

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

NATHANIEL ROBERTS, et al.)	CASE NO.: 4:03 CV 2329
)	
Plaintiffs)	JUDGE DOWD
)	
vs.)	
)	
COUNTY OF MAHONING, et al.)	<u>STIPULATION OF THE</u>
)	<u>PARTIES</u>
Defendants)	
)	

1. The Mahoning County Justice Center (Justice Center) is located at 110 Fifth Avenue, Youngstown, Ohio. The Justice Center was newly constructed and opened in April 1996. The building houses the County's Sheriff Department and jail.

2. The Justice Center is a multi-story high rise building, which has two towers north and south. Each tower is served by two elevators; one for visitation, and one used by staff.

3. The inmate intake/release area is located on the ground floor. It is referred to as A-pod. All new inmates enter the jail and are processed here. All departing inmates are released from the area and it is also used as a staging location for inmates being transported to and from court.

The area has ten cells of varying size. Newly arriving inmates are held in this area until they are booked into the jail and a housing location is assigned to them. Most of the cells include a sink/toilet combination unit and benches.

4. The medical unit is located on the first floor of the jail. It consists of 14 single cells. Female inmates in the medical unit have four cells and this area is called B-pod. Males have 10 medical cells and this area is called C-pod.

5. Floors two, four and six contain inmate housing units.

6. The housing units are designed to allow a staff officer to be stationed in the housing unit with direct and continuous contact with the inmate population.

7. The inmate housing units were originally designed as follows:

<u>POD NAME</u>	<u>FLOOR/ TOWER</u>	<u>CELLS</u> (all single cells)	<u>CLASSIFICATION DESCRIPTION</u>
D	(2 South→ West)	30	Female Medium Security
E	(2 South→ West)	6	Female Trustees (Post-Trial)
F	(2 North→ West)	18	Male Temp. Classification Non-Violent
G	(2 North→ West)	18	Male Temp. Classification Violent
H	(2 North→ East)	30	Male Trustees (Post-Trial)
I	(2 North→ East)	6	Male Administrative Segregation

J	(2 South→ East)	6	Female Disciplinary Segregation
K	(2 South→ East)	30	Female Maximum Security
L	(4 South→ West)	36	Male Maximum Security
N	(4 North→ West)	18	Mental Health Classification
O	(4 North→ West)	18	Male Disciplinary Segregation Violent
P	(4 North→ East)	36	Male Maximum Security
Q	(4 South→ East)	36	Male Maximum Security
R	(6 South→ West)	36	Male Medium Security
S	(6 North→ West)	36	Male Medium Security
T	(6 North→ East)	36	Male Medium Security
U	(6 South→ East)	36	Male Medium Security

8. The housing capacity of the Justice Center when it was originally opened was 432 with a holding capacity of 24. These capacity levels were approved by the Ohio Department of Rehabilitation and Correction, Bureau of Adult Detention.

9. On January 8, 2003, Sheriff Randall A. Wellington requested the Ohio Department of Rehabilitation and Correction to issue a variance to housing standard 5120:1-8-04 of Ohio's

Minimum Jail Standards. The Sheriff requested that he be permitted to double bunk in the following areas which house minimum and medium security inmates.

D pod	(Female medium housing)
E pod	(Female minimum-workers)
H pod	(Male medium-workers)
P pod	(Male medium)
S pod	(Male medium)
T pod	(Male medium)
U pod	(Male medium)

Double bunking was not to include maximum security and special needs inmates.

Sheriff Wellington requested double bunking for two reasons. First, the medium security housing inmates were overcrowded and inmate population was above recommended capacity for the entire year of 2002. The additional inmate population was accommodated by using cot/boat style bunks. The second reason for the request was the reduction of the Sheriff's budget by four million dollars. The budget reduction affected the number of staff available to safely and efficiently cover housing units. The Sheriff indicated he could solve the problems by relocating existing prisoner population into shared space.

The January 8, 2003 letter of the Sheriff is attached hereto as Plaintiff's Exhibit 1. The parties stipulate to its authenticity and admissibility.

10. On February 28, 2003, the Ohio Department of Rehabilitation and Correction granted the variance to the following extent:

The Sheriff was permitted by the variance to add one additional bunk in 21 of the 36 cells on S, T, U and R pods. Fifteen cells on each range were to remain single bunked. Thus, housing capacity was increased from 36 to 57 on each pod under the variance.

