

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

WAYNE COUNTY JAIL INMATES, et al.,

Plaintiffs,

v

WILLIAM LUCAS, et al.,

Defendants.

Case No. 71 173 217 CZ

Hon. Timothy M. Kenny

**CONSOLIDATED CONSENT  
ORDER AND SETTLEMENT  
AGREEMENT**

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**CONSOLIDATED CONSENT ORDER AND SETTLEMENT AGREEMENT**

At a session of said Court, held in the City of Detroit, County of Wayne, State of Michigan, on **JUL 20 2018**

PRESENT: **Hon. Timothy M. Kenney**  
Circuit Court Judge

WHEREAS, on or about November 16, 2005, the undersigned parties entered into a Consent Order and Settlement Agreement for the purpose of resolving the then-pending litigation in this matter; and

WHEREAS, the Consent Order and Settlement Agreement entered November 16, 2005 (the "11/16/2005 Consent Order") attached and incorporated by reference terms from multiple prior orders entered by the Court in the action; and

WHEREAS, the 11/16/2005 Consent Order was subsequently amended and/or modified – in some cases by the Court without the full consent of the parties and in other cases by the consent of the parties – through Orders dated June 11, 2009; August 4, 2009; August 31, 2009; October 6, 2009; December 18, 2009; January 6, 2011; July 25, 2011; July 23, 2012; June 18, 2013; November 11, 2014; January 30, 2015; February 23, 2016, and July 25, 2017; and

WHEREAS, in an effort to clarify the presently applicable terms of the 11/16/2005 Consent Order, as modified, the parties agreed and the Court ordered as follows in its February 23, 2016 Order:

IT IS FURTHER ORDERED that the parties shall work together to prepare a single consolidated Consent Order that will include in a single document all existing provisions of the Consent Order, as modified, as of its date of entry.

and

WHEREAS, the parties and the Court agree that the present Order constitutes the contemplated Consolidated Consent Order.

NOW, THEREFORE, this Consolidated Consent Order revokes the prior above-referenced Orders and substitutes in their stead the following:

**I. ADMINISTRATIVE PROVISIONS**

**A. Original Recitals and Stipulation**

The parties reconfirm the following recitals and initial stipulation that appeared in the 11/16/2005 Consent Order and are applicable to the terms originally contained in that Order, insofar as those terms remain in effect in this Order:

**WHEREAS**, the parties have engaged in extensive settlement negotiations for the purpose of resolving their differences; and,<sup>1</sup>

**WHEREAS**, the parties have compromised for the purpose of reaching a settlement; and,<sup>2</sup>

**WHEREAS**, after careful consideration, the parties have now fully resolved their differences and agreed to a full and final resolution of their dispute;<sup>3</sup>

**NOW, THEREFORE**, in consideration for the mutual covenants set forth herein, the adequacy of which is hereby acknowledged, the parties stipulate and agree to the following terms and conditions of the settlement:<sup>4</sup>

**B. Further Administrative Provisions<sup>5</sup>**

1. All parties hereby waive any right in this cause of action to seek additional relief or to enforce any additional remedy under the state or federal PLRA. No further motions shall be filed or relief sought pursuant to the state or federal PLRA, or any amendments thereto, seeking to terminate or modify this Consent Order and Settlement Agreement or any injunctive order set forth herein. Nothing in this provision prevents any party from enforcing the provisions of this Consolidated Consent Order and Settlement Agreement. See Paragraph I.B.3.<sup>6</sup>

2. All remedial orders entered in this cause of action prior to entry of the 11/16/2005 Consent Order were vacated by that order; provided, however, that all such orders shall be implemented by the Defendants in written jail and health services policies and procedures manuals,<sup>7</sup> which the Director of Jail Operations (“Director of Jails”) and Director of Health Services shall review and update on an annual basis and provided, further, that the following orders and injunctive provisions shall remain in effect as permanent injunctive relief:<sup>8</sup>

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<sup>1</sup> 11/16/2005 Consent Order and Settlement Agreement (“11/16/2005 Consent Order”), p 1

<sup>2</sup> 11/16/2005 Consent Order, p 1

<sup>3</sup> 11/16/2005 Consent Order, p 1

<sup>4</sup> 11/16/2005 Consent Order, p 1

<sup>5</sup> The following provision that appeared at p 7, ¶ 13 of the 11/16/2005 Consent Order has been deleted because it was accomplished, and inclusion of the language would have no present relevance:

Unless otherwise ordered by the Court, the Court Monitors appointed in this cause shall be relieved of further responsibility in this cause.

<sup>6</sup> 11/16/2005 Consent Order, p 2, ¶ 1

<sup>7</sup> Footnote 1 to the 11/16/2005 Consent Order, which appeared at this location, is retained. That footnote read: “The policies and procedures manual, together with any revisions thereto, shall be filed with the clerk of the Wayne County Commission.”

<sup>8</sup> 11/16/2005 Consent Order, p 2, ¶ 2

- a. The Final Judgment ordered on April 9, 1987, as modified,<sup>9</sup> and included as a part of this Order in paragraphs III.B.1., III.C., IV.A., IV.B.3.-8., IV.D., IV.E., and V.A.-H.,<sup>10</sup> provided, however, that Sections VIII, IX, XII, and XIII of the Final Judgment are vacated.<sup>11</sup>
  - b. Further, the CEO shall retain responsibility and administrative oversight for the delivery of health care to the inmate population of the Wayne County Jail.<sup>12</sup>
  - c. The Second Order Regarding Population Limits at the Wayne County Jail entered on November 25, 1991,<sup>13</sup> as modified, and included as a part of this Order in paragraphs III.B.1.a.vi. and III.D.1.-3.<sup>14</sup>
  - d. The Order Regarding Conditional Release of Inmates entered on October 23, 1997, and included as a part of this Order in paragraph III.D.9.,<sup>15</sup> which shall apply to all three jail divisions.<sup>16</sup>
3. The parties agree that paragraph 12 of the 11/16/2005 Consent Order and Settlement Agreement reads as follows:

The case captioned *Wayne County Jail Inmates, et al. v William Lucas, et al.*, Civil Action No 71-173-217-CZ, shall be and is hereby dismissed with prejudice; provided, however, that this Court shall retain jurisdiction for the purpose of enforcing the terms and provisions of this Consent Order and Settlement Agreement, including all orders and terms of settlement set forth or described herein, all of which shall have the force and effect of permanent injunctive orders. Further, all parties stipulate and agree, and the Court finds, that the orders set forth in this Consent Order and Settlement Agreement are necessary, are narrowly drawn, and are the least intrusive means necessary to prevent violations of constitutional rights.<sup>17</sup>

<sup>9</sup> Footnote 2 to the 11/16/2005 Consent Order, which appeared at this location, is retained. That footnote read: "Reference in the Classification Plan for any union member to be appointed to the position of Classification Director is hereby vacated."

<sup>10</sup> 4/9/1987 Final Judgment, which was Exhibit A to the 11/16/2005 Consent Order.

<sup>11</sup> 11/16/2005 Consent Order, p 2, ¶ 2.a., as modified by 10/06/2009 Order Modifying Consent Order, p 2, ¶ 1

<sup>12</sup> 11/16/2005 Consent Order, p 2, ¶ 2.b., as modified by 10/06/2009 Order Modifying Consent Order, p 2, ¶ 2. This modification deleted the original first sentence of ¶ 2.b., which stated: "All injunctive orders and compliance plans related to the delivery of health services, including all staffing orders related to medical, mental health, and dental services, shall remain in full force and effect as permanent injunctive orders of the Court."

<sup>13</sup> 11/25/1991 Second Order Regarding Population Limits, which was Exhibit B to the 11/16/2005 Consent Order.

<sup>14</sup> 11/16/2005 Consent Order, p 2, ¶ 2.c. Additional language that appeared in this sub-paragraph of the 11/16/2005 Consent Order has been moved to footnote 73 and the substance incorporated in ¶ III.B.1.a.vi. Several operative paragraphs from pages 6-10 of the 11/25/1991 Order have been removed as irrelevant, given subsequent amendments, and now appear only in Appendix 2. See footnote 64.

<sup>15</sup> 10/23/1997 Order Regarding Conditional Release of Inmates, which was Exhibit C to the 11/16/2005 Consent Order.

<sup>16</sup> 11/16/2005 Consent Order, p 3, ¶ 2.d. Additional language that appeared in this sub-paragraph of the 11/16/2005 Consent Order has been moved to ¶ III.D.9.i. See footnote 95.

<sup>17</sup> 11/16/2005 Consent Order, pp 6-7, ¶ 12

The parties further agree that the above language remains in effect, and is adopted herein insofar as the terms that originally appeared in the 11/16/2005 Consent Order remain in effect in this Order.

The parties further acknowledge and agree that this Court retains jurisdiction for the purpose of enforcing the terms and provisions of this Consolidated Consent Order.

4. The Sheriff is required to provide all requested information concerning the jail to the County Executive, County Commission, plaintiffs, and the Court, specifically including: (1) quarterly quality assurance reports; (2) daily reports concerning deployment of officers at the jail; (3) monthly meal census reports and other food services reports that the Sheriff compiles; (4) daily population reports; and (5) lieutenant's reports, including information concerning overtime, compiled on a weekly basis.<sup>18</sup>

5. The Sheriff will submit to the Court and the parties a population census used for effective capacity purposes for the last day of each month, including the number of pre-classification, infirmary, and special housing inmates. However, pre-classification, infirmary and special housing inmates are not to be counted against effective capacity. The Sheriff will also submit the numbers of inmate releases under each classification for each month.<sup>19</sup>

6. At the request of the Court, the Sheriff shall provide all records related to daily deployment of civilian and security staff at the Jail, including all records on overtime.<sup>20</sup>

7. The Director of Jails shall provide written notification to the Court and counsel for the parties within forty-eight (48) hours after any instance when a Sheriff's deputy staffing shortage has caused a reduction of services and/or benefits to inmates generally provided in the ordinary course of the Jail's operation. Reductions in services requiring notification include, but are not necessarily limited to, reduced staffing levels on housing units (e.g., midnight staffing during a day or afternoon shift), lockdowns, reduction or elimination of attorney or family visits, access to recreation or library facilities, access to medical care, and/or access to the opportunity to post bond. Such notice does not mean that a violation of the Consent Order has or has not occurred.<sup>21</sup>

8. The agreement by the parties to the modifications set out in the October 6, 2009 Order Modifying Consent Order, including as now set out in paragraphs I.B.2.a., I.B.2.b., VII.A.-D., F. and G., III.B.1.h., III.D.6., III.D.7.a., III.D.8., II.B.2.b., II.C.3., V.I., and Appendices 1 and 2 hereof, is without prejudice to their rights to bring or maintain a

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<sup>18</sup> 6/11/2009 Order Modifying Consent Order, p 2, ¶ 5

<sup>19</sup> 6/11/2009 Order Modifying Consent Order, pp 2-3, ¶ 9. Although this language from the 6/11/2009 Order has been retained, the parties acknowledge that the "effective capacity" concept has been effectively eliminated as a method of controlling inmate population. See footnotes 72, 82.

