

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
07 MAY 17 PM 12:47

NATHANIEL ROBERTS, et al.)	CASE NO. 4:03 CV 2329
)	
)	
Plaintiffs,)	JUDGE ALICE M. BATCHELDER
)	JUDGE DAVID D. DOWD, JR.
vs.)	JUDGE DAN AARON POLSTER
)	
MAHONING COUNTY, et al.,)	
)	
Defendants,)	
)	
vs.)	
)	CONSENT JUDGMENT ENTRY
CITY OF YOUNGSTOWN)	WITH A STIPULATED
)	POPULATION ORDER
Intervenor.)	

1. This action was commenced on November 14, 2003 by Nathaniel Roberts, James Joseph Mancini, Joshua Baird, Kevin Whitacker, Mike Hamad, Rodney Gray, Leland Scott and Maurice Barnes as named Plaintiffs on behalf of all persons who are or who will be confined at the Mahoning County Justice Center.
2. Plaintiffs alleged in their complaint that conditions at the Justice Center violated the United States Constitution, the Ohio Constitution, Statutory Laws of the State of Ohio, and rules and regulations promulgated by the Ohio Department of Rehabilitation and Correction. Plaintiffs sought Declaratory and Injunctive Relief on behalf of the class. This action was brought against the County of Mahoning, acting through the Mahoning County Board of Commissioners and Randall A. Wellington, acting in his official capacity as the duly elected Mahoning County Sheriff. Upon imposition of this Three Judge Court the City of Youngstown

intervened. Hereinafter Plaintiffs, Defendants, and Intervenor are collectively referred to as “Parties”.

3. The Mahoning County Justice Center consists of two buildings, with close to 800 inmates being housed at the time of trial. The main facility is located at 110 Fifth Avenue, Youngstown, Ohio (“Justice Center”). The second building is called the Minimum Security Mahoning County Jail located at 360 W. Commerce Street, Youngstown, Ohio (“MSJ”). This building housed over 100 inmates and was closed in the spring of 2005. Its reopening is addressed later in this order. For purposes of this order the Justice Center and MSJ will be collectively referred to as “County Jail Facilities.”

CLASS CERTIFICATION

4. The Plaintiffs in their Complaint moved this Court to certify this as a Class Action pursuant to Civil Rule 23(a) and 23(b)(2). The Parties hereto stipulate and agree to the following:

- A. This action was certified as a class action pursuant to Rule 23(a) and 23(b)(2) of the Fed. R. Civ.P on March 5, 2004.
- B. That there are questions of law and fact common to the class. The Parties agree that: The named Plaintiffs claim and allege that Defendants have engaged in a common course of conduct toward them, and have instituted a pattern or practice of conduct, or effectuated policy and procedure all of which affect the entire class as a whole. The factual allegations made by the named Plaintiffs, by their very nature, are the type of allegations and claims which are common to other inmates at the Mahoning County Jail, past, present, and/or future. Common questions of law arise from these facts.

- C. The claims of the representative Parties are typical of the claims of the class. The claims are typical since they arise from the same event or practice or course of conduct which gives rise to the claims of other class members. The claims of the named representatives are based on the same legal theories as those of the entire class. Due to the fact that there is a commonality and typicality between the claims of the named Plaintiffs and the class, declaratory and injunctive relief is appropriate for the entire class.
- D. The representative Parties have fairly and adequately protected the interest of the class. The interests of the named Plaintiffs are not and have never been antagonistic to those of the class. Counsel for the named Plaintiffs, Robert P. Armbruster and Thomas Kelley, have demonstrated their competence to vigorously prosecute the interest of the class and are experienced in the handling of cases of this type.
- E. On March 5, 2004, the Court certified the following class:
- All persons in the care or custody of the Mahoning County Sheriff and incarcerated on or after November 12, 2003 at the Mahoning County Justice Center, 110 Fifth Avenue, Youngstown, Ohio, (“Justice Center”), and also all persons in the care or custody of the Mahoning County Sheriff and incarcerated on or after November 12, 2003 at the Mahoning County Minimum Security Jail, 360 W. Commerce Street, Youngstown, Ohio (“MSJ”).
- F. The Plaintiff class has made no claims for damages.

JURISDICTION AND VENUE

5. The Court has jurisdiction over the Parties and subject matter of this case pursuant to 28 U.S.C. §§1331 and 1343(3). Venue is properly before this Court.

