



PC-DC-011-004

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WOMEN PRISONERS OF THE DISTRICT OF)
COLUMBIA DEPARTMENT OF CORRECTIONS,)
<u>et al.</u> ,)
)
Plaintiffs,)
)
v.)
)
DISTRICT OF COLUMBIA,)
<u>et al.</u> ,)
)
Defendants.)

Civil Action
No. 93-2052 JLG

FILED

FEB 14 1995

Clerk, U.S. District Court
District of Columbia

PLAINTIFFS' MOTION REQUESTING IMPLEMENTATION
OF MONITORING PROCEDURES

Plaintiffs respectfully request that the Court enter the attached order requiring Defendants to submit reports detailing the status of their compliance with this Court's Order of December 13, 1994. The attached memorandum in support of this motion details the current status of the Court's ordered relief.

Respectfully submitted,
COVINGTON & BURLING

By: Tracy A Thomas
Peter J. Nickles # 53447
Caroline M. Brown # 438342
Tracy A. Thomas # 435742

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- 2 -

Co-counsel:

Brenda V. Smith # 404979
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Dated: February 14, 1995

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WOMEN PRISONERS OF THE DISTRICT OF)	
COLUMBIA DEPARTMENT OF CORRECTIONS,)	
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PLAINTIFFS' STATUS MEMORANDUM IN SUPPORT
OF PLAINTIFFS' MOTION REQUESTING
IMPLEMENTATION OF MONITORING PROCEDURES

On December 13, 1994, this Court issued an Order for Declaratory and Injunctive Relief. In that Order, the Court required Defendants to take certain actions immediately, within 30 days of the entry of the Order, or within 60 days of the Order. That Order has not been stayed and is in full effect.

In connection with the District of Columbia Department of Corrections' plan to double bunk the cells at the Correctional Treatment Facility ("CTF"), Special Officer Grace M. Lopes and her expert, Jim Henderson, inspected the CTF. Ms. Lopes' report, see Attachment A, reveals that many provisions of the Court's required relief have not been implemented as ordered.

Specifically, Plaintiffs point to the Special Officer's concerns with security, heating, and sanitation at

the CTF. The Special Officer noted that security is a major concern at the CTF, that staffing levels and deployment are inadequate, and that escorts are not timely. With respect to the heating problems, she noted that ice forms on the inside of many of the cell walls at CTF, that there are no extra blankets for the inmates, and that infirmary rooms are freezing cold. Ms. Lopes also identifies the significant sanitation problems including unsafe, cold food, a lack of cleaning supplies and detergent, the lack of hot water, and the failure of the kitchen to pass the DCRA inspection.

In addition to these specific areas, there are other areas in which the Court ordered relief, but no action has been taken. For the Court's convenience, Plaintiffs have attached a chart as Attachment B outlining the provisions that were ordered to be in place by February 10, 1995, and indicating the status of Defendants' compliance with each of those provisions.

Despite this Court's Order to remedy these deficiencies, Defendants have not yet taken the necessary action to implement the ordered relief. Nor have Defendants filed motions to amend the Court's order or to extend their time for compliance for any of the operative provisions (with the exception of those few provisions under the purview of the Special Officer).

In light of the Special Officer's findings and the continuing failure of the Defendants to follow this Court's

orders, Plaintiffs respectfully request that this Court enter the attached order providing for monitoring of the status of the Court's ordered relief. The suggested order requires Defendants to submit the appropriate reports to Plaintiffs' counsel so that counsel can monitor the status of the conditions of the women prisoners.