<sup>20</sup> 11/16/2005 Consent Order, p 4, ¶ 5

<sup>21</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 6

challenge to the maintenance or continuation of this Order, and the parties do not waive any rights.<sup>22</sup>

**9.** The parties have agreed that, without waiving any of their rights to seek to modify or terminate this Order in the future, this Order, as may be later modified, shall continue to govern the jail facilities existing as of January 6, 2011, until they are closed. The parties have further agreed that this Order shall not govern or apply in any way to new jail facilities. Once the currently existing jail facilities have been closed, this Order shall automatically terminate.<sup>23</sup>

**10.** Therefore, subject to further requests to modify and/or terminate this Order, this Order shall remain in effect and shall govern jail facilities existing as of January 6, 2011, but shall not govern a new jail facility or apply to the operations of a new jail facility.<sup>24</sup>

**11.** This Order shall automatically terminate when the jail facilities existing as of January 6, 2011, are closed, without further order of the Court.<sup>25</sup>

**12.** Periodic meetings in which the parties have participated shall continue.<sup>26</sup>

## **II. STAFFING**

### **A. In General**

**1.** Absent closure of jail facility, closure of one or more inmate housing areas, or other circumstances that result in a permanent or long term reduction in the inmate population of the Wayne County Jail, the CEO shall provide in its budget for the jail funding or the level of staffing for Jail Divisions I, II, and III set forth in the staffing plans in paragraphs II.B.-D. below.<sup>27</sup>

**2.** All security and civilian positions provided for below, including health services positions required to comply with paragraph VII below, shall be included by the CEO and Commission in the County's adopted budget for the jail. The CEO shall ensure that vacant positions are approved to be filled and that all other steps within the CEO's control to fill a position are taken within 30 days after a requisition is received.<sup>28</sup>

**3.** The Sheriff shall adhere to and deploy staff in accordance with the staffing plan for Divisions I, II, and III, as specified in paragraphs II.B. and C. below. This does not limit the Sheriff's ability to redeploy security staff as specified in paragraph II.B.2.a. and b. below or to redeploy civilian staff due to unforeseen emergencies for a limited time.

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<sup>22</sup> 10/06/2009 Order Modifying Consent Order, p 5, ¶ 10

<sup>23</sup> 1/06/2011 Stipulation and Order Regarding Termination of Consent Order, p 2, ¶ 5

<sup>24</sup> 1/06/2011 Stipulation and Order Regarding Termination of Consent Order, p 2, ¶¶ 1, 2

<sup>25</sup> 1/06/2011 Stipulation and Order Regarding Termination of Consent Order, p 2, ¶ 3

<sup>26</sup> 1/30/2015 Order, p 3

<sup>27</sup> 11/16/2005 Consent Order, p 3, ¶ 3 and its Exhibit D.

<sup>28</sup> 11/16/2005 Consent Order, pp 3-4, ¶ 3

The Director of Health Services shall be notified if the re-deployment of staff impacts delivery of health services.<sup>29</sup>

4. The parties shall develop and maintain an expedited hiring process for filling jail personnel vacancies, whereby the application process is “user friendly” such as an electronic application process.<sup>30</sup>

5. The parties shall address the high number of sick leave calls that are not investigated and develop and maintain a plan for addressing this issue.<sup>31</sup>

**B. Security Staffing<sup>32</sup>**

**1. Security Staffing Levels**

- a. Except as otherwise provided below, the total number of sworn officers required at the jail (all Divisions) shall consist of 4 commanders, 17 lieutenants, 47 sergeants, and 574 police officers, for a total of 642 uniformed personnel.<sup>33</sup>
- b. In order to accomplish the goals set forth in paragraph III.A.2.a., eleven (11) jail budgeted positions shall be added to the Consent Order staffing plan only for the purpose of staffing the floor housing the mental health step down unit.<sup>34</sup>
- c. Consistent with paragraph III.A.3., the staffing provisions of the Consent Order shall be modified to add ten police officer positions to be utilized only to provide security and other services to housing units opened to provide inmates under eighteen years of age (“Youthful Inmates”) with housing that does not have sight, sound or physical contact with adult inmates pursuant to the Prison Rape Elimination Act (“PREA”). To the extent that the number of Youthful Inmates declines such that the number of housing units set aside for Youthful Inmates decreases, such staff will be redeployed within the jail to reduce overtime.<sup>35</sup>
- d. To the extent that inmate population levels fall such that additional housing units may be closed, the Sheriff is authorized to close additional housing

<sup>29</sup> 11/16/2005 Consent Order, p 4, ¶ 4, with references added to modifications appearing below.

<sup>30</sup> 1/30/2015 Order, p 2

<sup>31</sup> 1/30/2015 Order, p 2

<sup>32</sup> This section incorporates numerous changes made to security staffing provisions in the Consent Order. To preserve for reference the sequence, timing, and substance of those changes, the attached Appendix 1 sets out in full the original language regarding security staffing from the 11/16/2005 Consent Order and subsequent modifying orders.

<sup>33</sup> 7/25/2011 Order Modifying Consent Order, p 1, ¶ 1.

<sup>34</sup> 7/23/2012 Amended Consent Order, p 2, ¶ 1, modified by 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 7.

<sup>35</sup> 6/18/2013 Stipulated Order Modifying Consent Order

units, in which case the Sheriff shall make corresponding reductions in the number of uniformed staff.<sup>36</sup>

- e. The Sheriff and CEO shall continue to work together in good faith in an attempt to negotiate further, appropriate, staffing reductions at the jail.<sup>37</sup>
- f. During the course of the parties' discussions in 2011 concerning the staffing plan, a written staffing plan was circulated among the parties and their counsel. That plan (the "2011 staffing plan") describes jail security postings and shall be deemed confidential. The only persons authorized to review and maintain the 2011 staffing plan are the Court and Court staff, the Wayne County parties, their counsel, and counsel for the plaintiffs. The 2011 staffing plan or its contents shall not be disseminated to any other person or entity without the consent of the Wayne County Sheriff. The 2011 staffing plan shall not be filed with this Court, except under seal.<sup>38</sup>
- g. The Court finds that the security staff to inmate ratio set out in the 2011 staffing plan is appropriate. The Sheriff shall not modify the housing unit security staff to inmate ratios without further authorization of the Court.<sup>39</sup>

## **2. Deployment of Security Staff**

### **a. External Re-Deployment**

- i. The Sheriff will assign to work in the jail the number of officers sufficient to fill all jail budgeted positions without the need for backfill overtime, except that when vacancies exist that preclude the Sheriff from staffing all budgeted positions/duties within the Sheriff's Office, officers may be assigned or remain assigned to budgeted positions/duties outside the jail.<sup>40</sup>
- ii. Notwithstanding anything to the contrary in paragraph II.B.2.a.i. above, the Sheriff may deploy or re-deploy officers who occupy jail budgeted positions to unbudgeted positions/duties outside the jail, without violating the Consent Order, only as specified in paragraph II.B.2.a.iii.-vi. below. Otherwise, all officers who occupy jail budgeted positions shall be assigned to jail budgeted positions, except as set out in paragraph II.B.2.b., below.<sup>41</sup>

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<sup>36</sup> 7/25/2011 Order Modifying Consent Order, p 2, ¶ 2

<sup>37</sup> 7/25/2011 Order Modifying Consent Order, p 2, ¶ 3

<sup>38</sup> 7/25/2011 Order Modifying Consent Order, p 2, ¶ 4

<sup>39</sup> 7/25/2011 Order Modifying Consent Order, p 2, ¶ 5

<sup>40</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 2, ¶ 1

<sup>41</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 2, ¶ 2



- iii.** The Sheriff may re-deploy officers who occupy jail budgeted positions to temporary duty in the Third Circuit Court (excluding Friend of the Court) as needed on a daily basis as follows:
- a)** To replace court officers who are absent due to sick time, annual leave, FMLA leave and other leave permitted under the applicable Collective Bargaining Agreements so as to ensure that the Sheriff and County can meet the level of assignments required to fill all positions related to the daily operational needs of the court;
  - b)** To augment court officer staff as required for high profile or multiple defendant/jury trials or sentencings.<sup>42</sup>
- iv.** Such re-deployments are permitted on the condition that the Sheriff's Office will be reimbursed for them from the Third Circuit Court's Part B budget at the backfill overtime rate, consistent with the Agreement between the County of Wayne and Third Circuit Court of Michigan. Re-deployments to the Friend of the Court will be addressed in accordance with the County/Court FOC agreement with the State.<sup>43</sup>
- v.** The Sheriff may re-deploy officers who occupy jail budgeted positions to temporary duty as needed on a daily basis to staff the 36<sup>th</sup> District Court courtrooms within the Frank Murphy Hall of Justice consistent with the County's agreement with the 36<sup>th</sup> District Court as approved by the Wayne County Commission on March 17, 2016, or until such time as the County determines that Sheriff's officers will no longer staff these courtrooms.<sup>44</sup>
- vi.** The Sheriff may temporarily re-deploy officers who occupy jail budgeted positions or deploy off-duty officers to overtime details outside of the jails as follows, provided that the Sheriff has first utilized all available officers who occupy budgeted positions outside the Jail, with the understanding that some of these deployments require specialized training and will therefore require the deployment of officers that possess the specialized training, irrespective of where the officer is assigned:
- a)** To an emergency in which the Sheriff has a statutory obligation to respond, such as the recovery of a dead body – pursuant to MCL 51.301 Recovery of drowned bodies; jurisdiction of police chiefs and sheriffs, duties, expenses.

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<sup>42</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 2, ¶ 3

<sup>43</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, pp 2-3, ¶ 3

<sup>44</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 3, ¶ 4. [Language modified to reflect the subsequent referenced agreement].