6. On December 13 through 15, 2004, the above captioned matter was tried to this Court. The named Plaintiffs, both pre-trial detainees and convicted prisoners being held in the custody of the Defendant Sheriff at the Justice Center, alleged the facilities were understaffed and overcrowded, creating unsafe and dangerous conditions for the inmates. Plaintiffs alleged that the lack of staff resulted in (1) the frequent lockdown of inmates for lengthy periods of time, (2) the inability to provide programs and services to the inmates, including but not limited to, recreation, visitation, religion, and inmate counseling programs, and (3) an inability to safely and securely house inmates. The inmates further alleged that the staff was not properly trained. Plaintiffs also alleged that the facilities were poorly maintained, creating unhealthy and dangerous conditions for the inmates. They also asserted that inmates were locked down in cells with toilets that accumulate human waste because they could not be flushed. They alleged that intercoms in cells did not work, prohibiting the inmates from contacting staff during periods of lockdown. Plaintiffs also claimed that the jail does not provide adequate legal resources or a legal access program, thus violating their constitutionally guaranteed right of access to the courts.

7. The Parties agree that the Plaintiffs have exhausted all administrative remedies prior to filing this lawsuit as a proposed class action.

FINDINGS

8. As a result of the trial, the Court made extensive findings of fact and conclusions of law based on the testimony of inmates, experts, staff members and administrators who work at the jail. Said findings of fact and conclusions of law are contained in the Memorandum Opinion

issued by this Court dated March 10, 2005. (Doc. No. 93). That Memorandum Opinion is adopted as if it was fully rewritten here.

PRISON LITIGATION REFORM ACT COMPLIANCE

9. The Court, in compliance with 18 U.S.C. §3626(f)(2)(A), (B), and (C), appointed a Special Master (Doc. No. 108). Upon the recommendation of the Special Master, the District Court directed the Defendants to create a Criminal Justice Working Group to develop a remedial plan consistent with the United States Supreme Court's decision in *Lewis v. Casey*, 518 U.S. 343 (1996). The District Court's Order constituted an order for less intrusive relief in compliance with 18 U.S.C. § 3626(a)(1) of the PLRA (Doc. No. 193). On May 1, 2006, the Criminal Justice Working Group issued its final report (Doc. No. 191) but was unable to arrive at a solution that would solve the unconstitutional conditions at the jail created by overcrowding.

10. The District Court has previously entered orders in this case that have failed to remedy the deprivation of Plaintiffs' constitutional rights. Defendants have had a reasonable amount of time to comply with the previous court orders. Thus, the prerequisites for convening a three-judge court as set forth in 18 U.S.C. 3626(a)(3)(A) have been satisfied.

11. In accordance with the District Court's May 25, 2006 Order (Doc. No. 193), this Three Judge Court was empaneled on June 8, 2006. (Doc. No. 194).

12. On July 27, 2006, the City of Youngstown moved to intervene (Doc. No. 207) and was granted intervention (Doc. No. 209). Subsequently this Court set the matter for trial on May 16, 2007 (Doc. No. 224).

13. The Three Judge Court appointed Special Master Vince Nathan as the Court's expert for this phase of the litigation (Doc. No. 191). Mr. Nathan was charged with the task of collecting data and preparing an expert report of his findings and his opinion with respect to (1) whether

crowding at the jail is the cause of constitutional violations, and, if so, (2) whether there is any other viable form of relief, short of a prisoner release order, that could remedy the violations. Pursuant to this Court's Order, Mr. Nathan investigated the issues, and on December 3, 2006, filed a report containing his findings and his conclusions with this Court (Doc. No. 229). The findings and conclusions set forth by this Court's expert demonstrate that the jail is overcrowded resulting in violence to inmates and staff, that crowding is therefore the root cause of a constitutional violation and that there is no other viable remedy to cure the constitutional violation. (Doc. No. 229).

14. As a result of Mr. Nathan's report, Plaintiffs filed a Motion for Immediate Injunctive Relief on December 18, 2006 (Doc. No. 232). This Court set the matter for an emergency hearing to be held on December 28, 2006 at 9:30 a.m. (Doc. No. 234). The City of Youngstown filed a Response to Motion for Immediate Injunctive Relief (Doc. No. 237), and Mahoning County Defendants filed a Brief in Support of Plaintiffs' Motion for Immediate Injunctive Relief (Doc. No. 239).

