

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Nathaniel Roberts, et al., *
*
Plaintiffs, *
*
vs. *
*
County of Mahoning Ohio, et al., *
*
Defendants. *
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CASE NO. 4:03 CV 2329

FOURTH REPORT OF THE SPECIAL MASTER

I. Introduction

The purpose of this report is to inform the Court of developments since the meeting the Court held in chambers on June 9, 2005.

A. Population Control

The County has not been successful in maintaining a cap of 296 prisoners in the South Tower of the Mahoning County Justice Center. On the date of the conference the population at the jail was 299, reflecting a minimal overage of three inmates. Although as of August 1, 2005 the County had released 1,313 prisoners pursuant to the Emergency Release Plan, the population of the jail was consistently above 296 during the last half of June, through all of July, and into August 2005:

Jail Population Every Five Days Beginning June 15 and Ending July 30, 2005

DATE	POPULATION	OVERAGE
6/15/05	315	19
6/20	316	20
6/25	307	11
6/30	318	22
7/5/05	328	33
7/10	325	28
7/15	326	30
7/20	339	43
7/25	343	47
7/30	318	22
8/05/05	315	19 ¹

These numbers are a matter of concern, as the 296 cap assumes a high level of double-celling throughout the jail. The prisoners in excess of 296 often will occupy a “boat” in a cell with two other inmates.

One of the factors contributing to the crowding reflected in this table is the exercise of discretion by Common Pleas Court judges to deny release to prisoners in step 11 of the Emergency Release Plan. Prisoners in this step are “inmates incarcerated while awaiting trial in lieu of bond for nonviolent felonies. The inmate shall be released on their own recognizance subject to any conditions imposed by the Trial Court with priority

¹ As the Court will note, we may be seeing the beginning of a downward trend in the population overage.

being given to first-time offenders.” Pursuant to this language Common Pleas judges review all step 11 cases and may exercise their discretion to release or to retain the inmate at the jail. As of June 27, 2005 there were 40 step-11 inmates whose release a Common Pleas judge had not approved.

Other factors contributing to crowding at the jail include the delays encountered in obtaining orders for the transfer of convicted felons to the Ohio Department of Rehabilitation and Correction. I stumbled on one such case when I inquired about an inmate who required a high level of medical care. I learned that this inmate had been sentenced on July 7 to four years in prison. The Clerk of the Common Pleas Court did not receive the journal entry until July 28, the date I called jail officials to get information about the inmate’s medical needs. Jail officials made a special request to the clerk’s office and obtain a Warrant to Convey, which allowed transport to occur on July 29. Thus, this inmate filled a bed in the jail for 22 days between sentencing and delivery to the Ohio Department of Rehabilitation & Correction. While some time will be required for necessary paperwork to be prepared and transferred to the Sheriff’s office, 22 days is excessive. Data on the scope of this phenomenon are not readily available at this time, but jail officials are beginning to keep this information from this point forward.

Jail officials also informed me that they are concerned that Youngstown and other local police officer may be charging arrestees in such a manner as to avoid releases or reduce the chances of release. This would result from charging an arrestee with a violent or non-violent felony.

B. Solutions Discussed by the Special Master and Counsel

In response to the consistent crowding at the jail the special master and counsel have attempted to identify potential solutions to this problem. On July 5, 2005 I contacted counsel suggesting an agenda for future actions to address crowding in a manner that will be effective in the long term as well as the short term. The major steps I proposed were the following:

- a meeting between the special master and the judges of the Mahoning County Court of Common Pleas, the Youngstown Municipal Court, and the part-time County Courts in outlying areas of the County;
- initiation of a study to identify any delays that add days to the period beginning with arrest and ending with the final disposition of a criminal case;
- a meeting between Mahoning County Officials and persons at the Ohio Department of Rehabilitation & Correction (ORDC) to discuss possible sources of funding, particularly for community corrections alternatives to incarceration; and
- identification of all potential outstanding issues in the case in addition to population control (access to courts, staff training, maintenance, and outdoor exercise) and development of compliance plans the issues counsel agree are within the scope of the litigation.²