The Sheriff was permitted by the variance to add one additional bunk in 24 of the 36 cells on D/E pod and 24 of the 36 cells on H/I pod. Thus, housing capacity was increased from 36 to 60 on each pod under the variance. The letter of 02/28/03 from the Ohio Department of Rehabilitation and Correction to Sheriff Wellington attached hereto is Plaintiff's Exhibit 2, and its authenticity and admissibility is stipulated to by the parties.

11. As a result of the variance, the inmate housing capacity of the jail was raised from 432 to 564, an increase of 132.

12. The additional beds in S, T, U, R, H, and D were added in the middle to latter part of 2003.

13. At the time the beds were added, the Sheriff also added additional bunks to F/G pod. F/G pod is used to temporarily house inmates awaiting classification. The Sheriff added one bunk to each cell. The pod increased from 36 bunks to 72 bunks. The Sheriff neither requested nor received a variance from the Ohio Department of Rehabilitation and Corrections to add the additional bunks to F/G pod. The bunks replaced some cots.

14. The 12 housing pods have three basic designs. The first pod design exists on pods Q, R, S, and T. Each pod is two stories high. There are 36 cells in each unit; 18 on the first floor and 18 on the second floor, arranged on three of the outer walls of the facility. The cells are approximately 70.35 sq. ft. and contain a sink/toilet, and at least one bunk. Twenty-one of the 26 cells contains two bunks. Each cell is equipped with an intercom. The cells surround a day area on the first floor, which contains tables with fixed seats, television, phones, a microwave, washer/dryer and showers. There is also a podium for the housing

officer located in the day room. On the podium is the computer from which the guard can operate all cell doors, control lighting and respond to intercom use. The day area of each housing unit is 2,660.44 sq. ft, which includes an outdoor rec. area of 380.94 sq. feet.

The second pod design exists on three pods: D/E, H/I, and J/K. Each is also two stories high. There are 18 cells up and 18 down. In the unit, the housing layout is the same as the first pod design except that six of the cells (three up and three down), at one end of the unit, are separated from the rest of the unit by a block and glass wall. The six cell area has its own small day area and the 30 cell area has its own larger day area similar to the first design, only lacking the space taken out for the 6-cell portion of the unit. There is one podium for the housing officer located in the day area of the 30-cell unit, which serves both areas.

The third pod design is utilized for F/G and N/O pods. Each pod is also two stories. It is essentially the same as the first design except the pod is split down the middle by a solid wall with 18 cells (9 up and 9 down) on each side. There is a control booth at the end of the pod, which serves as the staff post. Staff in the post can observe both sides of the unit or pod from the post.

15. The Sheriff also operates the Mahoning County Minimum Security Jail ("M.S.J.") located at 360 W. Commerce Street, Youngstown, Ohio. It is one block away from the Justice Center. In approximately 1995, the County modified an existing building and converted it into a jail. The jail is permitted to house sentenced minimum-security inmates. The jail is a two-story building with two distinct wings for inmate housing. Each wing is at the end of a hall and there is a central control unit located in-between.

16. The housing units of the M.S.J. are labeled A/B, C/D. The A/B units are separate housing units located adjacent to each other in the west end of the building. Each unit has 24 bunks, a day area and a bath/shower area. The C/D unit is actually one housing unit containing 48 bunks with a day area and a bath/shower area. The housing capacity for the M.S.J. is 96. Only males are housed at the M.S.J.

17. The Sheriff has used boats/cots to house additional inmates at the M.S.J. The highest number of inmates housed at one time in the M.S.J. during 2003 was 112.

18. Combined daily inmate population figures for both jails for each day for the period of July 1, 2003 through December 31, 2003 are attached hereto as Plaintiff's Exhibit 3. Its authenticity and admissibility are stipulated to.