15. At the hearing, Mr. Nathan authenticated his own expert report and this Court adopted his report and made it part of the record. Mr. Nathan answered preliminary questions from the panel and counsel for the Parties. In addition, all Parties agreed and stipulated that based on current staffing and population as highlighted in Mr. Nathan's Expert Report the conditions of the Jail are unconstitutional. After consideration of the briefs and arguments at the hearing, the panel confirmed that it would take the matter of Plaintiffs' Motion for Immediate Injunctive Relief under advisement (Doc. No. 245). In the interim, the Court directed Judge Polster to engage in mediation. Judge Polster met with the Parties on January 3, 2007 at which time a tentative agreement was reached.

16. On February 28, 2007 the Three Judge Panel issued an Interim Stipulated Population Order (Doc. No. 251). Said order was issued with the purpose of immediately addressing overcrowding in the facility.

PARTIES

All Parties agree that:

17. The provisions of this Consent Order shall apply and be binding upon the Parties to this action, their agents, officers, employees, assigns, successors in interest and any persons acting in concert or privity with any of the Parties.

18. This Order shall in no way limit the Parties' claims or defenses in other actions, and shall not be interpreted as an admission to the validity of any of her claims filed by members of the inmate class.

19. This Order shall govern as an order addressing those findings made in the memorandum opinion of this Court, the findings and conclusions raised in Mr. Nathan's Expert Report and those findings made in the Interim Stipulated Population Order. The Parties agree that this Order is narrowly drawn and intended to address only those factual findings and conclusions of law mentioned herein. The Parties agree and certify they are aware of no less intrusive way to address these findings and conclusions of law.

20. Now therefore, and upon consent of the Parties, based upon the need to address the above findings and conclusions of law, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

21. The Court has jurisdiction over the Parties and subject matter of this case pursuant to 28 U.S.C. §§1331 and 1343(3) and 28 U.S.C. §3626. Venue is properly before this Court.

22. The District Court has previously entered orders in this case that have failed to remedy the deprivation of Plaintiffs' constitutional rights that are remedied with this Order. Defendants have had a reasonable amount of time to comply with the previous court orders. Thus, the prerequisites for convening a three-judge court as set forth in 18 U.S.C. 3626 (a)(3)(A) have been satisfied.

23. This Court finds that this relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal rights found violated, and *is the least intrusive means necessary to correct those violations of Federal rights.* 18 U.S.C. §3626(a)(1)(A). Moreover, this Court has considered and weighed any adverse impact on public safety and the effect on the operation of a criminal justice system in Mahoning County. 18 U.S.C. §3626(a)(1)(A).

24. This Court finds by clear and convincing evidence that the terms of the Interim Stipulated Population Order strike a balance between the interest in public safety and the interest in maintaining a constitutional jail as it provides for the incarceration of all violent felons and for the reopening to maximum occupancy of all the jail facilities under the control of Mahoning County, while at the same time protecting the constitutional rights of inmates in the County Jail Facilities.

25. This Court finds by clear and convincing evidence based on the entire record that (1) crowding is the primary cause of the violation of a Federal right, and (2) no other relief will remedy the violation of the Federal right. 18 U.S.C. §3626(a)(3)(E)(i) and (ii).

26. Thus, this Court finds that the factual predicate for imposition of a prisoner release order, as set forth in 18 U.S.C. §3626(a)(3)(E), has been established.

AGREEMENT TO MEDIATE DIFFERENCES

27. It is anticipated that this Consent Order will be monitored by Plaintiffs' counsel, or by any monitor subsequently named by the Court, according to terms outlined later in this Order. The Parties hereby agree that any alleged violations of this agreement found by the Parties, before being brought to the attention of this Court, shall be mediated. Such mediation shall consist of a meeting of Plaintiffs' counsel and the appropriate Defendants and Intervenor. The complaining Party's counsel shall state in writing any alleged violation necessitating a meeting and give Defendants and Intervenor notice to investigate and then meet with counsel. If, after the meeting, the Parties indicate that they cannot resolve by way of agreement the problem discussed, any Party shall have the right to bring the alleged violation to the attention of this Court to either enforce the provisions of this Order or seek relief from the provisions of this Order.