- b) Members of the Special Response Team to an emergency, such as a gunman in a County building.
  - c) Officers trained as Honor Guard to funerals and public ceremonies for County Government – such as for the Commission and the CEO.
  - d) To provide additional or replacement security/special services for the Wayne County Clerk’s Office, the Wayne County Treasurer’s Office or the Wayne County Commission, upon specific request from the Office or the Commission and on the condition that the Office or the Commission reimburses the Sheriff’s Office for the cost of the deployment. In the event the deployment results in the expenditure of backfill overtime in the Jail, the entity acquiring the use of the officer(s) shall reimburse the Sheriff’s Office at the backfill overtime rate.<sup>45</sup>
- vii. For purposes of Paragraph II.B.2.a.vi. above, “available officers who occupy budgeted positions outside the Jail” shall exclude officers as follows:
- a) Officers assigned to positions in the courts.
  - b) Officers assigned to positions in Internal Affairs.
  - c) Officers assigned to positions in the Training Unit if such deployment would interfere with a pre-scheduled training activity, such as a Jailers Training class.
  - d) Officers assigned to Communications/Dispatch.
  - e) Officers assigned to the Phone Bank.
  - f) Officers assigned to Community Transportation.
  - g) Officers assigned to and paid for from the budget of an elected county official, other than the Sheriff.<sup>46</sup>

**b. Internal Re-Deployment**

The Director of Jails shall maintain established minimum floor security staff ratios.<sup>47</sup> So long as consistent with this requirement, the Director of Jails may temporarily re-deploy officers who occupy jail budgeted positions

<sup>45</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 3, ¶ 5

<sup>46</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 4, ¶ 6

<sup>47</sup> See 10/6/2009 Order Modifying Consent Order, p 5, ¶ 8.E. and ¶ II.B.1.g. above. See also 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 7 (final paragraph).

within the jail to address the population level, the health, safety and welfare of inmates and jail personnel and the overall security of the jail, while at the same time actively working to minimize the use of overtime and reduce inmate population.<sup>48</sup> Temporary re-deployments within the jail of officers who occupy jail budgeted positions are limited to the following:

- i.** The Director of Jails may temporarily re-deploy officers beyond the 2011 staffing plan, as amended, to provide security for additional housing units opened due to increased population or based on inmate classification distributions, according to the staffing ratios approved by the Court.
- ii.** The Director of Jails may temporarily re-deploy officers beyond the 2011 staffing plan, as amended, to provide supplemental security as required to replace malfunctioning security cameras and essential related equipment only until such cameras and equipment are repaired or replaced.
- iii.** The Director of Jails may temporarily re-deploy officers to support positions beyond those specified in the 2011 staffing plan, as amended, only as follows:
  - a)** The Director of Jails may temporarily re-deploy officers for the purpose of processing inmates and individuals remanded to the jail more quickly so as to avoid or minimize jail time – such as staff for classification, registry and processing of bonds.
  - b)** The Director of Jails may temporarily re-deploy officers beyond the 2011 staffing plan, as amended, as necessary to staff the following positions that are otherwise to be staffed by civilians consistent with the 2005 civilian staffing plan, as amended: inmate clothing, linen exchange, supply and laundry.
  - c)** The Director of Jails may temporarily re-deploy officers for the purpose of providing security that allows Jail Health Services staff to complete intake medical and mental health assessments as required by the Consent Order.
  - d)** The Director of Jails may temporarily re-deploy officers as needed to provide security at hospital locations for inmates who have been hospitalized, or are transported to outpatient medical appointments, at the direction of Jail Health Services.
  - e)** The Director of Jails may temporarily re-deploy officers to conduct

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<sup>48</sup> This sentence and the remainder of this sub-¶ II.B.2.b are found in 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, ¶ 7.a.-c., pp 4-6.

periodic safety and security inspections of housing units.

- f)** The Director of Jails may temporarily re-deploy officers to accompany nurses on medication distribution rounds within the housing units, only when existing floor security officers are not available to assist in supervising medication distribution.
- g)** The Director of Jails may temporarily re-deploy an additional officer, per shift, to provide enhanced security in the Jail I kitchen.
- h)** The Director of Jails may temporarily re-deploy officers to conduct fire safety inspections pursuant to MDOC administrative rules for jails.
- i)** The Director of Jails may temporarily re-deploy officers for conducting additional rounds on housing units designated for youthful offenders and/or who are diagnosed as mental health consumers.
- j)** The Director of Jails may temporarily re-deploy officers to serve as authorized instructors for Jailer Training academies, only if all qualified/certified officers who occupy non-jail budgeted positions are first exhausted.
- k)** The Director of Jails may temporarily re-deploy officers to engage in and complete in-service training necessary to meet the mandatory requirements of the Michigan Sheriff's Coordinating and Training Council (MSCTC), the Michigan Commission on Law Enforcement Standards (MCOLES), and the Consent Order.
- l)** The Director of Jails may temporarily re-deploy officers in cases where augmentation of a Special Sexual Assault Response Team ("SART") as defined in the Prison Rape Elimination Act ("PREA") is required.
- m)** The Director of Jails may temporarily re-deploy officers to engage in attending organized recruiting events, including job fairs, and events that involve tests being administered to potential job applicants.
- n)** The Director of Jails may temporarily re-deploy officers to transport inmates to and from educational programs (ABE/GED) within the downtown jails and to provide security/supervision for inmates while they are attending such educational programs.
- o)** The Director of Jails may temporarily re-deploy officers to participate in implementation and/or training related to

implementation of the new Jail Management System (“JMS”), within the budget approved for implementation of the JMS.

iv. The Director of Jails shall not re-deploy officers within the jail other than as provided in Paragraph II.B.2.b.i.-iii. of this Order, except in true emergencies, such as riots and insurrections. Re-deployments to address a true emergency may continue only until the true emergency has ceased.<sup>49</sup>

c. Notwithstanding anything else herein to the contrary, the Sheriff’s adherence to the provisions of the various collective bargaining agreements applicable to employees assigned to work in the jail and specifying the terms and conditions of their employment shall not constitute a violation of this Order.<sup>50</sup>

d. The provisions above do not limit the Sheriff’s ability to temporarily re-deploy staff for a limited time due to unforeseen emergencies or circumstances outside of the jail, such as natural or public health disasters, power blackouts, terrorist attacks, riots, mass demonstrations, hazardous material spills, airplane crashes, a threat to the life or health of a public official, or relief of a governmental agency’s special response unit in an extended barricaded gunman situation.<sup>51</sup>

e. As used herein the term “officers” may include deputies, corporals, sergeants, lieutenants, captains and commanders.<sup>52</sup>

### **3. Security Staff Hiring**

a. No officer vacancy shall remain unfilled.<sup>53</sup>

b. The parties shall develop and maintain a plan for hiring unfilled officer positions. This plan shall be an aggressive and constant marketing plan to recruit applicants to fill the growing number of vacancies. This plan must include a sufficient but expedited background check process.<sup>54</sup>

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<sup>49</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 6, ¶ 7.d.

<sup>50</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 6, ¶ 8

<sup>51</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 6, ¶ 9

<sup>52</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 6, ¶ 10

<sup>53</sup> 1/30/2015 Order, p 2

<sup>54</sup> 1/30/2015 Order, p 2

## C. Civilian Staffing

### 1. Civilian Staffing Plan<sup>55</sup>

#### Administration (Civilian)

Title	#
Director of Jails	1
Assistant Director of Jails	1
Classification Director	1
Department Supervisors	2
Department Supervisor IV/Jail Services	1
Department Supervisor I/Jail Services	1
Jail Maintenance Manager	1
Jail Compliance Manager	1
Service Worker Supervisor	1
Service Worker 2	1
Service Workers	9
Librarian	1
Librarian Assistant	1
Painters	2
Personnel Officer	1
Public Health Sanitarian 1	1
Public Works Maintenance Worker	1
Social Services Specialists	2
Storekeepers	3
Clerks	7
Account Clerks	4
Clerical Specialist	1
Administrative Secretary	2
Typist	2
Stenographer	1

<sup>55</sup> 11/16/2005 Consent Order at Exhibit D.

## 2. Civilian Staff Appointments

All the following appointments will be made by the Sheriff: Director of Jails, Director of Food Service,<sup>56</sup> Director of Inmate Classification and the Maintenance Manager and Quality Assurance Administrator all of whom will serve as employees at will. See Appendix 3.<sup>57</sup>

## 3. Director of Jail Operations

The Director of Jails shall be answerable to the Sheriff on all matters relating to Sheriff's Office operations not specifically addressed in this Order regarding these premises.<sup>58</sup>

## 4. Quality Assurance Administrator

The Sheriff shall exercise sole authority to select and appoint the Quality Assurance Administrator (formerly known as the "Internal Compliance Monitor"). The Quality Assurance Administrator shall be considered an employee at-will and the Quality Assurance Administrator shall report to the Director of Jails for duty assignments on a day to day basis. On a quarterly basis, the Quality Assurance Administrator shall prepare and submit to the Director of Jails a report of compliance with orders and related institutional policies and procedures. Copies of the report shall be submitted to the CEO, County Commissioners, and the Court. The Quality Assurance Administrator shall have access to all County and jail records bearing on matters of compliance as well as the full cooperation of all staff and officials of the defendants with regard to all inquiries pertaining to compliance with order of this Court. The Quality Assurance Administrator may conduct confidential interviews with the Defendants, their employees, and officials and with inmates housed in the Jail.<sup>59</sup>

## D. Buildings Staffing

### 1. Buildings Staffing Plan<sup>60</sup>

#### **Staffing for Jail Buildings: Division I**

Title	#
Electricians	1

<sup>56</sup> Under the 08/31/2009 Order Modifying Consent Order, p 1, ¶ 2, "All previously ordered requirements for the staffing of jail food services are vacated." Such requirements were previously provided for in the 4/9/1987 Final Judgment at p 23, ¶ IX and in the 11/16/2005 Consent Order at pp 3-4, ¶ 3 and Exhibit D. See also the 10/06/2009 Order Modifying Consent Order at p 2, ¶ 1 (which vacated ¶ IX of the 4/9/1987 Final Judgment). To the extent the County budget provides for a Director of Food Service for the Jails, however, this provision applies.

<sup>57</sup> 11/16/2005 Consent Order, p 4, ¶ 8 and its Exhibit E at p 4, ¶ 2; pp 6-7, ¶ 5; p 8, ¶ 7.f.

<sup>58</sup> 10/06/2009 Order Modifying Consent Order, p 5, ¶ 8.F.

<sup>59</sup> 11/16/2005 Consent Order, pp 4-5, ¶ 6

<sup>60</sup> 11/16/2005 Consent Order at Exhibit D.

Plumbers	1
Carpenters	1
Steamfitters	1 for both Divisions I and II
Iron Worker	1
Painters	1
Refrigeration	1

**Staffing for Jail Buildings: Division II**

<b>Title</b>	<b>#</b>
Electricians	1
Plumbers	1
Carpenters	1
Steamfitters	1 for both Divisions 1 and 2
Ironworker	1
Painters	1
Refrigeration	1

**Staffing for Jail Buildings: Division III**

<b>Title</b>	<b>#</b>
Electricians	2
Plumbers	1
Carpenters	1
Steamfitters	1
Ironworkers	1
Painters	1
Refrigeration	2

**2. Regular and Augmented Buildings Staffing**

- a.** The Wayne County Buildings Division shall provide dedicated trades staff to address ongoing preventative and routine maintenance at the jail.



