

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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

FIRST REPORT OF THE SPECIAL MASTER
PURSUANT TO THE COURT'S ORDER OF
MARCH 28, 2005

Introduction

The special master conducted his first face-to-face meeting with counsel and the principals in this case in Youngstown, Ohio on April 4, 2005. Present at the meeting were Sheriff Randall Wellington, and the following members of the Sheriff's staff: Alki Santamas, Captain Jim Lewandowski, and Major Tom Scanlon. County Commissioners Anthony T. Traficanti, John A. McNally, and David Ludt also attended. Others in attendance were Jim Petaglia, the Mahoning County Human Resources Director, Linette Strafford, the Chief Assistant Civil Prosecutor, Paul Gains, the Mahoning County Prosecutor, and Robert Knight, a county employee responsible for overseeing the medical

care program at the Mahoning County Justice Center. Representing the plaintiff class were Robert Armbruster and Thomas Kelley, and Daniel Downey attended the meeting as counsel for the defendants. The special master and his administrative assistant, Cory Nafziger, completed the list of attendees.

The meeting commenced at 9:00 a.m. and concluded at approximately 2:00 p.m. Thereafter, jail administrators and counsel for the parties joined the special master and Mr. Nafziger for a tour of the medical area, the booking area, and several housing units in the Justice Center.

Prior to this meeting the special master reviewed several orders and numerous other documents in this case. He has cited some of these documents in connection with the findings set forth below.

This is the first report of the special master pursuant to the Court's order of March 28, 2005. It contains both the special master's findings and his recommendations. These findings are based on information provided to the special master at the meeting he has described, information he gained during the course of his tour, and knowledge he obtained from a review of the documents referred to in this report.

Findings

1. On March 30, 2005, the judges of the Court of Common Pleas for Mahoning County entered a judgment entry unanimously adopting an emergency release policy proposed by the Board of Mahoning County Commissioners.
2. The emergency release policy, a copy of which is attached as Exhibit A to this report, establishes 12 categories of prisoners eligible for emergency release consideration.

3. The only categories of prisoners altogether excluded from early release consideration are pretrial inmates charged with violent felonies and prisoners convicted of violent felonies.

4. Jail officials anticipate that the full implementation of the emergency release mechanism will bring the population of the jail down to approximately 300 inmates by the end of day on April 8, 2005.

5. The purpose of the emergency relief mechanism is to ameliorate half of the problem plaguing the Justice Center facility: the number of prisoners held in the jail.

6. The second problem facing the Justice Center at this time relates to security staffing. As a result of prior layoffs the number of uniformed staff available for duty in the sheriff's office was 166 on April 4, 2005.

7. Of these 166 deputies, assignments were as follows: 21 to provide security to Common Pleas Courts, 6 to provide services to the Juvenile Justice Center, 6 contract positions,¹ 20 deputies on long-term leave (*e.g.* medical disability), 6 deputies to provide services to area (non-Common Pleas) courts, and 8 deputies to provide services at the jail headquarters level.²

8. As a result of these assignments, there were 99 deputies available to supervise 435 inmates in the Criminal Justice Center facility on April 4, 2005.

9. The Mahoning County Minimum Security Jail was not operating on April 4, 2005 and has been closed since mid-March 2005.

¹ These six employees provide the following services: inmate classification & complaint supervisor (2); inmate discipline supervisor (1); laundry supervisor (1), laundry deputy (1); commissary deputy; and contracted services support and administrative deputy (1).

² Headquarters-level deputies will provide law enforcement coverage for the unincorporated areas of Mahoning County, serve civil process, and perform other field work for the Sheriff's department.

10. Additional layoffs scheduled at the end of April 10, 2005 will reduce the total number of deputies available to work in the jail itself to approximately 42.³

11. On April 17, 2005 the last of currently scheduled layoffs will bring the total number of deputies available for jail duty to approximately 20.⁴

12. The availability of the deputies available to work at the jail on April 4, April 10, and April 17, 2005, as identified above, assumes that no deputies are required to respond to emergency requests for law enforcement assistance in the unincorporated areas of Mahoning County for which the Sheriff is responsible.

13. The parties, through counsel, have agreed that the maximum capacity of the north tower of the Justice Center facility is 296 prisoners.