INMATE POPULATION/RELEASE ORDER

28. Now, therefore, upon stipulation of the Parties, based upon a need to address the population issue immediately, the Three Judge Panel orders that the Overcrowding Release Policy attached as Exhibit A in Doc. No. 251 be adopted to effectuate the following population limits and housing classifications designations.

POPULATION

29. Decisions on capacity are based on standards which include square footage of cells and square footage of day-areas with sufficient programming for inmates. The Defendants agree to abide by these housing capacities.

30. All inmates classified as Maximum Security shall be single celled. All other medium and minimum security inmates may be double celled.

31. The Sheriff has adopted the practice of using boats (temporary beds) and placing mattresses on cell floors to create additional capacity. The Parties hereby agree that all boats shall be removed from general housing and inmates should only be housed on bunks affixed in cell units with the exception of medical housing.

32. The Parties agree to the following population/housing plan for the Justice Center. Said plan is based on the Sheriff properly classifying inmates as provided in paragraph 43 below and placing inmates in housing pods that are consistent with the classification. Nothing in this order shall forbid the Parties from meeting at a later time to agree to changes in the classification of housing units in the Mahoning County Jail.

SIXTH FLOOR

POD	CELLS IN USE	TOTAL BEDS AVAILABLE FOR USE	CLASSIFICATION
R	36	52	Medium Male
S	36	52	All Medium Male or All Minimum Male
T	36	52	All Medium Male or All Minimum Male
U	36	52	Medium Male

Total beds available for use are subject to a 10% classification factor

FOURTH FLOOR

POD	CELLS IN USE	TOTAL BEDS AVAILABLE FOR USE	CLASSIFICATION
P	36	36	Max Male
Q	36	36	Max Male
L	36	36	Max Male
N	18	18	Minimum/Medium Intake Classification
O	18	18	Disciplinary Male

Total beds available are subject to a 10% classification factor

Minimum/Medium-classification range maximum stay is five days

SECOND FLOOR

POD	CELLS IN USE	TOTAL BEDS AVAILABLE FOR USE	CLASSIFICATION
F	18	18	Max Female
G	18	28	Medium / Minimum Female

Total beds available are subject to a 10% classification factor

POD	CELLS IN USE	TOTAL BEDS AVAILABLE FOR USE	CLASSIFICATION
H	30	48	Male Mental Health Special Needs
I	6	6	Male Segregation

Total beds on H Pod are subject to a 10% classification factor

POD	CELLS IN USE	TOTAL BEDS AVAILABLE	CLASSIFICATION
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		FOR USE	
J	6	6	Male Juvenile Bind over as Adults
K	30	30	Male Maximum

Total beds on K Pod are subject to a 10% classification factor

POD	CELLS IN USE	TOTAL BEDS AVAILABLE FOR USE	CLASSIFICATION
D	30	48/54	Minimum Security Inmates/Male Inmate Workers
E	6	6	Male Administration Segregation

Total beds on D Pod are subject to a 10% classification factor

Defendants may choose to use D Pod to house one of two groups of inmates -- either inmate workers or minimum security inmates

Minimum Security Facility (MSJ)

33. The Parties agree that a maximum of ninety-six (96) inmates can be housed in the MSJ. All are to be sentenced non-violent misdemeanor inmates, or non-violent sentenced 4th and 5th degree felons.

34. The Parties acknowledge that the National Institute of Corrections has undertaken a study of the County Jail Facilities. The National Institute of Corrections has recommended that the facility be run at 90% of capacity to allow for proper classification of inmates.

35. The Parties agree that within the Justice Center, all units classified as minimum security pods shall house no more than 90% of the total usable beds allotted to that classification. The Parties agree that all medium security ranges shall house no more than 90% of the total usable

beds allotted to that classification. The Parties have agreed that all maximum security pods shall house no more than 90% of total usable beds allotted to that classification.

36. When arrests are undertaken in such a manner that the Sheriff is unable to plan for an influx of inmates to protect the public, the Sheriff may fill each pod up to the total available beds for use not to exceed a period of 24 hours on weekdays, 48 hours on weekends and 72 hours on holiday weekends. However, in no event shall the population in any pod exceed the total number of usable beds. The Sheriff shall have 24/ 48/72 hours to reduce the population back to said figure 10% below the total beds available for use which allows for the proper classification.