Dedicated trades staff shall be augmented by the Buildings Division as necessary to address ongoing preventative and routine maintenance needs.<sup>61</sup>

- b. The Wayne County Buildings Division shall augment dedicated trades personnel at Divisions I and II as necessary to carry out ongoing ward reconditioning.<sup>62</sup>
- c. There are Sheetmetal, Plasterer and a Mason that work in all 3 Jails but they are not assigned to a particular Jail. The information in the chart under paragraph II.D.1 shows the personnel that are normally assigned. Depending on certain projects being done or certain maintenance issues that need to be addressed, there are several occasions when more than the assigned trades are working in the Jails. There are also Laborers and Service Workers who do work in all 3 Jails when the situation calls for them to do so. The Sheriff Administration Building is also covered by the Buildings Division Staff.<sup>63</sup>

### **III. Population and Housing<sup>64</sup>**

#### **A. Inmate Housing Units**

##### **1. At Divisions I, II and III**

At Division I, all housing floors shall be closed except 4 (mental health), 5 (females/mental health), 6 (inmate workers/females), 8 (mental health step-down unit/medically needy) and 13-14 (pre-classification); at Division II, 1 Old and 7 Annex shall be closed; and at Division III, 3 pods shall be closed. The Director of Jails may open and close housing units within the jail only as necessary to accommodate the actual population of the jail or based on inmate classification distributions. To the extent that inmate population levels fall such that additional housing units may be closed, the Sheriff is authorized to close additional housing units, in which case the Sheriff shall make corresponding reductions in the number of uniformed staff.<sup>65</sup>

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<sup>61</sup> 11/16/2005 Consent Order, p 6, ¶ 11

<sup>62</sup> 11/16/2005 Consent Order, pp 5-6, ¶ 9

<sup>63</sup> 11/16/2005 Consent Order at Exhibit D.

<sup>64</sup> This section incorporates numerous changes made to the population, housing, and conditional release provisions in the Consent Order. To preserve for reference the sequence, timing, and substance of those changes, the attached Appendix 2 sets out in full the original language regarding population, housing, and conditional release of inmates from the 11/16/2005 Consent Order (including incorporated orders dated 4/9/1987, 11/25/1991, and 10/23/1997) as well as subsequent modifying orders.

<sup>65</sup> 7/25/2011 Order Modifying Consent Order, pp 1-2, ¶ 2, modified by 7/23/2012 Amended Consent Order, p 2, ¶¶ 1, 3, and 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 7. Note that the 7/23/2012 Order stated that 6 Annex would be closed, but the parties have agreed that this was a typographical error, and that in fact 7 Annex was closed as a result of the 7/23/2012 Order, and the language has been amended accordingly.

## **2. Mental Health Step-Down Unit**

- a. Consistent with paragraph III.A.1., the Director of Jail Medical Services, Jail Mental Health Administrator and Director of Jails agree that to measurably improve the welfare and safety of inmates who are mental health consumers, or are medically needy, the eighth floor in Jail Division I (Baird Facility) shall remain open to improve the delivery of medically necessary services to the aforementioned inmates.<sup>66</sup>
- b. The Director of Jails, Director of Classification, Director of Jail Medical Services and Jail Mental Health Administrator shall diligently collaborate in monitoring the classification and housing assignment of the referenced inmates who are assigned to housing on the eighth floor in Jail Division I for the purpose of minimizing their risks of being physically assaulted.<sup>67</sup>

## **3. Youthful Inmates**

The Director of Jails is authorized to open housing unit(s) as necessary to provide inmates under eighteen years of age (“Youthful Inmates”) with housing that does not have sight, sound or physical contact with adult inmates pursuant to the Prison Rape Elimination Act (“PREA.”).<sup>68</sup>

## **4. Division II Jail**

The Director of Jails and Director of Classification shall diligently assess the assignment of inmates to housing units in Jail Division II (Old Jail) for determining the feasibility of closing housing units in Jail Division II that allows for a reduction of officers. Upon the Director of Jails making a determination that closing the housing units is feasible and in the best interest of maintaining safety and security inside of the jails and shall result in the reduction of officers, the Sheriff is authorized to close the housing units in Jail Division II.<sup>69</sup>

## **5. Ongoing Monitoring of Population/Housing Unit Needs**

The Director of Jails and the Court shall monitor the population in the jail on an ongoing basis to determine the appropriate level of housing unit closures/openings. To facilitate this, the Director of Jails shall regularly, but not less than weekly, inform the Court and CEO regarding the jail population and the status of housing unit closings/openings. The Director of Jails shall also make such population and housing unit closing/opening information available to the other Parties to this matter and their counsel upon request.<sup>70</sup>

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<sup>66</sup> 7/23/2012 Amended Consent Order, p 2, ¶ 1, modified by 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 7.

<sup>67</sup> 7/23/2012 Amended Consent Order, p 2, ¶ 2.

<sup>68</sup> 6/18/2013 Stipulated Order Modifying Consent Order, p 2.

<sup>69</sup> 7/23/2012 Amended Consent Order, p 2, ¶ 3.

<sup>70</sup> 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 7

## **B. Inmate Capacity**

### **1. Definition of Inmate Population<sup>71</sup>**

- a.** In determining inmate capacity, the following factors shall be considered.
  - i.** The number of beds available in each building;
  - ii.** Classification of inmates as required by the Michigan Department of Corrections, state statute and this order;
  - iii.** Sanitation and maintenance concerns including, but not limited to, running water, toilets, standing water, cell locks, clothing and linen;
  - iv.** Medical, psychiatric and support staff necessary to service the inmate population;
  - v.** Security staff necessary for the health, safety, welfare and security of the inmates and staff of the facility.<sup>72</sup>
  - vi.** Vacancy rates of 10% for classification purposes for both Divisions I and II.<sup>73</sup>
- b.** Inmate capacity of “individual cell housing units” is one person per cell and not more than one inmate will be permitted in such a cell.<sup>74</sup>
- c.** Inmate capacity of “double bunking housing units” is to be governed by the state statutes governing the number of inmates per cell.<sup>75</sup>

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<sup>71</sup> 4/9/1987 Final Judgment, pp 3-4, ¶ II.A.1.

<sup>72</sup> Note that the language that appeared just below this in the 4/9/1987 Final Judgment at p 4, ¶ II.A.2. now can be found in Appendix 2. That language, among other things, defined the term “effective capacity.”

<sup>73</sup> With regard to Division I, the 11/25/1991 Order at p 8, n 6, as amended by ¶ 2.c. on page 3 of the 11/16/2005 Consent Order states: “For classification purposes, a vacancy rate of 10% is subtracted. This vacancy rate permits separate housing of prisoners in different custody levels and takes into account beds which necessarily will routinely remain vacant in order to accommodate those separations.” With regard to Division II, 11/25/1991 Order at p 8, n 9, states: “In the old jail and annex, there are a large number of classification categories into which prisoners must be separated. Consequently a larger vacancy rate of 10% is used to take into account that factor and thus to permit housing of prisoners in accordance with their assigned custody level.” Note that the footnote referred to a “larger” vacancy rate because, as originally entered, the 11/25/1991 provided for a 5% vacancy rate for Division I. This vacancy rate was later increased to 10% by the 11/16/2005 Consent Order.

<sup>74</sup> 4/9/1987 Final Judgment, p 4, ¶ II.A.3.

<sup>75</sup> 4/9/1987 Final Judgment, p 4, ¶ II.A.4.

- d. Inmate capacity of “dormitory housing units” is ten (10) persons per dormitory and not more than ten (10) inmates will be permitted in such dormitories.<sup>76</sup>
- e. Men shall not be housed in women’s housing units and women shall not be housed in men’s housing units.<sup>77</sup>
- f. No inmate shall sleep on the rock/day room or any other place prohibited by the Department of Corrections regulations.<sup>78</sup>
- g. Anyone determined by any judge or jury to be not guilty by reason of insanity (NGRI), who is not charged or convicted of any other crime, is not to be accepted at the Wayne County Jail. However, any noncompliance with this requirement that results from the failure of the center for forensic psychiatry to accept custody of a person acquitted of a criminal charge by reason of insanity, who is not charged or convicted of any other crime, will not be deemed a violation of this Order. Notwithstanding the above, the parties will continue appropriate efforts to promptly transfer custody of affected inmates to the center for forensic psychiatry consistent with MCL 330.2050.<sup>79</sup>
- h. The Wayne County Sheriff’s Office is prohibited from housing parole absconders unless a contract to house these individuals is approved by the appropriate authorities.<sup>80</sup>

**C. Overcrowding Procedures<sup>81</sup>**

- 1. In situations when the population threatens to exceed the inmate capacity, the Sheriff shall look for means of reducing the population including obtaining alternative housing.
- 2. The County shall assist the Sheriff in these efforts.
- 3. When alternative housing is needed on a temporary basis, the County shall pay necessary costs.
- 4. Alternative housing for mentally ill or potentially suicidal inmates shall be sought by the Sheriff, including transfer to the forensic center or release by the courts.

<sup>76</sup> The parties acknowledge that this language from the 4/9/1987 Final Judgment, p 4, ¶ II.A.5., preceded the construction of Jail Division III and does not apply to dormitory housing units in Division III.

<sup>77</sup> 4/9/1987 Final Judgment, p 4, ¶ II.A.6.

<sup>78</sup> 4/9/1987 Final Judgment, p 4, ¶ II.A.7.

<sup>79</sup> 4/9/1987 Final Judgment, p 4, ¶ II.A.8., as modified by 7/25/2017 Stipulated Order Modifying Consent Order.

<sup>80</sup> 10/06/2009 Order Modifying Consent Order, p 3, ¶ 4.

<sup>81</sup> 4/9/1987 Final Judgment, pp 4-5, ¶ II.B.

5. The Sheriff has discretion as to where inmates are to be housed outside the Wayne County Jail. Within forty-eight (48) hours before such transfer, the inmate's lawyer(s) will be notified.

#### **D. Conditional Release of Inmates**

1. The Director of Jails shall release a sufficient number of inmates to comply with paragraph III.A.-C. This order shall not be construed, however, to preclude the defendants from exercising any duty imposed upon them or authority granted to them, by 1982 PA 325, Overcrowding of County Jail State of Emergency Act.<sup>82</sup>

2. The Director of Jails shall establish a procedure for establishing priorities and for effecting releases of inmates. In general, those inmates who pose the least threat to public safety should be first released; provided however, that no person housed in the jail upon conviction of contempt of court shall be released pursuant to this order.<sup>83</sup>

3. Subject to the preceding sub-paragraph, the Director of Jails shall consider the categories recommended by the Wayne County District Judges' Association, the Wayne County Chiefs of Police and the Court in establishing priorities governing release decisions, as amended, which are as follows, with persons in lower number categories given priority on available jail space:<sup>84</sup>

Category One	persons convicted of contempt <sup>85</sup>
Category Two	alternative work force violators from either the County program or other community work force program with a twenty day limit
Category Three	pretrial violent felons
Category Four	pretrial property felons with capias history
Category Five	a misdemeanor allotment of 360 beds (50% to City of Detroit, 50% to other Wayne County communities)
Category Six	pretrial property or drug possession felons
Category Seven	sentenced felons

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<sup>82</sup> 11/25/1991 Order, p 9. The first sentence of this sub-paragraph has been modified to reflect that the concept of "effective capacity" has been effectively eliminated as a method of controlling inmate population. See footnotes 19, 72. Rather, inmate population currently is managed under ¶ III of this Order. See similarly, ¶¶ III.D.4., 5. and 7.a.

<sup>83</sup> 11/25/1991 Order, p 9

<sup>84</sup> 11/25/1991 Order, p 10. See Appendix A of 11/25/1991 Order (attached to this Order as Appendix 4), as amended by the 6/11/2009 Order Modifying Consent Order, p 2, ¶ 8.