19. For each month of 2003, the average daily inmate population for the Justice Center was:

January:	Male 451, Female 29
February:	Male 489, Female 37
March:	Male 475, Female 35
April:	Male 478, Female 34
May:	Male 494, Female 37
June:	Male 444, Female 76
July:	Male 487, Female 82
August:	Male 528, Female 90
September:	Male 560, Female 94
October:	Male 562, Female 81
November:	Male 583, Female 89
December:	Male 554, Female 74

20. For each month of 2003, the average daily inmate population (male only) for the M.S.J. was:

January:	86
February:	79
March:	80
April:	76
May:	76
June:	76
July:	82
August:	81
September:	90
October:	90
November:	104
December:	95

21. The highest and lowest numbers housed at the Justice Center for the following years was:

2003:	High 709, low 439
2002:	High 485, Low 423
2001:	High 472, Low 403

22. The highest and lowest numbers housed at the M.S.J. for the following years was:

2003:	High 112, Low 66
2002:	High 93, Low 74
2001:	High 82, Low 61

23. The total number of inmates booked at the Justice Center in the following years was:

2003:	8,484
2002:	8,402
2001:	7,939

24. The Sheriff does not keep statistics for the Justice Center on the number or percentage of inmates that fall into the category of pre-trial detainees and sentenced inmates. In response to an Interrogatory request, the Sheriff provided a one-day total for January 23,

2003. On that date, 454 total prisoners were housed at the Justice Center; 313 (69%) were pre-trial detainees and 141 (31%) were sentenced inmates. The parties stipulate that most of the inmates in the custody of the Sheriff at the Justice Center are pre-trial detainees.

25. The Sheriff has entered into a contract with the Federal Marshall's Office to house federal prisoners at the Justice Center. The Sheriff houses approximately 100 federal prisoners per day at the Justice Center. Many of the federal prisoners are Pre-Trial detainees.

26. At the time the Justice Center was opened, Chief Deputy James M. Lewandowski was the warden. At that time, he established the posts to be staffed for the jail and the staffing levels for each pod. The posts and staffing levels were submitted to and approved by the Ohio Department of Rehabilitation and Corrections in March 1996. Plaintiff's Exhibit 4 contains the post designated and staffing levels established by Lewandowski. The authenticity and admissibility of Exhibit 4 are stipulated.

27. The County, its Commissioners, and its Sheriff had been sued in 1992 by inmates of the old County jail. The lawsuit alleged violations of the constitutional rights of the inmates. The case was filed in the United States District Court, for the Northern District of Ohio, and styled William Cummings, et al. v. Sheriff Nemeth, et al. As a result of the lawsuit, a new jail was built and the lawsuit was resolved by a Consent Decree. The Consent Decree contained provision relating to the operation of the new jail. The Consent Decree was in effect until terminated in 2001.

28. Subsequent to the opening of the Justice Center, issues developed between the parties to the then existing lawsuit regarding staffing levels. The parties agreed to the appointment of a joint expert to determine staffing levels. Gerry D. Billy (the Sheriff of Licking County, Ohio) was the agreed upon expert. Sheriff Billy performed a staffing analysis. He recommended 150 security staff for the operation of the Justice Center and the M.S.J. On May 12, 1998, the Court issued an order that required the Sheriff to maintain a security staff of 150 and an administrative staff of 12. The Order is attached hereto as Plaintiff's Exhibit 5 and its authenticity is stipulated.

29. Subsequent to the opening of the Justice Center, the County encountered financial difficulties. The County sales tax was defeated in November 1997. The tax was placed on the ballot as an emergency measure in May of 1998. It passed. The tax was, however, defeated in the November 1998 election. The County faced a loss of one-third (1/3) of its revenue. Eventually in 1999, the jail was forced to lay off 110 deputies. Several housing units of the jail were shut down and inmates were released as a result of the lay-offs. The Court modified its previous staffing order until funds were restored.

30. Funding was eventually restored. At the time the Consent Order was terminated on November 30, 2001, the Justice Center and M.S.J. were staffed at the level recommended by Sheriff Billy and adopted by the Court.

31. For the year 2003, the Sheriff's budget was reduced by four million dollars. 54 correction deputies were laid off in March 2003. All were recalled in June 2003, although 8 did not return.