C. Follow Up – Meeting With ODRC Officials

On July 15, 2005 Mahoning County officials and counsel met with several representatives of the ODRC. Departmental officials included Assistant Director Terry Collins, Deputy Director Charles Bailey (Bureau of Adult Detention), Deputy Director Harry Hageman (Parole and Community Services), and Linda Janes (Bureau of Community Sanctions). Representing Mahoning County were Commissioner John McNally, Richard Billak (Chief Executive Officer of the Mahoning County Community Justice Association responsible for community corrections in the county), Linette

² Another issue I raised was defendants' counsel's suggestion that the parties consider opening two pods in the South Tower for the remainder of 2005 in order to reduce population pressures. Subsequently, counsel and I learned that funds were not available to exercise this option.

Stratford (First Assistant Civil Prosecutor in the Mahoning County Prosecutor's Office), and three representatives from the jail: Jail Administrator Alki Santamas, Major Tom Scanlon, and Lieutenant Jim Lewandowski. Dan Downey (defendants' counsel) and Robert Armbruster (plaintiffs' counsel) also attended, as did Victoria Grunthner (a law clerk for plaintiffs' counsel), the special master, and the special master's graduate assistant, Cory Nafziger.

A number of interesting ideas came out of that meeting. Before mentioning these, I wish to summarize the very strong statement Deputy Director Hageman made. It is his opinion that Mahoning County, like other metropolitan counties in Ohio (and throughout the United States), cannot build its way out of its crowding problem. Thus, even an infusion of funds that would permit the immediate reopening of all beds in the North and South towers would provide at most a brief interlude of relief. As a result, Mr. Hageman recommended, and the special master strongly agrees, that the focus in this litigation should be on solutions that will address the underlying causes of crowding in the jail, including increased reliance on community corrections, maximum efficiency in the operation of the criminal justice system, and on ongoing mechanism to develop and maintain a mutually supportive criminal justice system in the county based on cooperation among the police, Municipal Court judges, County Court judges, Common Pleas Court judges, clerks of courts, jail officials, the County Prosecutor's office, the County Commissioners, community corrections officials, court administrators, the police, and others.

In the short term, however, there are steps that might contribute to temporary relief of the crowding problem. Some of the ideas suggested by ODRC officials included

the collection of fees from probationers, the use of release on the defendant's own recognizance (ROR), earned credit releases, and shock probation. Mr. Hagerman suggested that releases based on the charges an inmate faces may not protect public safety as much as would the use of a creditable risk assessment instrument. There was additional discussion of pay-for-stay charges, as well as shifting some of the costs of medical care from the county to inmates.

Two particularly interesting ideas arose during the course of this meeting. The first is that the ODRC may be able to consider assigning more Adult Parole Authority officers to free up security positions for use in the jail. Even more wide-ranging is the possibility of the use of the former minimum security jail, which has 96 beds, for an expansion of community corrections options in Mahoning County. Although the ODRC is not able to increase its \$200,000 allocation to Mahoning County community corrections this year, it is clear that ODRC officials have great respect for Mr. Billak and are favorably impressed by the operation of community corrections under the supervision of the Community Corrections Association. In this connection, it may be that greater involvement by the Community Corrections Board in the county would be helpful. All of these are ideas worthy of careful consideration.

D. Follow Up – Meeting with Mahoning County Common Pleas Judges

The special master met with all of the members of the Mahoning County Court of Common Pleas on July 18, 2005. These judges are Honorable Maureen Cronin, Administrative Judge, Honorable R. Scott Krichbaum, Honorable John Durkin, Honorable James Evans, and Honorable Maureen Sweeney. Both Mr. McNally and Ms. Stratford attended this meeting. During the time the court graciously made available to

me, I thanked the judges for their assistance in approving the emergency release mechanism. I also informed them of the creeping increase in the population of the jail and expressed my concern about that issue. Perhaps most important, I shared with the judges the substance of the earlier meeting with ODRC officials.

The basic point I hoped to make in my meeting with these judges was the need to examine all aspects of the criminal justice system in Mahoning County to identify areas where increased efficiency might be possible. To this end, I asked the court for its support of the proposed study of docket efficiency in the county. I pointed out that such a study might well identify areas other than the jail where infusions of relatively small amounts of money might have a substantial and positive impact on reducing jail crowding. One idea, for example, would be the provision of law clerks for the court to assist in legal research and the preparation of written opinions, leaving the judges with more time to allocate to other duties.