Respectfully submitted,

COVINGTON & BURLING

By: Tracy A Thomas
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Dated: February 14, 1995

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 14, 1995 I caused a copy of the foregoing Plaintiffs' Motion Requesting Implementation of Monitoring Procedures and the accompanying Status Memorandum to be delivered by hand to:

Richard S. Love, Esq.
Office of the Corporation
Counsel
441 4th Street, N.W.
6th Floor South
Washington, D.C. 20001

Maria Amato, Esq.
Assistant Corporation Counsel
441 4th Street, N.W.
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Grace M. Lopes
Special Officer of the U.S.
District Court for the District
of Columbia
1130 17th Street N.W.
Suite 400
Washington DC 20036

Tracy A Thomas

**Special Officer of the U.S. District Court
for the District of Columbia**

*by Order of Judge Jane L. Green
and Judge William B. Bryant*

1130 17th Street, N.W. - Suite 400
Washington, D.C. 20036
Office (202) 778-1168
Fax (202) 396-3644

93-2052
JLG

*Grace M. Lopes
Special Officer*

*Timothy J. Roche
Karen M. Schneider
Special Assistants*

February 7, 1995
Via Telecopier

FILED

FEB 14 1995

Richard S. Love, Esq.
Chief, Correctional Litigation
441 - 4th Street, N.W.
Washington, D.C. 20001

Clerk, U.S. District Court
District of Columbia

**Re: Women Prisoners of the District of Columbia Department of
Corrections v. District of Columbia; Inmates of the Modular
Facility v. District of Columbia**

Dear Rick:

As you know, pursuant to the interim agreement reached between the parties and approved by Judge Green, Jim Henderson and I inspected the Correctional Treatment Facility (CTF) and interviewed staff and inmates on February 1 and 2, 1995 in order to assess the Department's plan to double-cell this facility. Our evaluation of the double-celling proposal culminated in a February 3, 1995 meeting with you, John Thomas, William Plaut, John Noble, Adrienne Poteat and Michael Hagstad. This letter sets forth the concerns Jim and I have with regard to the double celling plan. These concerns were explained to your clients at the February 3, 1995 meeting and are only presented in summary fashion herein.

Evaluation of CTF Double Celling Proposal

Jim and I toured the CTF for almost twenty-two hours during a two day period. We inspected every housing unit (C, D & E Buildings) (including random cells, toilet and shower facilities, television rooms, triage rooms, day rooms, and the satellite kitchens in D & E buildings) as well as the administration building (A Building) (including the institutional records office, receiving and discharge, handicapped unit, the medical clinic, the infirmary and the pharmacy), program building (B Building) (including the school, canteen, graphic arts center, leisure skills area, gymnasium, law library, chapel and mosque), culinary facilities, behavior management unit, recreation yard

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for the behavior management unit,¹ command center, central control, mail room, facilities management, and the visiting hall. We also interviewed correctional, program and administrative staff as well as inmates.

As Jim and I stated during our February 3 meeting, based on our observations and the interviews we conducted, we cannot endorse the Department's plan to double call the CTF for the following reasons:

Security Issues: There are substantial deficiencies in the physical plant which compromise the security of the institution. Jim explained these deficiencies to your clients.

Heating, Air Conditioning and Ventilation: There is evidence of a significant problem with the operations of the HVAC system. In the housing units some of the day rooms appear to be maintained at appropriate temperatures. However, virtually all of the cells we entered were very cold and the cells in proximity to the exterior walls of the building were frigid. We received corroborated reports of ice on the interior windows of some cells. We were advised that a number of infirmary rooms are so cold that the staff makes an effort not to house inmates in those rooms.² However, due to the scarcity of infirmary bed space, the rooms are often occupied. The infirmary room that I entered was occupied by four inmates one of whom was recuperating from pneumonia. The room was very cold and staff confirmed that the temperature in other infirmary rooms was at least as cold as the room I entered.

¹ We did not physically inspect each of the recreation yards although we did observe the outdoor recreations yards.

² As I mentioned, I contacted the Department of Consumer and Regulatory Affairs (DCRA) about whether space heaters could be used in the infirmary rooms. I was advised that even if the electrical system in the facility could support the use of at least 40 space heaters, they constitute an unacceptable fire hazard.

³ I was advised by Bill Plaut yesterday that your clients were considering the evacuation and temporary relocation (to Lorton facility gymnasium floors) of male prisoners from the CTF due to the fact that the temperature in many of the cells had fallen to unacceptable levels. I understand that the cell temperature was generally in the 50 - 60 degree range. I was also advised that your clients were considering the temporary double celling of the women in the CTF in order to house them in

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Hot Water: We randomly tested water in the many of the showers and sinks in each of the housing units and found that, at best, the water is lukewarm.