37. When numbers exceed those set forth, the Sheriff shall implement the Overcrowding Release Policy approved by all Parties and this Court which is attached hereto as Exhibit A and incorporated as if fully written herein. The Overcrowding Release Policy shall not apply to City Prisoners held pursuant to the Boarding of Prisoners Agreement entered into by Defendants and Intervenor and attached hereto as Exhibit B and incorporated as if fully written herein. The granting or revoking of bail shall not be construed to prevent release under this Order. The Sheriff shall have a right and authority to release any and all prisoners regardless of any order from any other state or municipal court in order to maintain a population cap consistent with this Order except as provided in the Boarding of Prisoners Agreement attached as Exhibit B.

STAFFING

38. This Court, on March 10, 2005, found that staffing levels at the County Jail Facilities were insufficient. The Court went into an extended analysis of studies done at the jail and its history of staffing levels.

39. The Parties agree that these studies will be used as a basis for staffing at the County Jail Facilities. These studies broke staffing down according to posts at each facility. The Parties

hereby agree to use a direct supervision model requiring that all posts identified throughout the County Jail Facilities to be staffed on a 24/7-hour basis. When fully open, the Sheriff shall employ 168 line officers to posts which include floats (147 for Justice Center and 21 for MSJ).

40. It is also agreed when fully opened that the Defendants shall employ 18 supervisory staff.

41. It is finally agreed when fully opened the Defendants shall employ 23 jail clerical, support, administrative, and command staff.

42. It is the Parties' intent that upon the opening of any new pods, that the Parties reach an agreement that there are sufficient staff to open those pods and properly staff each identified post. It shall be the Defendant's responsibility to demonstrate that sufficient staff are employed and trained prior to filling all posts on a 24/7 basis prior to the opening of any additional housing areas. This includes posts for floats and supervisory staff as identified.

CLASSIFICATION

43. The Sheriff has developed and adopted a population/classification plan that will allow the Sheriff to comply with capacity standards specified herein and classification guidelines recommended by the National Institute of Corrections. Said plan allows the facility to be operated in compliance with these standards. Said plan is attached here as Exhibit C. The Sheriff may find it necessary to change or amend said plan from time to time with the approval of Plaintiffs' counsel.

TABLES

44. Defendants acknowledge that some pods do not have sufficient table space for all inmates to sit at meal time. Sufficient tables shall be added to day rooms to allow all inmates to sit at meal time.

TRAINING

45. The Court made findings that staff training was deficient since 2001. It was found that the staff assigned to the Corrections Division had little or no training in policy direction to perform at levels compliant with minimum confinement standards. The Court also found since 2001, only one fire drill had been conducted and that did not involve the movement of inmates.

46. Defendants agree to fully train all staff in compliance with minimum standards for jails in Ohio.

47. The Parties agree that the Sheriff will implement training programs and put in place an active fire drill program that involves the movement of inmates. All activities involving fire safety and training shall be logged in writing and made available to monitor/Plaintiffs' counsel for verification purpose.

48. The Parties agree and understand that the Defendants are hiring up to at least 60 additional deputy sheriffs. These new deputy sheriffs shall be given complete correction officer training prior to being stationed alone in the facility.

LEGAL ACCESS

49. The Defendants at one time had a legal access program provided by the University of Akron's Law School Legal Clinic. The program was suspended due to lack of funds in September 2003. The program has been re-instituted and is presently operational. The Parties recognize that, because of the prior agreement to keep the population at 300 inmates, said legal access program is running at one-half of its intended capacity. Defendants agree to make said program fully operational prior to the re-opening of the final pod in the jail. The Parties agree that said program meets constitutional requirements for providing legal materials to inmates.

50. The Parties agree that notices about the legal access program shall be posted on each pod throughout the jail.

DISCIPLINARY ISSUES

51. The Court in its findings of fact, found an unusually high number of inmate-on-inmate assaults, inmate-on-staff assaults and miscellaneous incidents of violence and use of force. The Court found that these statistics are a direct result of insufficient staffing and overcrowding. Parts of this Order are meant to address those concerns. The Parties agree that Sheriff shall keep incident reports documenting all inmate-on-inmate assaults, inmate-on-staff assaults and miscellaneous incidents of violence and use of force. Said reports shall be made available when requested to Plaintiffs' counsel. If unusually high numbers of assaults are found, the Parties agree to meet to mediate this problem.