Although they expressed their concerns about long-term, let alone indefinite, reliance on the emergency release program, the judges responded positively to the two actions I asked them to take. First, I requested that a member of the Common Pleas Court begin to attend meetings of a working group I hope the county will be able to develop to address both short-term crises and long-term solutions related to jail crowding. Judge Cronin assured me that the court would make one of its members available for this purpose. Second, I asked for the Court's support of a docket efficiency study, which will require cooperation by the Clerk of the Court of Common Pleas, the Clerk of the Youngstown Municipal Court, and the court administrators of these two courts. Again,

Judge Cronin responded positively and directed the Common Pleas Court Administrator, Robert Rupeka, to cooperate in all respects with the conduct of such a study.

One of the most interesting ideas that arose during the meeting was Judge Durkin's suggestion that cross-training sessions involving the various actors in the Mahoning County criminal justice system be instituted. This recommendation, as will be obvious, is entirely consistent with the recommendations I make at the conclusion of this report.

I believe that the participation of the Court of Common Pleas judges will be essential to the development of long-term strategies to limit the population of the jail. It also will contribute to the thoughtful and mutually cooperative solution of day-to-day issues that are likely to arise between now and the time more permanent solutions can be developed and implemented.

E. Follow-Up – Meeting with Counsel and Jail Officials Regarding Access to Courts, Outdoor Recreation, Staff Training, and Facility Maintenance

Following my meeting with the Common Pleas Court judges, I met on July 18 with counsel, jail officials, and other Mahoning County representatives on issues of access to courts, outdoor recreation, staff training, and facility maintenance at the jail. Apparently, the County Commissioners have executed a contract with the University of Akron for provision law students to assist jail inmates with needs relating to legal research and writing and have forwarded that contract to the law school. This contract will restore the situation to the *status quo ante* and should resolve the parties' outstanding differences on this subject.

Jail officials also agreed to proceed with a contract to add small mesh screening to outdoor recreation areas that will prevent prisoners from using lines to "fish" for objects

through the chain link openings. As a result of this practice, outdoor recreation has not been available for inmates for a substantial period of time. Although this matter has been raised at previous meetings, it was only on July 18 that counsel and I learned for the first time that funds had been available to make these renovations even at the time of the trial in this case. Thus, inmates have been subjected to an altogether unnecessary delay in gaining access to outdoor recreation, and both counsel and I have spent unnecessary time attempting to find a source of funds to solve a problem for which funds were already available. With the installation of the required mesh screening, this issue should be completely resolved.³

The parties were unable to reach any agreement regarding the provision of in-service training to correctional officers at the jail. The Court referred to this subject in one of the findings in its Memorandum Opinion of March 10, 2005: “108. Due to a lack of funding and a lack of staff, there has been no in-service training for staff since 2001.” Memorandum Opinion at 33 (March 10, 2005). It is not clear whether the Court intended this shortcoming to be addressed in the remedial plan that the special master is to assist in developing, and further guidance from the Court may be necessary. Whatever the resolution of this issue may be, the use of untrained staff to supervise inmates in any correctional facility, including the Mahoning County Justice Center, is foolish and dangerous. The fact that virtually all current officers received pre-service training within their first year of employment makes the need for in-service training no less urgent.⁴

³ Estimates are that all outdoor recreation areas will be renovated within 90 days. I have suggested that each refurbished area be opened when work is completed on that area rather than waiting for the entire project to end.

⁴ American Correctional Standard 3-ALDF-1D-12 requires that “all new correctional officers receive 40 hours of training prior to entry on duty, an additional 120 hours of training during their first year

The last subject discussed at the July 18 meeting was the need for physical plant maintenance, particularly with respect to toilets. Again, the Court made findings of fact on this subject in its March 10, 2005 Memorandum Opinion. See *Memorandum Opinion* at 35. No agreement was reached regarding a comprehensive preventive and reactive maintenance program, which is fundamental to the proper operation of any correctional institution. Astonishingly, correctional officers responsible for supervising housing units are not required to complete daily maintenance and inspection forms that are critical to any successful effort to maintain equipment and fixtures throughout the jail. There was agreement, however, that recurring problems with toilets require some form of immediate remedy. Jail officials agreed to distribute equipment that would permit officers to eliminate vacuums in toilets the result in the shut-down of all toilets whenever a vacuum occurs in one toilet. Jail officials also agreed to schedule a maintenance employee on Saturdays and Sundays, thus insuring that someone will be on duty seven days each week.