<sup>85</sup> See ¶ III.D.2. above.

Category Eight	persons committed for civil Friend of the Court violations
Category Nine	sentenced misdemeanants other than those included in the allotment
Category Ten	pretrial misdemeanants other than those included in the allotment

4. To comply with paragraph III.A.-C., hospitalized inmates whose classification level meets the criteria for conditional release may be released prior to the release of other inmates who meet the same classification criteria, upon recommendation of the Director of Jail Health Services and upon approval of the committing Judge or his or her alternate.<sup>86</sup>

5. To comply with paragraph III.A.-C., and prior to the Director of Jails exercising his release authority under the provisions of this Order, the Director of Jails may condition release upon participation by an individual in the Third Circuit Court's Pretrial Services Unit Telephone Monitoring Program, where the individual does not otherwise require supervision by the Sheriff under the tether program and whose conditional release is pending.<sup>87</sup>

6. The Director of Jails upon the authority of this Court as its designee may divert eligible pre-trial felons, who have been arraigned for Third Circuit Court probation violations, to appropriate and available community corrections facilities.<sup>88</sup>

7. Notwithstanding the provisions of any County Ordinance to the contrary, and notwithstanding previously issued conditional release priorities, the Director of Jails upon the authority of this Court as its designee:

- a. May administratively release and/or divert eligible pre-trial and convicted misdemeanants and ordinance violators to comply with paragraph III.A.-C.;<sup>89</sup>
- b. May release pre-trial felony defendants who can pay for bond related to felony charges, but cannot pay for the bonds, or have outstanding warrants, related to non-violent misdemeanor or traffic offenses;<sup>90</sup>
- c. May release pre-trial felony defendants who have Michigan Department of Corrections holds (parole detainers) and are eligible for alternatives to jail,<sup>91</sup> and

<sup>86</sup> 6/11/2009 Order Modifying Consent Order, p 2, ¶ 6

<sup>87</sup> 6/11/2009 Order Modifying Consent Order, p 2, ¶ 7

<sup>88</sup> 10/06/2009 Order Modifying Consent Order, p 3, ¶ 5

<sup>89</sup> 10/06/2009 Order Modifying Consent Order, p 3, ¶ 6

<sup>90</sup> 12/18/2009 Order Modifying Consent Order Authorized on 10/06/2009, p 2, sub¶ a).

<sup>91</sup> 12/18/2009 Order Modifying Consent Order Authorized on 10/06/2009, p 2, sub¶ b)

- d. May conditionally release to community based alternatives to jail sentenced felons, pretrial and sentenced misdemeanants and ordinance violators who have outstanding warrants related to non-violent misdemeanor or traffic offenses<sup>92</sup>

8. If the Wayne County Commission modifies Ordinance #95-315, the parties shall so notify the Court and set a hearing to evaluate the impact, if any, of such modification on this Court's orders.<sup>93</sup>

**9. Conditions of Release<sup>94</sup>**

- a. All inmates released pursuant to paragraphs III.D.1.-7. above shall have the following minimum conditions imposed upon their release (hereinafter referred to as "minimum conditions of release"):
  - i. The inmate shall appear as required;
  - ii. The inmate shall not leave the State of Michigan;
  - iii. The inmate shall not commit any crime while released;
  - iv. The inmate shall comply with any injunctive order(s) and/or other conditions of bond, (except the requirement of money bail) previously imposed on the inmate by any other court of competent jurisdiction;
  - v. The inmate shall not possess a firearm or other dangerous weapon;
  - vi. The inmate shall not use alcohol or illicitly use any controlled substance.
- b. In addition to the minimum conditions of release, the Director of Jails may impose other conditions, which may include one or more of the following components: day reporting, drug rehabilitation (in-patient and/or out-patient), home tethering and monitoring services, drug testing, mental health treatment, those conditions set forth in Michigan Court Rule 6.106(D)(2), and/or any other conditions of release approved by the Court.
- c. The Director of Jails shall refer inmates eligible for release pursuant to paragraph III.D.1.-7. above to:
  - i. The Department of Community Justice (DOCJ). The director of DOCJ or his/her designee shall determine the inmate's eligibility for DOCJ operated supervised release programs and specification of the

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<sup>92</sup> 12/18/2009 Order Modifying Consent Order Authorized on 10/06/2009, p 2, sub¶ c)

<sup>93</sup> 10/06/2009 Order Modifying Consent Order, p 3, ¶ 6

<sup>94</sup> 10/23/1997 Order Regarding Conditional Release of Inmates, pp 1- 4, ¶¶ 1-11

conditions for their conditional supervised release into any such program; or,

**ii.** Such other program as may be approved by the Court.

**d.** All inmates released under this paragraph III.D. shall receive written notice of any conditions imposed upon their release and that destroying or disabling home tethering/monitoring equipment or that failure to comply with any condition will result in immediate arrest and re-incarceration.

**e.** Any inmate under this paragraph III.D. who the Director of Jails (or the person performing that function) or his/her designee (as approved by the Court), determines has failed to comply with a condition of their release or who destroys or disables home tethering/monitoring equipment, shall be subject to immediate arrest and re-incarceration. If after the Director of Jails makes such a determination, the inmate is not immediately arrested and re-incarcerated, this sub-paragraph III.D.9.e. constitutes authorization for the entry of an arrest warrant in the Law Enforcement Information Network (LEIN) that is valid only until the inmate's next scheduled court date.

**i.** Within 24 hours of re-incarceration, the inmate shall be provided with a written statement in duplicate (hereinafter "Notice of Violation"), setting forth the facts which form the basis for the Director of Jails' determination that the inmate failed to comply with a condition(s) of release or destroyed or disabled home tethering/monitoring equipment. A copy of the Notice of Violation shall be mailed to the inmate's attorney of record, if known, within 24 hours of re-incarceration.

**ii.** The Notice of Violation shall be on a form approved by the Court and in addition to the factual assertions required by sub-paragraph III.D.9.e.i. above, shall include the following:

**a)** Notice to the inmate that he/she may, within 7 days of re-incarceration, request in writing a hearing before the Court to determine whether the inmate has failed to comply with a condition of release or destroyed or disabled home tethering/monitoring equipment.

**b)** Notice to the inmate that upon timely request, the hearing will be held within 28 days of re-incarceration.

**c)** A verification that within 24 hours of re-incarceration in the County Jail, the inmate was provided with the Notice of Violation and that a copy of the Notice of Violation was mailed to the inmate's attorney of record.



- d) Sufficient space for the inmate to utilize a copy of the Notice of Violation for the purpose of requesting the hearing before the Court.
- iii. The Director of Jails shall utilize, in implementing this sub-paragraph III.D.9.e., the Notice of Violation form and the written procedures previously developed consistent with sub-paragraph 5.c. (pages 3-4) of the October 23, 1997 Order Regarding Conditional Release of Inmates. The written procedures are to be followed by jail personnel in delivering the Notice of Violation to inmates (and their attorney) and receiving from inmates and forwarding to the Court, any written request for a hearing.
- f. Any inmate who is arrested and re-incarcerated under the foregoing provisions, may request a hearing before the Court within 7 days of re-incarceration in the Wayne County Jail.
- g. Upon timely written request by an inmate, a hearing will be held by the Court at the jail facilities within 28 days of re-incarceration. The hearing will be limited to determining whether the inmate has failed to comply with a condition of release or destroyed or disabled home tethering/monitoring equipment.
- h. An inmate has the right to have counsel present at the hearing. House counsel will be provided for inmates who have court-appointed counsel.
- i. The Director of Jails and the Director of the Community Justice Department shall include the following in their monthly reports to the Chief Judge of the 3<sup>rd</sup> Circuit Court and all other parties:
  - i. The number of released inmates in compliance with the conditional release program; and
  - ii. The number of released inmates who were re-incarcerated for failure to comply with the requirements of the conditional release program.
- j. The imposition of conditions of release by the Director of Jails shall not impede or delay releases that are necessary to maintain the population, except that every such release shall include, at a minimum, the “minimum conditions of release” set forth in paragraph III.D.9.a.i.-vi. above.
- k. This paragraph III.D.9. does not, and shall not be construed to relieve the defendants of the responsibility for complying with paragraph III.A.-C. above.

1. In addition, the Director of Jails or the Court approved designee, is hereby ordered to enter, in the Law Enforcement Information Network (LEIN), a notice of an arrest warrant for a sentenced offender who has violated the conditions of the release, by filing an affidavit of non-compliance. The notice and LEIN entry will remain valid for seven years or until arrest.<sup>95</sup>

#### **IV. Physical Plant and Sanitation<sup>96</sup>**

##### **A. Status of 525 Clinton Street and Jail Maintenance Needs**

The Wayne County Jail located at 525 Clinton shall be in compliance with applicable State of Michigan and City of Detroit housing and building codes and rules of the Michigan Department of Corrections.<sup>97</sup>

##### **B. Physical Maintenance**

1. The parties shall comply with the maintenance staffing levels in paragraph II.D. of this Order and work together to develop a comprehensive maintenance plan, which will cover the physical plant as well as all machinery and equipment used to operate all divisions of the jail.<sup>98</sup>

2. Defendants shall develop and maintain written policies and procedures to ensure ongoing and timely preventative and routine maintenance attention to all equipment and physical plant structures throughout Divisions I and II, including, but not limited to, all electrical, heating, air conditioning, ventilation and refrigeration systems.<sup>99</sup>

3. All leaky plumbing shall be promptly repaired and maintained in good working order.<sup>100</sup>

4. All locking mechanisms and security locking mechanisms shall be maintained in good working order. The Sheriff shall cause cell doors to be locked during sleeping hours and at other reasonable times upon the request of an inmate for purposes of personal safety.<sup>101</sup>

5. The kitchen area shall be properly maintained in accordance with state and

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<sup>95</sup> 11/16/2005 Consent Order, p 3, ¶ 2.d.

<sup>96</sup> 4/9/1987 Final Judgment, pp 6-8, ¶ V.

<sup>97</sup> 4/9/1987 Final Judgment, p 6, ¶ V.A.1. The parties agree that this language from the 1987 Final Judgment was put in place when Division I was newly constructed and before Division III was constructed. This language does not imply that Divisions I and III are excused from compliance with applicable State of Michigan and City of Detroit (or City of Hamtramck) housing and building codes and rules of the Michigan Department of Corrections.

<sup>98</sup> 1/30/2015 Order, p 3, modified by 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 7

<sup>99</sup> 11/16/2005 Consent Order, p 6, ¶ 11

<sup>100</sup> 4/9/1987 Final Judgment, pp 6-7, ¶ V.B.1. The second sentence of this provision, which stated “The Sheriff’s ‘Red Tag’ system for plumbing maintenance (Appendix II) is adopted and incorporated herein,” has been deleted as no longer relevant. The referenced Appendix II is attached as part of Appendix 2.