Sick Call: Interviews with inmates as well as with administrative and correctional staff established that sick call has not been conducted with any regularity. In fact, at best, it appears sick call is only conducted in each housing unit once per week. A random review of log books corroborated this problem. Even on those occasions when sick call is performed, it is performed in some units by practitioners who do not utilize the triage rooms. In fact, none of the triage rooms we inspected had examination tables or medical supplies. Many inmates and correctional officers reported that sick call is conducted through the cell doors. Extended delays in access to dental sick call were also reported.

Pharmacy: There is evidence of long delays in receiving prescription medication. Pharmacy staff acknowledge some shortages of necessary medications.

Health/Sanitation: There are critical shortages of toilet paper, sanitary napkins, cleaning supplies, disinfectants, detergent for washing clothes, trash bags and clothing. On at least one housing unit, when detergent was finally provided, a floor cleaner was issued for washing clothing. There is a demonstrable scarcity of towels and bed linens. In fact, because there are no extra linens, all bed linens must be collected, washed and returned to the unit in one day. Although not filthy, there is a build-up of dirt in many of the common areas, including the showers and communal toilets, that is attributable to the scarcity of cleaning supplies.

Maintenance Problems: There were innumerable inoperable showers, telephones, and clothes dryers throughout the facility. We observed wet clothes hanging over the railing to dry in many of the housing units. The washing machines only appear to emit cold

cells within the 68 degree range. Bill also mentioned that the Department was attempting to secure 800 blankets through the Mayor's Command Center for distribution to CTF inmates.

⁴ Women who had recently given birth advised me that they were unable to obtain sanitary napkins.

⁵ The D.C. Jail laundry personnel are paid overtime from the CTF budget in order to accomplish this task.

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water. The water temperature combined with the lack of access to detergent and a fresh change of clothing, severely compromises an inmate's ability to properly sanitize her/his clothes. There was also substantial evidence of leaking shower beds. In addition, the nurse-call system in the infirmary has been broken for several months.

Physical Plant Limitations: There are many limitations in the physical plant which are impediments to double celling. For example, in D (drug program) and E (women) Buildings there are currently four showers, eight sinks and eight toilets for 32 inmates. If double celled, assuming all maintenance problems are remedied and continuously maintained, there would be four showers, eight sinks and eight toilets for 64 inmates. In C (diagnostics) Building although each cell has a sink and toilet, there are four showers for 48 inmates and if double celled there would be four showers for 96 inmates.

According to measurements supplied by facilities maintenance, if double celled we calculate that the day room space per inmate in D and E Buildings would be 17.5 square feet per inmate. This is far below the 35 square feet per inmate required under ACA Standards. Although the day rooms in C building are much larger, we visited a unit in C building that had already been double celled and had a count of 95 inmates. The day room was very noisy, tense, and crowded.

Legal Mail/Legal Calls/Law Library: According to the official schedule, each housing unit is scheduled for the law library for ninety minutes per week. There is no free legal mail available at the facility. The postage meter was confiscated from the mail room due to the failure to pay an outstanding bill in late November or early December of 1994. Christmas cards and other mail written by inmates in late November and December has been returned⁶ and inmates have been told that due to budgetary constraints there is no longer any free mail. There is little, if any, access to legal calls. It appears that all telephones are monitored and case workers are generally unavailable to process requests for legal calls.

Programs: There are no work opportunities available for the men and inadequate work opportunities available to the women. The educational and vocational training programs are inadequate and do not meet the needs of the current population. In fact, the

⁶ We saw several boxes of mail that could not be returned because the letters did not have a return address.

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male population of the facility is essentially idle.⁷ Even if there was space available to expand programming, the physical plant and controlled elevators⁸ would severely limit access. For example, in order to move 96 inmates from a housing unit in C building to the gym, it would take at least six separate elevator rides since the elevators have a 15 person capacity. Given the delays in accessing the elevators, the recreation period could be over before all inmates assigned to the housing unit even arrive at the gym.