14. The parties, through counsel, have agreed that the operation of the north tower will require the posting of security officers as follows:

Housing Unit Posts

Housing Unit	Classification	Total Cells	Maximum Allowable Bunks/ Occupants	Shift 1 Security Staffing	Shift 2 Security Staffing
S Pod	male/medium	36	57	1	1
T Pod	male/medium	36	57	1	1
N/O Pods	male/maximum	36	36	1	1
P Pod	male/maximum	36	36	1	1
F/G Pods	female	36	36	1	1
H/I Pods	male/medium	36	60	1	1

³ The additional positions listed in note 1, *supra*, will continue to be filled

⁴ The additional positions listed in note 1, *supra*, will continue to be filled.

B/C Pods	medical	14	14	1	1
Total Housing Capacity & Posts			296	7	7

Other Fixed Posts

Position	Shift 1	Shift 2
Intake Deputy	3	3
Central Control	2	2
Internal Movement	2	2
Reception Deputy	1	0
Supervisor	1	1
Total Other Fixed Posts	9	8
Total Housing Unit & Other Fixed Posts	16	15

15. Based on the use of two 12-hour shifts, the numbers for total housing unit and other fixed posts in finding 14, *supra*, must be multiplied by a shift relief factor of 2.71. Thus, the total housing unit and other fixed posts would be 44 on shift 1 and 41 on shift 2, for a total of 85.

16. In addition the following jail command and contract posts must be filled five days each week:

Positions	Number
Warden	1

Operations Captain	1
Inmate Classification & Complaint Supervisor	1
Inmate Classification & Complaint Deputy	1
Inmate Discipline Supervisor	1
Laundry Deputy	1
Commissary Deputy	1
Contracted Services Support & Administration Deputy	1
Jail Registrar Deputy	2
Inmate Worker Supervisory (Deputy)	2
Total jail command & support staff	12

No shift relief factor need be applied to these jail command and contract posts.

17. The combined housing unit, other fixed posts, and jail and support staff posts require a total complement of 97 staff. This number assumes the continued use of two 12-hour shifts.

18. Since the parties reached the agreement reflected in the foregoing findings 13 through 17, the Sheriff has issued a special order reverting to three, 8-hour shifts. The result of this order, which is attached to this report as Exhibit B, will reduce the shift relief factor to approximately 1.9 or slightly less. The effect of the application of this lower shift relief factor will reduce the number of staff to fill total housing unit and other fixed posts would be reduced to a total of 80.

19. When these 80 staff are combined with the 12 jail command and contract posts described in finding 16, *supra*, the total staff complement required to operate the north tower becomes 92 rather than 97.

20. As of April 4, 2005, the total complement of uniformed staff assigned to the Justice Center facility was 98, enough to operate the north tower, but not both the north and south towers that were open on that date.

21. On April 10, 2005, a scheduled layoff of 62 deputies will reduce the number of security staff available to operate the Justice Center facility from 98 to approximately 40. This number does not include deputies assigned to the Court of Common Pleas, the Juvenile Justice Center, contract positions, long-term absentees, deputies assigned to area courts, and headquarters staff.

22. Forty deputies are not sufficient to operate the housing units in the north unit at a level of minimal safety for prisoners and staff. Moreover, although releases are proceeding apace pursuant to the emergency relief order, the reduction of the jail's population to 296 by April 10, 2005, is not a certainty.

23. On April 17, 2005, an additional 22 deputies are scheduled to be laid off. These scheduled layoffs will reduce number of security staff available to operate the Justice Center facility from 40 to approximately 20. This number does not include deputies assigned to the Court of Common Pleas, the Juvenile Justice Center, contract positions, long-term absentees, deputies assigned to area courts, and headquarters staff.

24. Twenty deputies are not sufficient to operate the housing units in the north unit at a level of minimal safety for prisoners and staff.

25. At the time of my tour of the Justice Center facility on the afternoon of April 4, 2005, only one correctional officer was stationed in the medical observation area. That officer was posted in the medical area's control room and could not abandon that post without jeopardizing the safety and security of persons in the unit.

26. On April 4, 2005, Robert Knight, a county employee responsible for overseeing the medical care program at the Mahoning County Justice Center, informed me that he would not allow medical personnel (specifically, nurses) to enter housing units he deemed to be unsafe. Following the scheduled layoffs on April 10 and April 17, 2005, any occupied housing units in the Justice Center facility will be unsafe for medical staff, including nurses.

