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United States District Court, N.D. Georgia  
Atlanta

Ruben FOSTER, et al., Plaintiffs,  
v.  
FULTON COUNTY, Georgia, et al., Defendants.

No. 1:99-CV-900-MHS | April 11, 2000.

CIVIL ACTION

Opinion

Order

\*1 The Court has reviewed the parties' responses to Dr. Greifinger's initial report, which were filed in accordance with the Court's Order of March 13, 2000. After the parties filed their responses, Dr. Greifinger toured the Fulton County Jail again on March 29-30 and then met with the Court to discuss the current conditions at the Jail and the steps being taken to comply with the Final Settlement Agreement. After meeting with Dr. Greifinger, the Court is confident that he is well-qualified to handle the position of Correctional Healthcare Monitor, and that he will be of great assistance to the Court in overseeing and insuring compliance with the Final Settlement Agreement.

At the Court's request, Dr. Greifinger has prepared and submitted an interim report dated March 31, 2000. The Court is pleased that a new health care provider, Comprehensive Medical Associates, Inc. (CMA), is now responsible for medical care at the Jail, and the Court is hopeful that future progress in bringing the Jail into compliance with constitutional requirements will mark a significant improvement over past efforts, which have been woefully inadequate.

Nevertheless, the Court concurs with the findings and recommendations in Dr. Greifinger's interim report and concludes that the following immediate steps are necessary to enforce the terms of the Final Settlement Agreement.<sup>1</sup>

<sup>1</sup> The Court has also considered the requests set out in plaintiffs' response to Dr. Greifinger's initial report. Since most of these requests overlap with the recommendations in Dr. Greifinger's interim report, the Court's implementation of Dr. Greifinger's recommendations also addresses most, if not all, of the

concerns expressed by plaintiffs.

First, the Court FINDS that the scope of the Settlement Agreement includes every aspect of medical care that could affect members of the plaintiff class, and that monitoring and enforcement shall include, at a minimum, (1) the intake process for all inmates; (2) access to physician care, medication, and specialty care for all inmates; and (3) all aspects of communicable disease care.<sup>2</sup>

<sup>2</sup> The Court notes that the Final Settlement Agreement requires generally that "Defendants shall maintain conformance with the National Commission of Correctional Health Care's current *Standards for Health Services in Jails* (the 'NCHC Standards')." Final Settlement Agreement ¶ III.A.

Second, the Court FINDS that the scope of the Settlement Agreement includes the elimination of overcrowding at the Jail, because overcrowding poses significant health risks to HIV-positive inmates, as well as to other inmates, staff, and the community.<sup>3</sup>

<sup>3</sup> The Court notes that the Settlement Agreement provides: "The County shall identify mechanisms for accommodating current and anticipated jail population." Final Settlement Agreement ¶ V.D.

\*2 Pursuant to these findings and the additional findings and recommendations of Dr. Greifinger, the Court hereby ORDERS that the Fulton County defendants promptly

- (1) Extend the temporary contract with CMA for a period of at least one year;
- (2) Hire additional temporary staff needed to catch up in all medical areas, including intake, dental care, HIV care, discharge planning, specialty care, and hospital outpatient care;
- (3) Develop a needs assessment, performance measures, and quality management plan with a timed and detailed work plan, and use the performance measurement as part of the periodic reporting to the parties and Dr. Greifinger;
- (4) Develop a written agreement for outside medical services, both inpatient and outpatient, which contains assurances for timely response to medical care needs and remedies for non-adherence;
- (5) Hire or provide additional staff needed to insure that

inmates are seen as scheduled for medication and in-house and outside medical visits;

(6) Improve the system for screening, diagnosing, treating, and following patients with sexually transmitted disease, tuberculosis infection, and HIV, through a written agreement either with the Fulton County Health Department or with CMA;

(7) Provide plaintiffs' counsel and Dr. Greifinger with a list of all security staff vacancies within two weeks of the date of entry of this order, and monthly thereafter, and expeditiously fill current vacancies with qualified staff;

(8) Facilitate necessary communication between plaintiffs' counsel and members of the plaintiff class by providing plaintiffs' counsel with (a) a list of HIV-positive inmates and their booking numbers at the beginning of each month, and (b) prompt access to the medical records of class members upon counsel's request;

(9) Duplicate the physical changes implemented on 3 South on other housing units;

(10) Respond constructively to the recommendations of the correctional dental consultant, Dr. Brian Burke, following his exit interview, and incorporate his recommendations into Dr. Greifinger's monitoring;

(11) Initiate plans to reduce overcrowding, with the ultimate goal of creating a facility that does not house

inmates beyond its rated physical capacity; and

(12) Compensate Dr. Greifinger for up to 100 working hours per quarter spent in carrying out his responsibilities as Correctional Healthcare Monitor.

The Court believes it should point out that, in view of the now well-publicized conditions at the Fulton County Jail, including Dr. Greifinger's detailed reports, if remedial action is not promptly and expeditiously taken, there is a very serious question as to whether the Sheriff and individual County commissioners, who have now been fully apprised of the deplorable conditions at the Jail, would be entitled to qualified immunity as to injuries sustained by inmates at a future date arising from such conditions.

Finally, the Court DIRECTS counsel for the County defendants to provide copies of this order and Dr. Greifinger's interim report, as well as copies of all future orders and reports, to each of the individual County defendants.

**\*3 IT IS SO ORDERED**, this 11th day of April, 2000.

Marvin H. Shoob, Senior Judge,  
United States District Court  
Northern District of Georgia