32. Plaintiff's filed this lawsuit on Friday, November 14, 2003. At that time, payroll records demonstrate that 125 security staff were employed by the Defendant for the Justice Center and the M.S.J. At least 10 of the staff employed were on various forms of leave including administrative leave, sick leave, leave of absence, injury leave, and workers compensation leave. These employees were reflected on the payroll records but did not work the jail. On November 14, 2003, 19 staff were scheduled for duty on first shift (10:00 p.m. to 6:00 a.m.) only 14 reported to work. On November 14, 2003, 31 security staff were scheduled for second shift (6:00 a.m. to 2:00 p.m.) and only 24 reported for duty. On November 14, 2003, 29 staff were scheduled for third shift (2:00 p.m. to 10:00 p.m.) only 24 reported. Plaintiff's Exhibit 6 is the payroll sheet for November 14, 2003, and the parties stipulate to the authenticity and admissibility of the Exhibit. Staffing remained at the 125 level (including those on leave) through December 31, 2003. Plaintiff's Exhibit 7 is the payroll sheet for December 31, 2003. The authenticity and admissibility of Exhibit 7 are stipulated.

33. The number of security staff assigned to the Justice Center and M.S.J. for each shift each day from July 1, 2003 until December 31, 2003 is attached hereto and contained in Plaintiff's Exhibit 3.

34. Between February 27, 2004 and August 31, 2004, the Defendants hired 31 full time staff to work in the Corrections division (Plaintiff's Exhibit 8, whose authenticity and admissibility is agreed to by the parties). As of September 30, 2004, there were 147 security staff (excluding leaves) employed by the Defendant for the Justice Center and M.S.J.

Plaintiff's Exhibit 8A. The parties stipulate to the authenticity and admissibility of Exhibit 8A.

35. The County's one-half percent (1/2%) sales tax was defeated on November 2, 2004. As a result of the loss of revenue, the 31 full-time staff hired were laid off effective November 5, 2004.

36. The Sheriff's department promulgated a "Prisoner Rules and Conduct Handbook." Rule 6.5 prohibits fighting. Rule 6.4 prohibits assaults. Based on the disciplinary logs maintained by the Sheriff for the year 2003, the following is a breakdown of reported fighting and assaults charged for each month of 2003.

Month	Fighting Charges (6.5 Rule)	Assault Charges (6.4 Rule)
January	12	0
February	5	1
March	8	0
April	13	3
May	10	4
June	15	2
July	26	2
August	19	6
September	22	3
October	30	5
November	30	5
December	16	7
Total	206	38

The following is a statistical summary of the Ohio Incident Reports received from Mahoning County regarding use of force:

Year 2000 (beginning March 1)

47 inmate on inmate assaults

17 inmate on staff assaults

5 other/miscellaneous incidents of violence or use of force

1 suicides/attempted suicides (inmate Datillo)

Year 2001

60 inmate on inmate assaults
17 inmate on staff assaults
10 other/miscellaneous incidents of violence or use of force
5 suicides/attempted suicides (inmates Bricker, Bode, Hamad, Minogue and Evans)

Year 2002

80 inmate on inmate assaults
12 inmate on staff assaults
21 other/miscellaneous incidents of violence or use of force
3 suicides/attempted suicides (inmates Simer, McKee and Stephenson)

Year 2003 (through October)

41 inmate on inmate assaults
11 inmate on staff assaults
14 other/miscellaneous incidents of violence or use of force
3 suicides/attempted suicides (inmates Olivera, Mock and Samad)

37. Prior to the summer of 2003, the Defendants contracted with the University of Akron, School of Law, to provide inmates with legal advice. The program was under the supervision of Professor J. Dean Carro of the University of Akron Law School. Law students would visit the facility twice a month and meet with inmates to discuss legal issues. The law students would provide the inmates with desired forms, copies of cases, and other legal materials and aid. The program had been in existence for several years and was terminated in the summer of 2003 for lack of funds.

38. Most housing pods at the jail have an outdoor recreation area. The outdoor recreation areas were used in conjunction with indoor gyms to provide exercise and recreational opportunities for inmates. All outdoor areas have not been used since July 3, 2004 because staff discovered a plan by inmates to use the outdoor area of one of the pods to escape. A plan of action has been developed with the Bureau of Adult Detention to modify the outdoor

recreation area. An architect has be retained to develop plans to modify the outdoor recreation.

39. The parties stipulate to the authenticity of the following exhibits except the Defendants reserve the right to object to admissibility based on relevance.