<sup>101</sup> 4/9/1987 Final Judgment, p 7, ¶ V.B.2.

local health and sanitation requirements.<sup>102</sup>

6. The Defendant shall use reasonable efforts to keep all elevators in both jails operable.<sup>103</sup>

7. No inmates shall be placed in a cell in which leaking, overflowing or defective plumbing equipment discharges human waste, except in the case of an inmate who has deliberately and wantonly produced this defective condition and only if there is no available clean, dry cell where he may be housed without overcrowding other inmates.<sup>104</sup>

8. No inmate will be housed where the cell lock cannot be operated during sleeping hours; provided, however, that the Sheriff shall be permitted to house an inmate in a cell during sleeping hours when the locking mechanism of that cell is not functioning provided that every other individual or two person occupied cell in the ward has a locking mechanism which is functioning.<sup>105</sup>

### **C. Reconditioning**

1. Defendants shall at all times set aside at least one inmate ward in Division I or Division II for the purpose of carrying out ward reconditioning activities. Beds set aside for ward reconditioning shall not be used to house inmates. The population cap for Divisions I and II shall be reduced to take into account any corresponding reduction in the number of beds set aside for the purpose of carrying out the ward reconditioning activities.<sup>106</sup>

2. Each floor, including cell and catwalk areas, throughout Divisions I and II, shall receive ward reconditioning attention. Ward reconditioning, at a minimum, shall include the activities set forth in Appendix 3<sup>107</sup> which is attached hereto and incorporated herein. Defendants shall develop written policies and procedures addressing these issues. Reconditioning of inmate wards shall include painting of walls and showers in all areas in which inmates are housed. At least three full time painters shall be dedicated to Divisions I and II for this purpose. The Defendants shall provide additional painters through the Wayne County Buildings Division when painting becomes necessary at Division III.<sup>108</sup>

### **D. Vermin Control**<sup>109</sup>

1. The entire area of the Wayne County Jail shall be treated with institutionally

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<sup>102</sup> 4/9/1987 Final Judgment, p 7, ¶ V.B.3.

<sup>103</sup> 4/9/1987 Final Judgment, p 7, ¶ V.B.4.

<sup>104</sup> 4/9/1987 Final Judgment, p 7, ¶ V.B.5.

<sup>105</sup> 4/9/1987 Final Judgment, p 7, ¶ V.B.6

<sup>106</sup> 11/16/2005 Consent Order, pp 5-6, ¶ 9

<sup>107</sup> Exhibit E to the 11/16/2005 Consent Order, as modified by the 11/11/2014 Stipulated Order Correcting Exhibit E to the 2005 Consent Order, is attached as Appendix 3.

<sup>108</sup> 11/16/2005 Consent Order, p 6, ¶ 10

<sup>109</sup> 4/9/1987 Final Judgment, pp 7-8, ¶ V.C.

approved insecticides and rodenticides on a monthly basis, or more often if necessary.

2. Special attention shall be given to the entire basement area including the kitchen, all openings, catwalks and utility walk areas, all damp plumbing, leaking plumbing, and damp areas of the jail including cells which have leaking plumbing, all sliding doors.

**E. Sanitation<sup>110</sup>**

1. The Sheriff shall cause inmates' cells and rock areas to be maintained in a clean and sanitary condition and shall by written rule, published and disseminated to all inmates, prohibit the storage of edibles on cell floors and the accumulation of junk, debris, trash, and waste in cell and rock areas. In addition, unwrapped food stuffs will be removed on a daily basis as well as all accumulated organic materials from cell bars.

2. Brooms, mops, cleaning rags, buckets, soap and water shall be provided for daily cleaning of cell and day room areas by inmates.

3. Shower walls and floors shall be scrubbed and disinfected on a bi-weekly basis and maintained in a clean and sanitary condition.

**V. Inmate Services**

**A. Visitation<sup>111</sup>**

**1. General Standards**

- a. Attorneys, Clergy, Social Workers. There shall be available unlimited contact visitation by attorneys, clergy, and staff social workers. The Sheriff shall provide for visitation between inmates and attorneys during daytime hours, evening hours and weekends.
- b. Family and Friends. There shall be available periods for visitation by family members and friends who are on approved lists, however, when necessary, such visits may be limited to once every two weeks.
- c. Suicidal, Mentally Ill, Emotionally Disturbed. There shall be a provision for direct contact visitation by family members, genuine fiancés or persons with whom an inmate is living for inmates who are classified as potentially suicidal, mentally ill, and emotionally disturbed; provided that such visitation may be denied only for good cause as specified in a written order of the Sheriff.

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<sup>110</sup> 4/9/1987 Final Judgment, p 8, ¶ V.D.

<sup>111</sup> 4/9/1987 Final Judgment, pp 1-3, ¶ I

**2. Facilities and Procedures**

- a.** Areas designated for both contact and non-contact visitation shall be maintained on each floor occupied by inmates.
- b.** Non-contact visitation areas may separate inmates and visitors by a wall, but, must provide for a direct view through a glass covered aperture and allow persons to speak with each other in normal voice tones.
- c.** Requests for contact visitation for potentially suicidal, mentally ill or emotionally disturbed inmates may be initiated by the inmate, family members of the inmate, attorneys for the inmate or jail personnel.
- d.** Upon receipt of a request for contact visitation by one of the types of persons listed in (c) above for a potentially suicidal, mentally ill or emotionally disturbed inmate, the sheriff shall consult with a mental health professional, who can recommend against visitation only if the visit would adversely affect the inmate's mental or emotional well-being.
- e.** The Sheriff shall have the final approval to determine whether or not contact visitation shall be granted for potentially suicidal, mentally ill or emotionally disturbed inmates, however, any denial must be for good cause as specified in a written order.
- f.** When contact visitation is granted for potentially suicidal, mentally ill or emotionally disturbed inmates the period of visitation shall be forty-five minutes unless the Sheriff orders a shorter period based upon the recommendation of a mental health professional or the inmate or visitor desires to terminate the visit earlier.
- g.** Prior to a contact visitation with a potentially suicidal, mentally ill or emotionally disturbed inmate, a visitor may be subjected to a pat down search.
- h.** Visitation will be denied if the visitor is under the influence of alcohol or drugs.
- i.** General Rules regarding visitation shall be provided to all inmates and posted in the Wayne County Jail.

**B. Inmate Recreation<sup>112</sup>**

1. Adequate and active recreation shall be provided to inmates year round. Future Orders, if needed, shall be entered to define the nature and scope of adequate and active recreation.

2. Movies, chess, checkers are to be part of the indoor recreation program.

3. The County will be required to provide clothing and equipment necessary to provide recreation as outlined above, or to be defined pursuant to paragraph V.B.1. above.

**C. Mail<sup>113</sup>**

**1. General Correspondence**

a. General correspondence to or from inmates may be read and censored.

b. The Sheriff may inspect incoming published written materials, such as books, newspapers, and periodicals, which are mailed or delivered to the jail, for tangible contraband, for clearly pornographic content and for content which creates a clear and present danger of violent disorder or escape. Tangible contraband may be confiscated. Published written materials containing clearly pornographic matter and written materials which create such a clear and present danger may be withheld. All other published written materials shall be delivered to the inmates for whom they are intended.

**2. Correspondence with Lawyers and Public Officials**

a. Correspondence from lawyers to inmates may be opened only in the presence of the inmate, but not read or censored. *Eaddy v Lucas*, No 82-73162 (ED Mich July 1, 1986).

b. Inmate correspondence to lawyers, public officials or government agencies may not be opened, read, inspected or censored.

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<sup>112</sup> 4/9/1987 Final Judgment, p 5, ¶ III. The following provision, which appeared in the 4/9/1987 Final Judgment at p 5a (¶III.D.) has been deleted as no longer applicable due to changed circumstance:

Upon the County of Wayne receiving approval from the Michigan Department of Corrections to convert the gym on the 13<sup>th</sup> floor of Division I from a recreational facility to an area to house prisoners, no renovations shall proceed with respect to this gym until this Court has made a determination that paragraph III A above can be accomplished without the use of this gym as a recreational facility only.

<sup>113</sup> 4/9/1987 Final Judgment, pp 5-6, ¶ IV.

- c. The Sheriff shall promptly provide upon request indigent inmates with paper, writing instruments, envelopes and stamps for correspondence to their lawyers of record.

#### **D. Library<sup>114</sup>**

1. The Sheriff shall maintain an up-to-date library of legal materials including Michigan statutes, Michigan reporters (or the Northwest System which reports Michigan cases), Michigan Court Rules Annotated, Gillespies (re criminal law), a Michigan pleading and forms collection, and Federal Rules of Civil Procedure.

2. The County shall make available its law librarian to assist the Sheriff to maintain the materials.

3. Inmates shall be afforded reasonable access to materials and shall be permitted to make free of charge a reasonable number of photo copies of materials.

4. Reasonable access shall be construed to mean access as soon as it can be afforded following a request but no later than one week after the request or four days before a legal document is due in a court, whichever is earlier.

#### **E. Clothing and Linen<sup>115</sup>**

1. The Defendant shall furnish to each inmate on admission a clean towel, clean bed linen and clean clothing, appropriately sized, which shall be exchanged for a clean towel, clean bed linen, and clean clothing once a week.

2. All mattresses will be encased in an impermeable material and regularly sanitized by use of a broad based disinfectant.

3. An inmate cannot be housed overnight where there is no bed, mattress, change of clothing or change of bed linen or towel.

4. There shall be an adequate supply of mattresses, blankets, towels, uniforms and sheets to accommodate inmates.

#### **F. Discipline and Grievance Process<sup>116</sup>**

##### **1. Rules and Regulations**

Published jail rules and regulations shall be distributed to each inmate upon arrival. No inmate shall be subjected to a penalty unless his conduct is prohibited by such rules and

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<sup>114</sup> 4/9/1987 Final Judgment, pp 24-25, ¶ XI

<sup>115</sup> 4/9/1987 Final Judgment, pp 8-9, ¶ VI

<sup>116</sup> 4/9/1987 Final Judgment, pp 9-12, ¶ VII.A.-C.

regulations or his conduct is such that he should have known as a matter of general intelligence and common sense that it would subject him to a penalty.

**2. Grievance Procedures**

- a.** Inmates may submit grievances to the Sheriff and to other public officials and government agencies, including the courts, without interference, or retaliation.
- b.** The Sheriff shall establish and maintain procedures to assure non-interference with grievances.