The recreation yards cannot accommodate the inmates who are currently housed in the facility. In fact, the inmates in C Building (diagnostics and general population) do not have any access to outdoor recreation notwithstanding the fact that they may remain in the Diagnostic Unit for up to six months.

Officer Staffing: The facility reportedly uses an average of 4000 hours of overtime per pay period. It is substantially understaffed and the warden is forced to rely on overtime in order to provide coverage in the housing units as well as the necessary escort coverage that is required for hospital trips and all inmate movement. Beyond the inadequacy of the authorized staffing level, we have concerns about current staff deployment. For example, we spent a substantial period of time on a partially double celled unit with 56 inmates that had only one officer and no civilian staff. The cellblock across the hall had a count of 20 inmates, two officers, and two civilian staff members.

Diagnostic Unit: The inmates in the diagnostic unit are locked in their cells twenty-three hours per day. They do not have access to programs and remain locked down, on average, for four to six months. It does not appear that these inmates have any meaningful access to their caseworkers. This situation implicates Judge Green's orders in Twelve John Does and must be remedied as soon as possible. As you know, the entire diagnostic process should take no more than 21 to 30 days and during this time period the inmates should have access to outdoor recreation.

⁷ This excludes inmates in the drug program who are productively engaged in various therapeutic programs throughout the day.

⁸ Staff and inmates report significant delays of up to 15 to 20 minutes in access to elevators. The elevators are used to access program space from most of the housing units.

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Food: There are substantial delays in accessing the elevators from the culinary unit. These delays combined with the inadequacy of the current method of food distribution, results in food being delivered to the housing units and satellite kitchens at temperatures far below acceptable levels. Sanitation levels in the kitchen appear inadequate. We observed inmate workers and a food steward handling and preparing food without gloves or hairnets. It is my understanding that the kitchen failed the DCRA inspection and is scheduled for re-inspection this Friday. There is a scarcity of eating utensils and thus food is delivered without utensils. Inmates are forced to re-use single-use plastic utensils and do not have the supplies to properly clean them between meals.

We received many complaints about the inadequacy of the portions that are currently being served to inmates. Many inmates are also angry about the "Desert Storm" entrees that have been served with increasing frequency due to the reported failure to pay vendors. In addition, the canteen has not received any new stock of food items since the beginning of the fiscal year (October 1994) and the inventory is severely depleted. Thus, even those inmates who have money in their accounts cannot supplement their diets by relying on the canteen.

Access to Case Workers: This problem is in evidence throughout the institution. There appear to be many inmates who are eligible for halfway house placement but remain in the institution because their "paperwork" has not been processed in a timely manner. This problem, combined with recent restrictions on halfway house eligibility, has resulted in an entire unit in the drug program housing inmates who actually completed the program months ago. It is unclear to what extent the access to caseworker issue is attributable to staffing shortages and the crisis in the Diagnostic Unit.

Visitation: The current facilities for visitation do not adequately accommodate the population and as a result the men housed at the facility receive fifty percent less visitation time than the women.

Drug Program: The double celling of the CTF would result in the elimination of the residential drug treatment program that is currently housed in D Building. We were very impressed with this

⁹ As you know the failure to maintain cold food below 44 degrees and hot food above 140 degrees can result in a variety of serious food borne illnesses.

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highly acclaimed program which represents one of the few positive programming options available to the District's prisoners.


Tension: There is a high degree of tension exhibited by inmates and staff. We spoke with many inmates who are very angry about the failure of the Department to provide very basic and necessary services and supplies. In the three units that are double celled, the tension is palpable. Indeed, one night several weeks ago the inmates in three housing units refused to go back in their cells after a recreation period, claiming their cells were too cold. Luckily, the supervisory correctional staff was able to diffuse the situation.