The scope of maintenance problems at the jail at this time is unknown. Thus, it is unclear whether the parties' agreement on this subject will be sufficient. Likewise, it is not clear whether the Court intended all matters that were the subject of findings on the subject of maintenance to be part of a remedial plan. Unless the parties can reach prompt agreement on this issue, it will be necessary for the Court to clarify its order on this subject.

of employment, and an additional 40 hours of training each subsequent year of employment. American Correctional Association *Standards for Adult Local Detention Facilities* (3d ed. 1991).

F. Follow-UP – Meeting Between Jail Administrators and Police Officials

I mentioned earlier that jail officials expressed concern to me at one point that local police in some instances might be overcharging arrestees in order to avoid the application of the automatic emergency release mechanism. During the July 18 meeting I encouraged representatives from the jail to discuss this matter directly with police chiefs in the area.

As a result of this suggestion Sheriff Wellington, Warden Santamas, Major Scanlon, and Captain Lewandowski met with Chief Robert Bush of the Youngstown Police Department, Chief Jeff Patterson of the Boardman Police Department, and Chief Brian Kloss of the Austintown Police Department. At that meeting the chiefs assured jail personnel that overcharging to finesse an arrestee's eligibility for emergency release is not occurring "and that any such attempt by officers to increase a charge would be unacceptable behavior." Email correspondence from Sheriff Randall Wellington to the special master (August 8, 2005). "All agreed that the Sheriff should continue to apply the current Emergency Release (ER) policy in its present form." Email from Sheriff Randall Wellington to the special master (July 22, 2005).

Even more encouraging, the police chiefs recommended that the Sheriff should seek the approval of the Court of Common Pleas judges for a new step 14 category that would be used when the current emergency release policy fails to keeping the population in the North Tower within the authorized cap of 292. This category would consist of inmates presently ineligible for emergency release who would be evaluated pursuant to a risk assessment tool. The risk assessment (conducted by an intelligence driven corrections assessment team) would include a criminal history check, an incarceration

history report, a report of any non-appearances in previous court proceedings, the results of the rating on the Risk Assessment Questionnaire and interview, and current police intelligence developed on the prisoner's criminal activity. Each of the police departments represented agreed to commit an investigator to work with the Sheriff's office to facilitate the risk assessment evaluation. If the inmate's ultimate risk rating warranted it, Sheriff Wellington would make a recommendation for release to the court with jurisdiction over the inmate.

This initiative on the part of police and jail officials is extremely encouraging. I strongly recommend that the County Prosecutor and the County Commissioners support these efforts and attempt to gain the necessary approval for the amendment of the current emergency release plan to include step 14 inmates as described in the proposal I have discussed.

G. Follow Up – Evaluation of Data Maintained by the Court of Common Pleas, the Municipal Court, and the Jail

I returned to Youngstown on July 22 with Kasey Tucker, Ph.D., an Assistant Professor of Criminal Justice at the University of Toledo. The purpose of this July 22 trip was to identify what kind of docket-related information the clerks of courts and the jail maintain and the form in which those records exist. The object of this inquiry is to determine the feasibility of a study of the time elapsing between arrest and final disposition for a sample of inmates and, if necessary, the time that elapses between discrete segments of the criminal justice process, *e.g.*, sentencing and transport to prison.

Dr. Tucker and I met with Robert Rupeka, the Court Administrator of the Mahoning County Court of Common Pleas. Mr. Rupeka was exceptionally helpful and is genuinely interested in addressing on a systemic basis the problems affecting the jail and

other elements of the criminal justice apparatus. In this respect, he is in full agreement with the advice all of us heard from ODRC officials; his attitude is also entirely consistent with the attitudes expressed by the members of the Common Pleas Court that only such a systemic solution will provide any meaningful, long-term relief.

