improve air circulation and air quality.

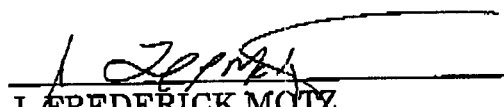
11. Defendants shall undertake a comprehensive study, to be completed on or before December 1, 2002, to identify long-term proposed solutions to address current conditions at WDC, including but not limited to temperature, air quality and air circulation within the facility in order to assure the safety and health of detainees, as well as the locations of appropriate alternative housing.

12. Plaintiffs are relieved of any requirement to post bond or any security, *see* Rule 65(c), because the Court finds that no security is necessary to



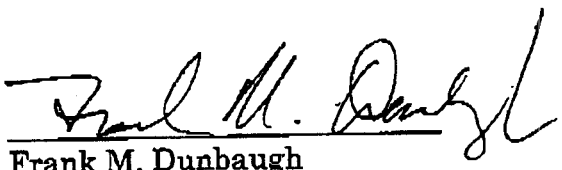
protect defendants and the Court further finds that plaintiffs are indigent and unable to afford to post any security.

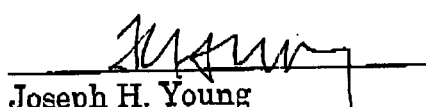
SO ORDERED, this 22nd day of August, 2002.

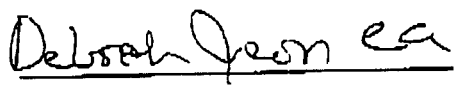
  
J. FREDERICK MOTZ  
United States District Judge

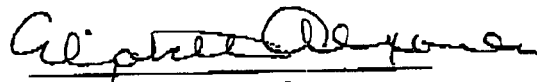
Consented to:

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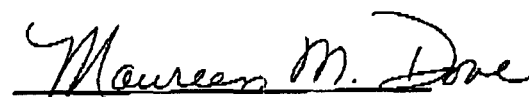
  
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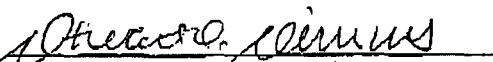
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