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United States District Court,
S.D. Indiana,
Indianapolis Division.

MARION COUNTY JAIL INMATES, Plaintiffs,
v.
Sheriff Jack COTTEY, Defendant.

No. IP 72-424-C-B/F. | April 29, 2002.

Attorneys and Law Firms

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Indianapolis, IN, for Plaintiff.

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Defendant.

Opinion

Order in Aid of Prior Rulings

SARAH EVANS BARKER, Judge.

*1 Whereas the Court having heretofore adjudged Defendant Sheriff Jack Cottey in contempt of prior orders imposing the 297 maximum capacity limit on the number of inmates in the Marion County lock-up and the four-day detention limitation for prisoners detained in the lock-up, the Court now issues the following additional orders to supplement and to enforce the above-referenced limitations. Punitive sanctions for Defendant's past contempt shall not be imposed at this time.

1) The Marion Superior Court has wisely undertaken recent commendable steps, as evidenced by their orders of April 18, 2002, in which the Court directs that certain arrestees shall be diverted from detention by utilization of criminal summonses and the judicial processing of other arrestees be expedited in an effort to alleviate overcrowding in the Marion County lock-up. To this end, the Marion Superior Court has formulated and implemented plans to provide increased judicial services including making available round-the-clock, daily sessions to consider release issues relating to arrestees subject to detention in the lock-up. We assume, indeed, strongly urge, the Marion Superior Court to continue to make such judicial services available on this daily, round-the-clock basis to determine the necessity of

detention as well as length-of-detention issues as those matters present themselves and threaten otherwise to cause population caps to be exceeded. Additionally, we strongly encourage the Marion Superior Court to review and revise as appropriate its procedures relating to the posting of bond to allow inmates to be released in the fairest and most expeditious fashion. Specific consideration should be given to an expansion of the form in which bond payments may be accepted, to wit, by credit cards, checks, cash, etc., and to appropriate adjustments in bond schedules, both as to whether certain offenses warrant the posting of money bonds, as opposed to the release of the inmate on his/her own recognizance, and whether the amounts of bond for particular offenses could be reduced without putting at risk either the public safety or the arrestee's likelihood of appearing at future proceedings.

2) Defendant Sheriff Jack Cottey is ordered to notify the assigned duty judge of the Marion Superior Court *any* time when (1) the lock-up population reaches 80% of its permitted capacity of 297 inmates (roughly within 50 inmates of the cap), and (2) when any inmate has been detained in the lock-up for a period of 84 hours (12 hours prior to the 96 hour limit). Notification to the duty judge by the Sheriff will constitute a request for immediate judicial services to consider and decide release issues relating to detainees in an effort to keep the overall population of the lock-up within the cap, as well as the four-day limitation satisfied.

3) Defendant Sheriff Jack Cottey is further ordered, in consultation with the Marion Superior Court, to determine the overall priorities for occupancy of the jail space within the Marion County Jail, so that, when the lock-up is at full capacity of 297 inmates, any overflow can be moved into available jail space, or when an inmate has been detained in the lock-up for a period of more than four days, he can be transferred to the Jail. Jail space is to be made available by removing other jailed inmates, consistent with the agreed-upon priorities, to other secure facilities either within the jurisdiction of the Marion County Sheriff or the Indiana Department of Corrections or to other county jails. The limitations on occupancy in effect at the Marion County Jail, however, are not to be disregarded by virtue of this order or to comply with this order.

*2 4) Until further order of this Court, Defendant Sheriff Jack Cottey, by counsel, shall provide the undersigned judge with weekly reports reflecting the total daily lock-up populations and the number of days of incarceration for each inmate within the lock-up, specifically noting any violations of the population cap and the four-day stay limitation. Such reports shall cover a seven-day period ending with the counts on Sunday

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nights and shall be filed with the Federal Court no later than Tuesday noon following the reporting period.

with the following schedule shall be assessed:

5) In the event Defendant Sheriff Jack Cottey fails to comply with the lock-up population limit of 297 inmates, as set by previous order of this Court, fines in accordance

If the daily lock-up count reaches

A fine per inmate exceeding the 297 cap shall be in the amount of

298-307	\$200
308-317	\$300
318-327	\$400
328-337	\$500
Over 337	\$500 (per inmate over 297) plus an additional punitive assessment of \$10,000

[To illustrate: if it is determined that the 297 population cap of the lock-up is exceeded on any given day and reaches 320 detainees, the fine for that day would be computed as follows: \$400 multiplied by 23 (the number over the 297 cap), totaling \$9,200.]

four-day detention limit for inmates in the lock-up, as previously set by order of the Court, fines in accordance with the following schedule shall be assessed:

6) In the event Defendant fails to comply with the

If an inmate's total detention time

A fine shall be in the amount of

Exceeds 96 hours (4 days)	\$200 per day/per inmate
Exceeds 144 hours (6 days)	\$300 per day/per inmate
Exceeds 192 hours (8 days)	\$400 per day/per inmate
Exceeds 240 hours (10 days)	\$500 per day/per inmate, plus an additional punitive assessment of \$10,000

[To illustrate: if it is determined that five (5) inmates have been held in the lock-up for a total of 200 hours each (that is, eight days plus), the fine would be computed as follows: \$400 fine amount multiplied by 4 days multiplied by 5 inmates, totaling \$8,000 .]

7) The above-referenced fines, which shall be computed on a daily basis, shall be deposited weekly in a separate fund, administered and maintained by this Court and overseen by a Special Master, from which allocations shall be made for uses relating to compliance with the Court's prior orders, e.g., to pay the costs of additional lock-up space, if any can be found to house Marion County inmates; to underwrite the expense of additional personnel, including judges pro tem, ancillary court employees, deputy public defenders, deputy prosecutors, etc., in order to assure expedited processing of detainees; to increase or expand the use of home-detention in lieu of incarceration; to develop and enhance a system for inmate computerized counting and tracking capabilities within the Marion County Jail; and to provide improvements in inmate welfare, including, but not limited to, mental health treatment, vocational counseling, acquiring

additional bed space and purchasing personal hygiene supplies. Expenditures shall be made upon application to the Special Master and approval by the Court.

*3 8) The Special Master, charged with overseeing the fund established by the fines described above, shall be appointed by separate order of the Court.

9) These requirements shall go into effect and be fully enforced as of May 1, 2002, and shall remain in effect until further order of the Court. Defendant Sheriff Jack Cottey is hereby ordered to distribute copies of this order to all appropriate officials within the Sheriff's Department and to the judges serving as members of the Executive Committee of the Marion Superior Court for further distribution to the other judges of the Marion Superior Court, to the Marion County Prosecutor, and to the Marion County Public Defender.

It is so ORDERED this __ day of April, 2002.