MAINTENANCE ISSUES

52. This Court has made numerous findings in regards to maintenance issues at the County Jail Facilities.

53. The Defendants agree that to keep the County-Jail-Facilities systems operational and limit breakdowns, a minimum number of maintenance people need to be employed in order to assure seven-day-a-week day turn, five-day-a-week afternoon turn, and weekend call out ability.

54. Staff radios have had a history of frequent problems due to old and worn out batteries. Defendants agree to keep an adequate supply of new batteries available to prevent staff radios from breaking down.

55. An intercom unit is located in each cell throughout the facility. The intercom provides communication with each guard station on each range to each cell. The intercom also provides communication from cells to the jail's central control. Intercoms have been a prevalent source of breakdowns. The Parties agree that said intercoms are a vital part of providing for the safety and security of inmates and deputy sheriffs throughout the facility. The Parties agree that Defendants

shall keep all intercoms fully operational and maintain a written log monitoring inspection, breakdown and repair of the intercoms. This log shall be available to monitor/Plaintiffs' counsel for review.

56. Defendants agree to buy and maintain sufficient inmate mattresses, linen, clothing, and food trays.

57. The Court found numerous instances of CCTV cameras being broken, and computer screens which do not work. The Sheriff has implemented a program of inspection and agrees to upgrade and maintain the integrated security systems, including hardware and software within the next six (6) months. The Sheriff has maintained and will continue to maintain a maintenance log that records inspections, all reported camera/computer screen breakdowns throughout the facility, and repairs made thereto. Said maintenance logs shall be available to Plaintiffs' counsel for inspection.

58. The Court made findings as to the general cleanliness of the facility and found it to be hazardous to the health of inmates, security staff, and civilian workers in the jail. The Sheriff has implemented a program to make daily inspections and Defendants will continue to insure that showers are clean, washing machines are operational, and all facility fixtures are operational and the sufficient cleaning supplies exist. The Sheriff has recorded and will continue to record inspections in a log.

59. The Defendants agree to properly maintain cell doors, locks, visitation phones, computer software systems, elevators, air handling systems, heating systems, and all other systems and components regulating life-safety, security, and safety of the County Jail Facilities and their occupants. Defendants shall regularly inspect each of these systems, making necessary repairs. All inspections and repairs shall be kept in a log.

60. The Defendants agree that the MSJ physical facility shall be assessed for all maintenance defects and addressed prior to re-opening. Upgrades and maintenance prior to opening shall be discussed and explained to Plaintiffs' counsel.

61. Defendants agree to provide a security upgrade for the inmate/public visitation areas.

LOCKDOWNS

62. This Court made findings that as a result of lack of staff, the inmates at the Justice Center were frequently locked down for lengthy periods of time. The Sheriff agrees that lockdown logs shall be kept indicating any unscheduled lockdowns that occur in the facility, length of the lockdown and the reason for said lockdowns. These logs shall be maintained and made available to Plaintiffs' counsel for inspection.

RECREATION

63. Due to safety and security issues with fencing in outdoor recreation areas, the Defendants suspended all outdoor recreation at the Justice Center. The Defendants have undertaken a study to insure that these outdoor recreation areas could be operating in the future in a safe and secure manner. In order to accomplish this goal, certain structural changes must be made to the fencing in the outdoor recreation areas. Defendants agree to make said changes for the outdoor recreational areas so that they will be operational by August 1, 2007. The Sheriff agrees to properly supervise outdoor and indoor recreation.

MONITORING

64. During the pendency of this Order, Plaintiffs' counsel shall monitor and review Defendants' compliance with the terms of this Order. Said monitors shall visit at least monthly and no more than twice a month to review compliance.

65. The Sheriff agrees to continue to make available to Plaintiffs' counsel by way of e-mail daily population figures indicating the total number of inmates in the facility. Defendants shall also furnish a breakdown of inmates housed by pod.

ATTORNEYS FEES

66. The Plaintiffs and Defendants have reached an agreement in regards to the payment of attorneys fees associated with the trial of this matter. Said fees were agreed paid through May 28, 2006. Since that time, Plaintiffs counsel has on a quarterly basis filed hours reflecting attorneys fees. Defendants shall have the right to review and question the accuracy of said hours but nonetheless agree to pay Plaintiffs counsel said fees within thirty (30) days of the signing of this Order at a rate of \$186.00 per hour.