Mr. Rupeka introduced Dr. Tucker and me to Anthony Vivo, the Mahoning County Clerk of Courts, Kathy Welch, the Chief Deputy Clerk of the Common Pleas Court, and Scott Grossen, the Administrator of that office. All expressed their willingness to make any contribution they could to the success of the contemplated evaluation. The same was true of the Clerk of the Municipal Court, Sarah Brown Clark, and her Court Administrator, Laura McLaughlin.

Mr. Rupeka and Ms. Welsh provided us with information concerning the electronic data system used by the Court of Common Pleas. It appears to be a modern system that contains all information regarding Common Pleas transactions that would be necessary for the study. The system, however, cannot transfer data electronically in the form of a database. Unless the vendor of the data system can develop new reports necessary for the docket efficiency study, something Mr. Rupeka agreed to explore, any study relying on information in the office of the Clerk of the Common Pleas Court will require a substantial amount of data entry, although it appears that Dr. Tucker and several graduate students could accomplish this from Toledo if that were determined to be the best approach to collection.

When we visited the office of the Clerk of the Municipal Court, Dr. Tucker and I learned that a conversion by that office to the Common Pleas Court system occurred in October 2005. Information before that date remains available but the retrieval of these

data will be quite difficult and time-consuming. This task would have to be accomplished in Youngstown.

Finally, when Dr. Tucker met with officials from the jail, all computers were down and she was unable to observe the actual operation of the jail's information retrieval system. She learned, however, that booking sheets are completed for all inmates and entered into a computer system. Staff informed her that once an inmate is discharged from the jail, the information on the booking sheet can be brought up on a screen but cannot be printed. Subsequently, when Jail Administrator Santanas returned from his vacation, we learned that this is not the case. All booking sheets can be printed, and hard copies are available in the jail's records archives.

The information on the booking sheet is quite important and, indeed, appears in itself be sufficient to accomplish a study of the gross number of days that elapse between arrest and final disposition. This information would be appropriate for comparison with similar data described in a recent Bureau of Justice Statistics study. *Felony Defendants in Large Urban Counties-2000* (NCJ 202021 December 2003).

In summary, much of what Dr. Tucker and I learned about the information system upon which the docket study will depend suggests that a study of possible delays in the operation of specific components of the Mahoning County criminal justice system may be quite difficult and time-consuming. On the other hand, a simpler and still quite useful study of the time elapsing between arrest and final disposition appears to be entirely feasible. I shall include a recommendation on this subject at the conclusion of this report.

H. Follow-Up – Meeting with Youngstown Municipal Judges

While Dr. Tucker was interviewing jail officials about the jail's information system, I met with the judges of the Youngstown Municipal Court, Honorable Elizabeth Koble, Honorable Robert Millich, and Honorable Robert Douglas. My purpose in meeting with these judges was to bring them up to date on the developments that had occurred in this litigation since the appointment of a special master and to invite their participation in the development of a plan for addressing the problems I have described earlier in this report.

Without question, the Municipal Court judges feel that they have been ignored during this process and that the operation of the emergency release mechanism has left them powerless to operate an effective court. They complained that they see defendants who have been released pursuant to that mechanism repeatedly following their multiple releases and that these persons treat the court with overt contempt. I have never encountered the level of frustration among public officials that I heard and saw during this meeting, and I am convinced that the conditions the judges described to me are symptoms of a thoroughly broken criminal justice system that no longer commands the basic respect of criminal defendants who appear before it. I have no doubt that the Common Pleas judges with whom I met earlier in the week share the frustration the Municipal Court judges expressed.

One of the ideas I raised with the Municipal Court judges was the possibility that each court serving the county or its political subdivisions should have access to a fixed, though quite limited, number of cells. This would permit each court to maintain a

modicum of public respect and to shore up its part of the criminal justice system pending long-term resolution of the problems that plague that system at this time.

I. Follow Up: Meeting with County Judges

On August 3, 2005, I met by telephone with the part-time County Judges serving in outlying areas of Mahoning County. These are Honorable Joseph Houser, Honorable David D'Apolito, Honorable Scott Hunter, and Honorable Diane Vettori. Commissioner John McNally and First Deputy Civil Prosecutor Linette Stratford were part of that meeting.