27. When I visited the intake/booking area on the afternoon of April 4, 2005, only one officer was posted in this area. Had police arrived with an arrestee, this officer would have been in severe jeopardy, particularly if the arrestee was improperly handcuffed in front rather than in back. In addition, there were inmates in holding cells at the time of my visit, and adequate staff surveillance and control of these prisoners, some of whom shared a cell, was impossible.

28. The current staffing level continues to result in lockdowns of inmates in their cells, and surveillance of inmates in double occupancy cells is dangerously inadequate, particularly when no officer is in the housing unit.

29. On the afternoon of my visit to H/I pod, only one deputy was assigned to the four housing areas in these two pods. A total of 108 prisoners were assigned to these pods. When I entered the first pod, it was dark and no deputy or other staff member was present in the housing unit.

30. If the layoffs scheduled for April 10 and April 17, 2005 occur as scheduled, the security staffing levels at the Justice Center facility will be below even what can be described as dangerously inadequate, and the lack of supervision of inmates and appropriate backup for staff are highly likely to result in serious injury or death to

prisoners and/or staff. Indeed, the effect of either, let alone both, of these layoffs will result in a meltdown of the operation of the north unit alone and the destruction of the jail's administrative integrity as a correctional facility.

31. Although the court is thoroughly familiar with the history of the expansion of the capacity of the Justice Center facility, the design of that facility, historical statistics regarding population levels, funding difficulties encountered by the Sheriff's office, and other relevant matters concerning the history of the facility, the special master hereby adopts as his own findings of fact the following paragraphs of the Stipulation of the Parties in this matter entered into on December 10, 2004. Paragraph 1 through 14, 19-21, 23-36, and 38. A copy of this stipulation is attached to this report of the special master as Exhibit C.

32. If the cost estimates provided by the Sheriff are correct, it would cost \$1,700,000 to retain the staff currently scheduled to be laid off on April 10, 2005; likewise, it would cost \$800,000 to retain the staff currently scheduled to be laid off on April 17, 2005. If the estimate of these costs provided to the special master by defendants' counsel is correct, these total costs may be as high as \$3,000,000.

33. By order entered on March 25, 2005, the Court denied a motion by the plaintiff class to enjoin the layoff of 50 deputies that occurred on or about March 27, 2005, and 90 more on or about April 10, 2005.

34. A May 3, 2005 ballot in Mahoning County will offer the voters an opportunity to approve a one-half cent addition to the existing county sales tax.

Recommendations

1. In view of the dire consequences that will result from the layoffs of deputies scheduled for April 10 and April 17, 2005, I recommend that the Court direct the defendants to maintain the current level of security staffing in the Justice Center facility without additional layoffs, specifically those now scheduled for April 10 and April 17, 2005 until further order of the Court.

2. I recommend that the Court direct the Sheriff to provide the special master with daily population counts in the north and south towers until such time as the south tower is closed and the population in the north tower is no greater than 296.

3. I recommend that the court direct the Sheriff to inform the special master whenever the population in the north tower exceeds 296 and/or when inmates begin again to be assigned to the south tower or the minimum security jail.

4. I recommend that the court direct the Sheriff to inform the special master on a weekly basis of the number of early releases, by category, accomplished pursuant to the March 30, 2005 Judgment Entry of the Court of Common Pleas of Mahoning County.

5. I recommend that the court not enter an order prohibiting or otherwise affecting the staff layoffs that occurred on or about March 27, 2005, as the special master did not inquire into this matter during his April 4 meeting, and an injunction relating to those layoffs at this time in all likelihood would cause logistical problems of substantial magnitude.

6. I recommend that the court direct the Sheriff to provide all counsel with copies of all reports he submits to the special master pursuant to this order.

7. I recommend that the court require the special master to submit a report on the subjects of the inmate population and the level of security staffing in the Justice Center facility as promptly as possible after April 10, and again as promptly as possible after April 17, 2005. I also recommend that the Court direct the special master to submit a report of the population and staffing status of the Justice Center facility no later than May 13, 2005, following the May 3, 2005 vote on the county sales tax increase, and that the special master's report contain a specific recommendation regarding any action the Court should take at that time regarding this order.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Vincent M. Nathan', written over a horizontal line.

Vincent M. Nathan
Special Master

April 6, 2005

CERTIFICATE OF SERVICE

A copy of the foregoing First Report of the Special Master was filed electronically this 6 day of April, 2005. Notice of this filing will be sent by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

GERI M. SMITH, CLERK OF COURT

By /s/ Sharon K. Derivan
Law Clerk to
Judge David D. Dowd, Jr.