67. The Plaintiffs and Defendants anticipate that additional attorneys' fees will be associated with monitoring and enforcement of this Order. Said costs of monitor/Plaintiffs counsel and/or Plaintiffs' counsel shall be paid on a yearly basis. Defendants shall pay costs for reasonable monitoring fees/reasonable attorneys' fees and expenses approved by this Court on an annual basis. Monitoring rates are to be billed at an office rate not to exceed \$150.00 an hour. The rates for actual legal work including in court or out of court brief writing are to be billed at a rate of \$186.00.

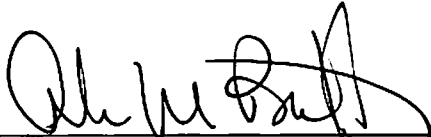
CONTINUING JURISDICTION

68. The Parties understand and agree that the County Jail Facilities shall be fully operational and at maximum capacity as defined in this Order by August 1, 2007.

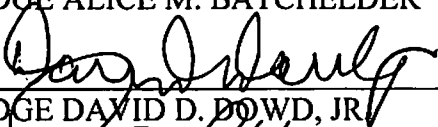
69. This Court specifically retains jurisdiction over this action for three years to ensure compliance and to issue additional Orders as required by Justice or as the Parties may request.

All additional changes shall be in writing.

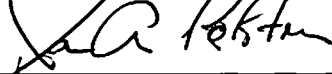
IT IS SO ORDERED.



JUDGE ALICE M. BATCHELDER

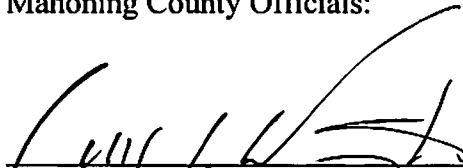


JUDGE DAVID D. DOWD, JR.




JUDGE DAN AARON POLSTER

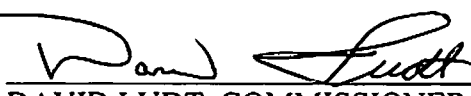
Mahoning County Officials:



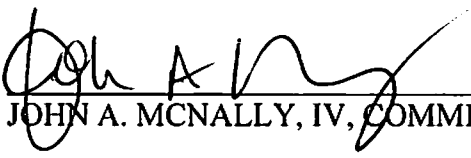
RANDALL A. WELLINGTON, SHERIFF



ANTHONY T. TRAFICANTI, COMMISSIONER

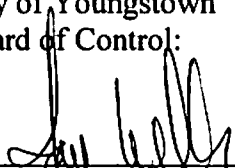


DAVID LUDT, COMMISSIONER



JOHN A. MCNALLY, IV, COMMISSIONER

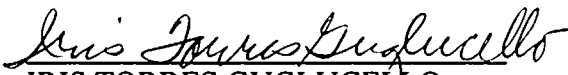
City of Youngstown
Board of Control:



JAY WILLIAMS, MAYOR

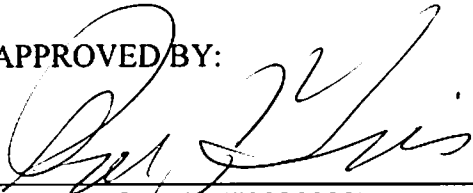
ABSENT

DAVID BOZANICH,
FINANCE DIRECTOR

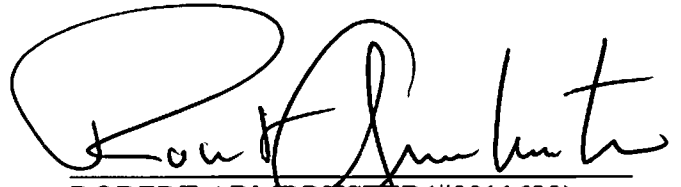


IRIS TORRES GUGLUCELLO,
LAW DIRECTOR

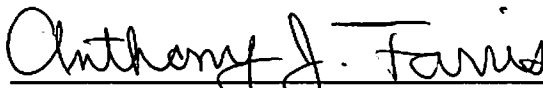
APPROVED BY:



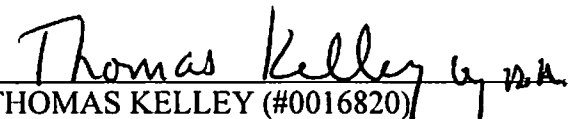
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