**3. Disciplinary Sanctions/Hearings**

- a.** Disciplinary sanctions may be imposed without a prior hearing when due inquiry discloses circumstances, indicating a strong probability of the inmate's guilt, and the inmate's conduct poses a serious, immediate and substantial threat to the safety of others or the security of the institution. Such disciplinary sanctions must be followed by immediate upper echelon administrative review, and by prompt and fair hearing before the disciplinary board. Such administrative review may be by the Sheriff or by one or more persons designated by the Sheriff who shall be of a higher rank than the person who imposed the disciplinary sanctions without hearing.
- b.** Disciplinary sanctions may not be imposed without a hearing for trivial offenses or for offenses which do not pose a serious immediate and substantial threat to the safety of others or the security of the institution. Prior to the imposition of disciplinary sanctions inmates must be informed with particularity for what acts or conduct they are being disciplined.
- c.** Prior to a disciplinary hearing, the inmate must be advised, with particularity, what act or acts of misconduct he is charged with, and what regulation or common sense standard his conduct allegedly violates.
- d.** An inmate, who is to be subjected to a disciplinary sanction with or without a hearing must be given the opportunity to attend a hearing before a disciplinary board/hearing officer and to be heard in his own defense.
- e.** An accused inmate does not have the right to be represented in the disciplinary proceeding by counsel or counsel substitute.
- f.** An accused inmate does not have the right to produce witnesses at the disciplinary hearing to testify on his behalf, but if he claims that fellow inmates will verify matters alleged in his defense, the disciplinary board or hearing officer must have his claim fairly investigated by the board or hearing officer or by a disinterested and competent person, who may be a



member of the disciplinary board or the hearing officer and, upon a report of such investigation, the board or hearing officer shall determine whether, in fact, the defense is substantiated. The investigation contemplated is not an adversary proceeding requiring the presence of the accused inmate.

- g.** An accused inmate does not have the right to confront or cross-examine his accusers, or witnesses adverse to him, or to have their identity disclosed to him.
- h.** An accused inmate must be advised of the nature of the evidence against him, and if this cannot be done without divulging the identity of adverse witnesses, their identity must be divulged. The disciplinary board or hearing officer must cause a disinterested investigation to be made of all information and evidence unfavorable to the accused. Such investigation shall be as provided above.
- i.** The disciplinary board or hearing officer may not find an inmate guilty except upon substantial evidence.
- j.** Members of the Sheriff's security staff may not sit on the disciplinary board or act as hearing officer.
- k.** A verbatim record must be kept of proceedings before the disciplinary board or hearing officer and reports of non-adversary investigations must be included in the record.

**G. Disciplinary Housing Units/Maximum Security<sup>117</sup>**

**1.** The Sheriff may establish and maintain one or more disciplinary and/or maximum security housing units in conformity with state statute, local ordinance, Michigan Department of Corrections rules and the provisions of this order.

**2.** If inmates are to be confined in a disciplinary housing unit, they must be given bedding, mattresses, the necessities of personal hygiene, such as toilet paper, soap, towels, and in the case of women in menses, sanitary napkins, and eating utensils at meal times, unless there is probable cause to believe that these articles will be used as implements of self-destruction. If these articles are destroyed by an inmate, they may be withdrawn, and further articles may be withheld.

**3.** Ordinary reading and writing materials may be withheld from persons confined in a disciplinary housing unit, but persons confined therein must be allowed to correspond with counsel of record, courts and other governmental bodies and public officials.

**4.** Ordinary visitation privileges may be withdrawn from persons confined in

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<sup>117</sup> 4/9/1987 Final Judgment, pp 12-13, ¶ VII.D.

a disciplinary housing unit, but they must be allowed to confer with their attorneys of record, elsewhere, in a setting which permits confidential communication.

**5.** Incarceration in a disciplinary housing unit may not be ordered for disciplinary infractions which do not seriously and substantially threaten the security and good order of the institution.

**6.** Inmates assigned to maximum security confinement, other than as a disciplinary measure, must be advised of the reasons for the assignment, and must be afforded the opportunity for a hearing, as in discipline cases, to determine whether such assignment is fair and rational, and reasonably related to a proper objective of classification.

#### **H. Discrimination<sup>118</sup>**

Inmates have a right to be free from any burden, hardship or loss of liberty imposed upon them because of their political or religious beliefs.

#### **I. Food Services**

The County shall provide food services to the inmates. All meals served will be in compliance with the most recently published Recommended Dietary Allowances and Dietary Reference Intakes for adults as established by the National Academy of Sciences.<sup>119</sup>

### **VI. Jailer Training<sup>120</sup>**

**A.** The Sheriff shall be responsible for maintaining the current program of Jailer training for all staff who have direct inmate contact. In no case shall the length of training be reduced below 40 hours,<sup>121</sup> which has been previously recognized as acceptable for experienced staff. The program shall include the provision of a jailer training manual to staff and instruction and testing on the Orders of this Court, suicidal prevention, first aid, and the availability of medical, psychiatric, and other non-security related functions, and use of as minimal force as possible in disciplinary situations, and proper technique for shake downs leading to as little destruction of inmates' property as possible.<sup>122</sup>

**B.** All security staff assigned to Divisions I, II and III shall receive 24 hours of annual in-servicing training. The training curriculum shall be reviewed and updated by the Director of Jails on an annual basis to address emerging training needs, but shall emphasize

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<sup>118</sup> 4/9/1987 Final Judgment, p 13, ¶ VII.E.

<sup>119</sup> 10/06/2009 Order Modifying Consent Order, p 5, ¶ 9. See also 10/06/2009 Order at p 2, ¶ 1 (amending ¶ 2(a) of the 11/16/2005 Consent Order by vacating ¶ VIII of the 4/9/1987 Final Judgment).

<sup>120</sup> 4/9/1987 Final Judgment, p 24, ¶ X

<sup>121</sup> The parties acknowledge and agree that, as of the date of entry of this Consolidated Consent Order, this number of hours is less than the number of hours required by the current standards of the Michigan Sheriff's Coordinating and Training Council ("MSCTC").

<sup>122</sup> 4/9/1987 Final Judgment, p 24, ¶ X

policies and procedures related to the Final Judgment. Funding necessary to fulfill this annual in-service training requirement shall be included as a line item in the County's adopted jail budget. This training shall be in addition to the Jailer Training required by paragraph VI.A. above.<sup>123</sup>

## **VII. Jail Medical/Mental Health**

The following provisions govern the provision of Jail Health Services.<sup>124</sup>

### **A. Delivery of Services**

The Defendants shall provide and maintain medical, dental, and mental health care and treatment for persons confined within the Wayne County Jail as set out in this order and pursuant to:

1. Applicable statutes;
2. Applicable regulations established by the Michigan Department of Corrections;

This Order references standards published by the National Commission of Correctional Health Care ("NCCHC") in their publication, "Standards for Health Services in Jails" (2008) ("NCCHC Standards"). Although the references herein identify the 2008 version of the NCCHC publication, the Parties intend and expect that updated versions, or their equivalent, will function as the operative version for establishing Jail Health Standards as the later versions are published and come into common usage.

Except as noted below, in the event of a conflict among statutes and regulations and the provisions of this Order, the more stringent provision shall apply.

Nothing in this Order shall be interpreted to control over or reduce the Defendants' ability to rely on or enforce a statute, common law, or regulation concerning burdens of proof, governmental immunity, standards of review, limitations of liability or damages, or prerequisites for bringing or maintaining a lawsuit.

### **B. Intake and Screening**

Intake and screening shall take place in a specifically designated, adequate area. Jail Health Services shall comply with NCCHC Standards J-E-02, J-E-04, J-E-05, and J-E-06.

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<sup>123</sup> 11/16/2005 Consent Order, p 5, ¶ 7

<sup>124</sup> 10/06/2009 Order Modifying Consent Order, pp 2-3, ¶ 3, which also stated: "All prior Orders related to the provision of Jail Health Services are vacated, and the staffing plan for jail health services is no longer in effect." See also the 10/06/2009 Order at p 2, ¶ 1 (amending ¶ 2(a) of the 11/16/2005 Consent Order by vacating ¶ VIII of the 4/9/1987 Final Judgment).

**C. Medical Facilities**

Jail Health Services shall comply with NCCHC Standards J-D-01 through J-D-05.

**D. Medical Staff**

Jail Health Services shall employ, or contract with, a full time director of jail health services; a full time equivalent medical director, and a full time equivalent mental health department administrator, and shall further comply with NCCHC Standard J-C-07.

**E. Medical Staff Vacancies**

1. The parties are to develop a plan for hiring unfilled medical staff positions. This plan shall include a method of providing a constant full staffing of medical personnel.<sup>125</sup>

2. The medical hiring plan shall include a list of available resources for interim and temporary contractual medical personnel who can be called upon immediately to work in vacant medical positions upon notification of any medical personnel vacancy.<sup>126</sup>

3. No medical personnel vacancy shall remain unfilled. Upon notice of any vacancy, the CEO shall immediately seek applicants for the position and hire an interim medical worker to fill the vacancy until it is filled.<sup>127</sup>

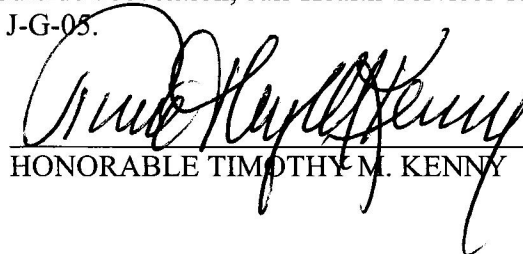
**F. Medical Records/Access to Care<sup>128</sup>**

1. With respect to medical records, Jail Health Services shall comply with NCCHC Standards J-H-1 through J-H-4.

2. With respect to Access to Care, Jail Health Services shall comply with NCCHC Standards J-A-01, J-E-07, and J-E-08.

**G. Mental Health/Suicide Prevention<sup>129</sup>**

With respect to Mental Health and Suicide Prevention, Jail Health Services shall comply with NCCHC Standards J-G-04 and J-G-05.

  
HONORABLE TIMOTHY M. KENNY

7/20/18

<sup>125</sup> 1/30/2015 Order, p 2

<sup>126</sup> 1/30/2015 Order, p 2

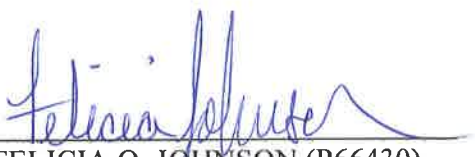
<sup>127</sup> 1/30/2015 Order, p 2, modified by 2/23/2016 Order Modifying 1/30/2015 Order and Modifying Consent Order, p 7


<sup>128</sup> 10/6/2009 Order, p 3, ¶ 3.E.


<sup>129</sup> 10/6/2009 Order, p 3, ¶ 3.F.

I hereby stipulate to entry of the above Order  
with hearing waived:

  
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# APPENDIX 1

## APPENDIX 1

### Security Staffing Provisions of the 11/16/2005 Consent Order and Modifying Orders

1. The 11/16/2005 Consent Order in paragraph 3 on pages 3-4, provided as follows:

Absent closure of jail facility, closure of one or more inmate housing areas, or other circumstances that result in a permanent or long term reduction in the inmate population of the Wayne County Jail, the CEO shall provide in its budget for the jail funding or the level of staffing for Jail Divisions I, II, and III set forth in the staffing plan attached hereto as Exhibit D and incorporated herein by reference. All security and civilian positions including health service positions set forth in (Exhibit D) shall be included by the CEO and Commission in the County's adopted budget for the jail. The CEO shall ensure that vacant positions are approved to be filled and that all other steps within the CEO's control to fill a position are taken within 30 days after a requisition is received.