* * * *

As we explained, the limitations of the physical plant that are a result of the design of the building, combined with the scope and gravity of the above-described deficiencies, as well as the impact double celling would have on the operation of the CTF drug treatment program, have led Jim and I to conclude that we cannot endorse the planned double celling of the CTF. I look forward to being advised about whether your clients agree with Jim and I and expect to hear from you about this matter by no later than February 10, 1995 -- the date by which your client's plan must be produced.

If you have any questions please do not hesitate to contact me.

Sincerely,


Grace M. Lopes

cc: Maria Amato, Esq.
James D. Handerson
John Thomas
William Plaut
Adrienne Poteat
Peter J. Nickles, Esq.
Alan Pemberton, Esq.
Jonathan Smith, Esq.
Brenda Smith, Esq.

WOMEN PRISONERS: COMPLIANCE CHECKLIST

<u>DATE</u>	<u>RELIEF</u>	<u>COMPLIANCE</u>
IMMEDIATELY		
12/13/94	<u>Environmental</u> Use cart liners or laundry bags to transport laundry at Annex and CTF (Order ¶¶ 107 & 120)	NO. See Letter of Special Officer, Grace M. Lopes, Feb. 7, 1995
12/13/94	Ensure timely, adequate, and appropriate amount of cleaning supplies at both Annex and CTF (Order ¶¶ 109 & 119)	NO. See Letter of Special Officer, Grace M. Lopes, Feb. 7, 1995
12/13/94	Provide sufficient and accessible sanitary facilities to women working at Central (Order ¶ 111)	?
12/13/94	Monitor food temperature and delivery times of all meals at CTF (Order ¶ 121)	NO. See Letter of Special Officer, Grace M. Lopes, Feb. 7, 1995
12/13/94	Conduct fire drills at Annex 12 times per year, 4 times per shift, and keep written documentation of drills (Order ¶ 129)	NO
12/13/94	Conduct weekly inspections of all buildings and grounds for fire hazards; conduct quarterly inspections of all fire safety equipment; and ensure that Institutional Fire Marshal conducts quarterly inspections of facilities (Order ¶ 131)	NO
12/13/94	D.C. Fire Department must conduct annual fire safety inspections of Annex (Order ¶ 132)	?

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 JLC

<u>DATE</u>	<u>RELIEF</u>	<u>COMPLIANCE</u>
12/13/94	<u>Programs</u> Access to Atlantic Union computers at CTF - 30 hrs/week (Order ¶ 73)	NO - no college classes or access since Nov.
12/13/94	Process applications for Atlantic Union at CTF in complete and timely manner (Order ¶ 74)	NO
12/13/94	Provide women with appropriate substitute teachers during absences of regular teachers more than 3 working days (Order ¶ 75)	Yes
12/13/94	Open recreation trailer at Annex 8 hours/day, 7 days/week (Order ¶ 98)	NO -- has been closed for several weeks
12/13/94	Provide 2 full-time basic education teachers for ABE, GED, Special Education classes at Annex (Order ¶ 70)	Yes, as of 2/6/95
12/13/94	<u>Medical</u> Initiation of routine prenatal care if pregnancy test reveals that a woman prisoner is pregnant (Order ¶ 34)	No routine sick call for a week at a time at CTF. See Letter of Special Officer, Grace M. Lopes, Feb. 7, 1995
12/13/94	If woman is in need of emergency obstetrical or gynecological care during evening or weekend hours, she shall be taken immediately to emergency area of OB/GYN clinic at DC General Hospital (Order ¶ 46)	Yes
30 DAYS		
1/12/95	<u>Sexual Misconduct</u> Penalties for Department Order on Sexual Harassment (Order ¶ 8).	enlargement of time agreed to by parties until 2/13/95; second enlargement agreed to 3/13/95