1. Letter 01-08-2003 from Wellington to Blough.
2. Letter 02-28-2003 from Connors to Wellington.
3. Inmate population and staffing reports for the Justice Center and the M.S.J. 07-2003 through 12-2003.
4. Letter 03-15-1996 from Lewandowski to Williams.
5. Interim Order 05-12-1988, William Cummings, et al., v. Sheriff Nemeth, et al. U.S. District court, N.D. Ohio, Case No.: 4:92 CV 1838.
6. Payroll sheet for 11-14-2003.
7. Payroll sheet for 12-31-2003.
8. List of employees hired after November 2003 and assigned to the Corrections Division.
- 8A. Payroll sheet for 09-30-2004.
9. Letter 11-12-2003 from Robert Knight to Wellington.
14. Standard Operating Procedure-organizational structure
15. Special order number 01-036 issued 11-26-2001.
18. Payroll sheet for 02-12-1999.
19. Supervisor's logs.
20. Hearing Officer log of inmate disciplinary charges 2003.
21. Incident reports 01-2003 through 02-2003, 04-2003 through 10-2003.
22. Incident report 09-05-2003.
23. Incident report 09-12-2003.
24. Incident report 10-01-2003.
25. Incident report 10-12-2003.
26. Incident report 10-19-2003.
27. Incident report 10-28-2003.

28. Justice Center Floor plan.
 29. Supervisor log-July, August, September 2004.
 30. Hearing Officer's Disciplinary Log-July, August, September 2004.
 31. Supervisor log-November 2004.
 32. Disciplinary logs -November 2004.
 34. Report of Gerry D. Billy, as to authenticity only.
 35. Report of Robert B. Pace, as to authenticity only.
 38. Payroll logs November 2004.
40. The parties stipulate to the authenticity and admissibility of the following defense exhibits unless otherwise noted:
- A. Complaint
 - B. Mahoning County Justice Center and Minimum Security Jail Manual of Policies and Procedures (Revised April 29, 1999)
 - C.
 - (1) Mahoning County Sheriff's Office Directive No. 609.00: Classification/Inmate
 - (2) Booking Screens
 - D. Mahoning County Sheriff's Office Directive No. 614.03: Administrative Segregation
 - E.
 - (1) Mahoning County Sheriff's Office Directive No. 612.01: Sanitation/Environmental/Fire Safety (March, 2004)
 - (2) Mahoning County Sheriff's Office Directive No. 612.01: Sanitation/Environmental/Fire Safety (January, 2003)
 - F. Mahoning County Sheriff's Office Directive No. 612.02: Sanitation/Environmental Condition/Evacuation
 - G.
 - (1) Mahoning County Jail Pre-Plan
 - (2) Interoffice Memo regarding fire drill of June 23, 2004 not stipulated as to admissibility
 - H. Prisoner Rules of Conduct and Handbook
 - I. Department of Rehabilitation and Corrections/Minimum Standards for Jails in Ohio

- J. Mahoning County Jail Statistics 2003 stipulated as to admissibility with the exception of the segment addressing allowed capacity for holding area
- K. Summary of ODRC reports from Mahoning County Regarding Incident Reports for 2000 through 2003
- L. Ohio Department of Rehabilitation and Corrections/Bureau of Adult Detention Certificate of Recognition Regarding Compliance with the Minimum Standards for Jails in Ohio, dated March 24, 2004 not stipulated as to admissibility
- M. Reports of Fire Inspections conducted by the Youngstown Fire Department
- N. Reports of Inmate Lock Downs
- O. Staffing Report regarding Posts at the Mahoning County Justice Center and the Misdemeanor Facility not stipulated as to admissibility
- P. Blueprints of the Mahoning County Justice Center
- Q. Inmate Kite Request
- T. Video of Current Conditions of the Mahoning County Justice Center and Misdemeanor Facility

/s/ Mark Landes
Mark Landes, Esq. (#0027227)
Isaac, Brant, Ledman & Teetor LLP
250 East Broad Street
Columbus, Ohio 43215

/s/ Robert Armbruster
Robert Armbruster, Esq. (#0011623)
Armbruster, Kelley, Kot, Honeck & Baker
159 S. Main Street, Suite 720
Akron, Ohio 44308-1337

/s/ Daniel T. Downey
Daniel T. Downey, Esq. (#0063753)
Isaac, Brant, Ledman & Teetor LLP
250 East Broad Street
Columbus, Ohio 43215

/s/ Thomas Kelley
Thomas Kelley, Esq. (#0016820)
Armbruster, Kelley, Kot, Honeck & Baker
159 S. Main Street, Suite 720
Akron, Ohio 44308-1337