Like the Municipal Court judges, the County Court judges feel strongly that the operation of the emergency release plan makes it impossible for their court to discharge its duties in criminal cases. These judges too have seen the same defendants time and again and are frustrated that they cannot even impose required minimum penalties in cases involving driving under the influence of alcohol. They also informed me that the "no-show" rate at initial preliminary hearings is quite high because inmates are released before their initial scheduled court appearance. These judges, like those serving on the Municipal Court believe that the credibility of their court requires that they have some power to impose jail time on carefully selected defendants.

I am pleased to report that the County Court judges agreed that they would provide a representative to serve on a working group convened to identify and consider solutions to the underlying problems of the criminal justice system that have led to today's unfortunate impasse. With this agreement, all three courts have agreed to participate in this process if county officials decide to initiate it.

J. Follow-Up -- Expansion of Community Corrections

On July 22 I also met with Richard Billak, the Chief Executive Officer of Community Corrections Association, Inc. I first met Mr. Billak at the July 15 meeting with ODRC officials I have described earlier in this report. During our July 22 meeting Mr. Billak indicated his strong desire to contribute to the solution of the crowding problem at the jail. He and I discussed several possible expansions of the community corrections program in Mahoning County.

First, Mr. Billak told me that he could double (from 50 to 100) the number of persons on electronic monitoring without additional funds. Defendants under this form of community control pay \$5.00 per month to the Community Corrections Association. This income would be sufficient to pay the salary of one additional employee, which is the only increased cost Mr. Billak anticipates.⁵

Second, Mr. Billak indicated a willingness to approach the ODRC with a proposal to convert the former minimum security jail in Youngstown to a community corrections facility. This conversion would add 96 beds to the community corrections inventory in Mahoning County. According to Mr. Billak, the annual cost of operation would be approximately \$1,500,000.

Third, I raised with Mr. Billak the absence of any ROR program in Mahoning County. Mr. Billak told me of earlier unsuccessful efforts to develop and implement such a program. Whatever the obstacles may have been, Mahoning County is out of step with

⁵ During my telephone conference with the County Court judges, one mentioned that the equipment currently used for the electronic monitoring program is inadequate and would not accommodate any expansion of the program. This is an issue (like many other inconsistencies I have heard in meetings with various county officials) that must be explored and addressed.

other counties, such as Lucas County, that rely heavily on an ROR program to limit the number of persons incarcerated in the county jail.

In summary, community corrections must be a part of any solution to the jail crowding problem in Mahoning County. Mr. Billak's willingness and interest, as well as the participation of the Mahoning County Community Corrections Board, provide yet another piece of a mechanism needed to address the problem of jail crowding as well as the underlying systemic problems leading to population pressures.

K. Follow-Up -- Discussions with Counsel and Other County Officials

I have met frequently with private counsel in this case. In addition to attending the formal meetings discussed earlier in this report, counsel and I have met by telephone on a regular (often weekly) basis. Without question, counsel for all parties are cooperating with each other and with the special master in an effort to develop a process for to solve the problems addressed in the Court's memorandum opinion.

In addition to remaining in frequent contact with counsel in this case, I have had a number of opportunities to speak with Commissioner John McNally and First Assistant Civil Prosecutor Linette Stratford. Both agree that the problems that led to this litigation are not amenable to a piecemeal solution. In particular, the county officials agree that focusing exclusively on getting funds into the jail budget to the exclusion of all other steps necessary to address underlying, systemic problems on the criminal justice system in the county will be ineffective, transitory, and wasteful.

Commissioner McNally and Ms. Stratford have been supportive of my suggestion that only Mahoning County officials themselves can develop the solution to the complex criminal justice problems the county faces at this time. Beyond conducting the docket

efficiency study and continuing to offer my services as a mediator and facilitator, there is little if anything any special master can do to find and, more important, implement solutions.

When I first met with counsel and others about this case, I was told that this lawsuit is about money and nothing else. That is not the case. Money is an issue, but so are divergent political interests and differences of opinions on matters of public policy. Neither the Court nor the special master can provide the needed funds, let alone dictate the political and policy priorities, that must be part of any lasting solution.