<u>DATE</u>	<u>RELIEF</u>	<u>COMPLIANCE</u>
1/12/95	<u>Environmental</u> Replace torn mattresses and pillows at Annex; conduct regular inspections of bedding (Order ¶ 106)	Partial: 1 inspection in Jan.; no replacements
1/12/95	Repair water leakage from rain at Annex (Order ¶ 133)	NO
1/12/95	<u>Programs</u> Revise work training guidelines and practices re: work training eligibility (Order ¶ 87)	NO
1/12/95	Provide work training to all eligible women under the revised guidelines (Order ¶ 88)	NO
1/12/95	Submit work training packets for each women eligible under new guidelines for work training (Order ¶ 89)	NO
1/12/95	Recreation at CTF for women: 7 days/week, 5 hours/day. Women have option of inside or outside (Order ¶ 96)	NO - max 12 hours per week scheduled
1/12/95	Defendants submit alternative plans to Court's required provision of 2 additional program trailers at Annex (Order ¶ 65)	NO - Defendants did not submit plan. Two trailers must be in place by 6/13/95.
45 DAYS		
1/27/95	First DCRA inspection of CTF, Annex, and food service delivery at main Minimum (Order ¶¶ 115 & 124)	Yes - first inspection conducted at CTF. DCRA submitted letter proposing to conduct inspections two times per year and in "sampling" format

<u>DATE</u>	<u>RELIEF</u>	<u>COMPLIANCE</u>
60 DAYS		
2/10/95	<u>Sexual Misconduct</u> Develop, post and circulate DO prohibiting sexual harassment involving DCDC employees and women prisoners (Order ¶ 3)	enlargement of time agreed to until 3/13/95
2/10/95	Selection of mutually agreed upon sexual harassment trainer(s) from NIC for employees and women prisoners (Order ¶¶ 17 & 18)	NO (Defendants orally requested extension of time on 2/10/95)
2/10/95	Alterations at CTF and Annex to ensure privacy for women in living, sleeping, and shower areas (Order ¶ 190)	NO
2/10/95	<u>Environmental</u> Provide vertical locker and one footlocker to each woman at Annex (Order ¶ 105)	Yes
2/10/95	Provide 20 foot candles of light to double bunks at Annex (Order ¶ 108)	No, Defendants claim project will take 135 days
2/10/95	Connect toilets and handsinks in Annex trailers (Order ¶ 110)	NO
2/10/95	<u>Programs</u> Provide Court with plans for the implementation of an industrial program for CTF women prisoners (Order ¶ 86)	Stayed for 30 days (2/9/95) by order of the Court pending amendment by the parties
2/10/95	Provide chaplaincy services at the Annex for 5 days/week (must include evening hours) (Order ¶ 101)	NO

<u>DATE</u>	<u>RELIEF</u>	<u>COMPLIANCE</u>
2/10/95	<u>Medical</u> Hire half-time nurse midwife and full-time nurse practitioner or physician's assistant w/OB/GYN training (Order ¶ 20)	"Soon" to be employed (Defendants' report of 1/20/95)
2/10/95	Implement tracking system to insure all women receive preventive gynecological care at regular intervals (Order ¶ 33)	Yes
2/10/95	Develop written procedural guidelines to institute, maintain and follow a system to coordinate the implementation and tracking of physician orders (copy of guidelines to be provided to Plaintiffs' counsel) (Order ¶ 57)	NO
75 DAYS		
2/25/95	<u>Environmental</u> Findings of first DCRA inspections due to Wardens of Minimum and CTF (Order ¶¶ 115 & 124)	?

CLERK'S OFFICE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
3RD & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 20001

February 14, 1995

INMATES OF MODULAR FACILITY, ET
AL

v.

CA No. 90-727

DISTRICT OF COLUMBIA, ET AL

and

WOMEN PRISONERS OF THE DIST. OF COL. DEPT OF
OF CORRECTIONS

v.

DISTRICT OF COLUMBIA, ET AL

CA No. 93-2052

file

Please be advised that the above entitled case is set for:

HEARING

on MARCH 9, 1995, at 10:30 A.M.

before Judge JUNE L. GREEN in Courtroom 7, SECOND Floor.

cc: Peter Nickles, Esq.
Richard Love, Esq.
Grace Lopes, Esq.
Alan Pemberton, Esq.
file
chambers

NANCY MAYER-WHITTINGTON,
Clerk

By: BARBARA LINEVSKY
Deputy Clerk