II. A Proposal for Action

As this report makes clear, I have concluded that any effort to define the problems in the criminal justice system in Mahoning County as relating solely to jail crowding will miss the point and be counterproductive. Rather, I believe that the problems at the jail are the end result of a dysfunctional criminal justice system in which the critical components tend to operate in a vacuum, unrelated to the needs and problems of other elements of the system. There is no ready means of electronic communication between the jail and the courts, and there is a perception at least that each unit of the criminal justice system operates independently without concern for that system's other components.

I do not recommend that the Court seek the empanelling of a three-judge federal court at this time. So long as Mahoning County officials are able to achieve and maintain a cap of 296 prisoners in the Mahoning County Justice system, there is no need for additional federal relief on the subject of crowding. Overages at this time, though they are troublesome and cannot be allowed to increase to their June and July high points, are

not in my opinion sufficiently serious to warrant such extreme action; moreover, I am optimistic that the recent actions of the Sheriff and the police chiefs to develop a step-14 category for release and the efforts of others with whom I have spoken to reduce delays in releasing prisoners from the jail will have a positive impact on this problem.

Recommendations

1. A written remedial plan⁶ to accomplish a long-term systemic solution to the problems of overcrowding in the Mahoning County Jail offers the best opportunity for a long-range solution to the problems addressed in your opinion filed on March 10, 2005. To that end, I suggest that the Mahoning County officials, with the Court's urging, form a group to convene regularly to identify problems at all levels of the County's criminal justice system and to propose or implement solutions to those problems. I recommend that the membership of this working group include the following:
 - a. a representative of Mahoning County Common Pleas Court;
 - b. a representative from the Youngstown Municipal Court;
 - c. a representative of the County Courts located in Mahoning County;
 - d. the court administrator from each of these courts;
 - e. one of the members of the Mahoning County Board of Commissioners;
 - f. the Mahoning County Prosecuting Attorney;
 - g. the Mahoning County Sheriff;
 - h. a representative from the Mahoning County Sheriff's Department, to be designated by the Mahoning County Sheriff, with responsibilities for daily operation of the jail;
 - i. a representative from each of the police departments of Youngstown, Boardman, and Austintown;
 - j. the Chief Executive Officer of the Community Corrections Association; and
 - k. the Mahoning County Auditor or his or her designee.

I further recommend that the working group, operating under whatever name it chooses, meet at the call of the chairperson (a person to be selected by the above membership), with the goal of proposing a remedial plan by the end of the calendar year, with interim reports to be filed by October 1, 2005 and November 15, 2005.

⁶ It seems appropriate for Mahoning County to look for funding sources to assist in developing an integrated criminal justice information system. Stark County, similar in size to Mahoning County, has such a program.

2. I recommend that I be given the responsibility to evaluate, and advise the Court with respect to, the remedial plans proposed by the working group.
3. I recommend that I be given the authority and the funding to conduct a docket efficiency study as earlier discussed in this report.⁷
4. I recommend that the Court request the Prosecuting Attorney of Mahoning County, the Mahoning County Sheriff, and the Chiefs of the three police departments to give high priority to the proposed step-14 plan.

Respectfully submitted,

/s Vincent M. Nathan

Vincent M. Nathan

⁷ The Court should authorize and direct the special master to conduct the docket efficiency study discussed earlier in this report. The special master proposes to employ Eric Lambert, Ph.D., the Chairman of the Department of Criminal Justice at the University of Toledo, and Kasey Tucker, Ph.D., an Assistant Professor of Criminal Justice in that department, to conduct the study and prepare a report of findings. The special master further recommends that the costs of this study be treated as costs of the special master to be reimbursed from funds to which the Court has access to support the mastership. The special master recommends that Dr. Lambert be compensated at the rate of \$60.00 per hour and that Dr. Tucker be compensated at the rate of \$40.00 per hour, plus reasonable out-of-pocket expenses, for their participation in this study. Finally, with respect to this matter, the special master recommends that the Court direct Dr. Lambert and Dr. Tucker to prepare a proposed budget for this project, which the special master will file within 30 days following the Court's approval of this recommendation.