2. The above-referenced Exhibit D to the 11/16/2005 Consent Order provided for the following levels of security staffing:

#### **Jail Divisions I & II (Security)**

<b>Title</b>	<b>#</b>
Commander	3
Executive Lieutenant	2
Lieutenants	8
Sergeants	37
Police Officers	581

#### **Jail Division III (Security)**

<b>Title</b>	<b>#</b>
Commander	1
Executive Lieutenant	1
Lieutenants	7
Sergeants	17
Police Officers	186

3. The list of security staffing positions for the jail health facilities that was also part of Exhibit D is attached hereto as **Exhibit A**.
4. The 06/11/2009 Order Modifying Consent Order provided as follows in paragraph 3 on page 2:

Staffing levels shall be reduced at Division I/II jails by 63 officers and 5 sergeants and at Division III by 15 officers. 1 lieutenant position will also be eliminated. Unfilled positions will remain unfilled. Based on these reductions, and previous efficiencies obtained in the jails, the total non-civilian staffing at the jails shall

consist of: 4 commanders, 17 lieutenants, 49 sergeants, and 658 officers, for a total of 728 uniformed personnel. One of the lieutenants shall be assigned to classification.

5. The 10/6/2009 Order Modifying Consent Order provided in pertinent part as follows in paragraph 8 on pages 4-5:

Staffing levels at the jails shall be further reduced by 63 officers, as follows:

- A. Staffing levels at the Division I/II jails shall be reduced by 31 officers, as follows. For each corner station (32 beds) closed, there shall be a staff level reduction of 5 officers. When one full floor is closed, there shall be an additional staff level reduction of 1 officer.
- B. Staffing levels at the Division III jails shall be reduced by 22 officers, as follows. For each housing unit (64 beds) closed, there shall be a staff level reduction of 7 officers. At the time two housing units are closed, there shall be an additional staff level reduction of 1 officer.
- C. An additional 10 officer positions shall be reduced by reducing support staff positions in the jails, by adjusting security staff ratios in the jails, or by such other means as may be appropriate under the circumstances. The Director of Jails is granted the authority to make such reductions in such manner as the Director of Jails believes proper under the circumstances.
- D. The timing of the staff reductions shall correspond to the closure of jail housing units and corner stations. Positions shall be reduced as housing units and corner stations are closed.
- E. While maintaining established minimum floor security staff ratios (except as provided in paragraph 8(b) above), the Director of Jails is authorized by this court to deploy jail officers as necessary to ensure the health, safety and welfare of inmates and jail personnel and ensure the overall security of the jails.

6. The 7/25/2011 Order Modifying Consent Order, in paragraph 1 on page 1, provided as follows:

The total number of sworn officers required at the jail (all divisions) shall consist of 4 commanders, 17 lieutenants, 47 sergeants, and 574 police officers, for a total of 642 uniformed personnel.

7. The 7/25/2011 Order Modifying Consent Order, in paragraph 2 on page 2, provided in pertinent part as follows:



To the extent that jail housing units ordered closed must be temporarily re-opened because of inmate population that cannot otherwise be managed, the Sheriff may, when and to the extent necessary, open housing units as necessary, and exceed the police officer limits set out in paragraph 1 of this order to provide the necessary level of security in the re-opened housing unit(s). To the extent that prisoner population levels fall such that additional housing units may be closed, the Sheriff is authorized to close additional housing units, in which case the Sheriff shall make corresponding reductions in the number of uniformed staff.

8. The 7/25/2011 Order Modifying Consent Order, in paragraph 3 on page 2, provided as follows:

The Sheriff and CEO shall continue to work together in good faith in an attempt to negotiate further, appropriate, staffing reductions at the jail. A status conference is set for October 26 at 2:00 PM.

9. The 7/25/2011 Order Modifying Consent Order, in paragraph 4 on page 2, provided as follows:

During the course of the parties' discussions concerning the staffing plan, a written staffing plan has been circulated among the parties and their counsel. That plan describes jail security postings and shall be deemed confidential. The only persons authorized to review and maintain the plan are the Court and Court staff, the Wayne County parties, their counsel, and counsel for the plaintiffs. The plan or its contents shall not be disseminated to any other person or entity without the consent of the Wayne County Sheriff. The plan shall not be filed with this Court, except under seal.

10. The 7/25/2011 Order Modifying Consent Order, in paragraph 5 on page 2, provided as follows:

The Court finds that the security staff to inmate ratio set out in the staffing plan is appropriate. The Sheriff shall not modify the housing unit security staff to inmate ratios without further authorization of the Court.

11. The 7/23/2012 Amended Consent Order, in paragraph 1 on page 2, provided in pertinent part as follows:

In order to accomplish the goals set forth in this paragraph, the CEO and the County Commission shall authorize an additional 11 budgeted positions for Jail Division I through the end of the fiscal year.

12. The 6/18/2013 Stipulated Order Modifying Consent Order, on page 2, provided as follows:

IT IS HEREBY ORDERED that the staffing provisions of the Consent Order shall be modified to add ten police officer positions to the staffing plan. Such staff will

be utilized only to provide security and other services to housing units opened to provide Youthful Inmates<sup>1</sup> with housing that does not have sight, sound or physical contact with adult inmates pursuant to PREA.<sup>2</sup> To the extent that the number of Youthful Inmates declines such that the number of housing units set aside for Youthful Inmates decreases, such staff will be redeployed within the jail to reduce overtime.

13. The 2/23/2016 Order Modifying January 30, 2015 Order and Modifying Consent Order, on page 7, provided as follows:

IT IS FURTHER ORDERED that eleven (11) jail budgeted positions shall be added to the Consent Order staffing plan only for the purpose of staffing the floor housing the mental health step down unit, which was ordered open in this Court's July 23, 2012, Amended Consent Order. Except for this provision, nothing in this Order changes the number of jail budgeted positions required by the Consent Order.

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<sup>1</sup> The opening recital for this Order defined "Youthful Inmates" as "inmates under eighteen years of age."

<sup>2</sup> The opening recital for this Order designated "PREA" to refer to the Prison Rape Elimination Act.

# EXHIBIT A

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STAFFING  
FOR  
JAIL HEALTH SERVICES

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## CURRENT DEPUTY STAFF FOR JAIL HEALTH SERVICES

### RECEPTION DIAGNOSTIC CENTER

Monday thru Friday

(Assignments: Transport, bubble, desk)

Days

3 officers

Afternoons

3 officers

Midnights

Overtime (500 hrs/yearly)

### MEDICAL CLINIC

Monday thru Friday

(Assignments: desk, holding cell, Div. 1 transport, Div 2 transport)

Days

4 officers

Afternoons

4 officers

Midnights

0 officers

Saturdays

2 officers  
(1 + shift support)

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CENTRAL TRANSPORTATION UNIT

Monday thru Friday

(Assignment: offsite transportation)

Days/Afternoons 10 am to 6 pm

2 officers (1 van)

MENTAL HEALTH UNITS

Monday thru Sunday

Fourth Floor

(Assignments: 5 stations, 1 or 2 rovers)

Days

7 officers  
(5 on regular floor)

Afternoons

7 officers  
(5 on regular floor)

Midnights

6 officers  
(3 on regular floor)

Fifth Floor (SSE)

(Assignments: 5 stations or 3 stations, 1 rover)

Days

6 officers  
(5 on regular floor)

Afternoons

6 officers  
(5 on regular floor)

Midnights

4 officers  
(3 on regular floor)

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MEDICAL HOSPITALS

Monday thru Sunday

Days/Afternoons/Midnights      variable/census      18 officers  
(1:1 or 2:1 classification)

PSYCHIATRIC HOSPITAL

Monday thru Sunday

Days/Afternoons/Midnights      3 officers

SUMMARY

Monday thru Friday

Reception Diagnostic Center      6 officers

Medical Clinic      8 officers

Central Transport Unit      2 officers

Total      16 officers

Full time employees with 1.3 relief      21 full time employees

Monday thru Sunday

Medical Hospital      18 officers

Mental Health Hospital      9 officers

Mental Health Units (Difference only)      10 officers

Total      37 officers

Full time employees with 1.6 relief      59 full time employees

Total full time employees required  
to support health services operations      80 full time employees

# APPENDIX 2



## APPENDIX 2

### Population, Housing, and Conditional Release Provisions of the 11/16/2005 Consent Order (Including Incorporated Prior Orders) and Modifying Orders

1. The 4/9/1987 Final Judgment, on pages 3-5, paragraph II (“Population Limits and Overcrowding”), provided as follows:

A. Definition of Inmate Population

1. In determining inmate capacity the following factors shall be considered.

a. The number of beds available in each building;

b. Classification of inmates as required by the Michigan Department of Corrections, state statute and this order;

c. Sanitation and maintenance concerns including, but not limited to, running water, toilets, standing water, cell locks, clothing and linen;

d. Medical, psychiatric and support staff necessary to service the inmate population;

e. Security staff necessary for the health, safety, welfare and security of the inmates and staff of the facility.

2. Inmate capacity shall not exceed the “effective capacity” of the Wayne County Jail. See Appendix IV. “Effective capacity” is defined as available beds, less space which is unusable because of the current classification system (Appendix I), the red tag system (Appendix II) and other parts of this order which prohibit the use of certain cells or acceptance of inmates. The Sheriff shall revise Appendix IV monthly.<sup>1</sup>

3. Inmate capacity of “individual cell wards” is one person per cell and not more than one inmate will be permitted in such a cell.

4. Inmate capacity of “double bunking wards” is to be governed by the state statutes governing the number of inmates per cell.

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<sup>1</sup> Appendices I and II to the 4/9/1987 Final Judgment, referenced in this paragraph, are attached to this Appendix as **Exhibits A** and **B**, respectively. The parties concur that Appendix IV to the 4/9/1987 Final Judgment, also referenced in this paragraph, has not been located or otherwise identified. Note that the Appendix IV referenced in this paragraph is different from the **Appendix 4** referenced in paragraph VIII.F.1. of the 4/9/1987 Final Judgment.

5. Inmate capacity of “dormitory wards” is ten (10) persons per dormitory and not more than ten (10) inmates will be permitted in such dormitories.

6. Men shall not be housed on women’s wards and women shall not be housed on men’s wards.

7. No inmate shall sleep on the rock/day room or any other place prohibited by the Department of Corrections regulations.

8. Anyone determined by any judge or jury to be not guilty by reason of insanity (NGRI), who is not charged or convicted of any other crime, is not to be accepted at the Wayne County Jail.

B. Overcrowding Procedures

1. In situations when the population threatens to exceed the inmate capacity the sheriff shall look for means of reducing the population including obtaining alternative housing.

2. The County shall assist the sheriff in these efforts.

3. When alternative housing is needed on a temporary basis the County shall pay necessary costs.

4. Alternative housing for mentally ill or potentially suicidal inmates shall be sought by the sheriff including transfer to the forensic center or release by the courts.

5. The sheriff has discretion as to where inmates are to be housed outside the Wayne County Jail. Within forty-eight (48) hours before such transfer the inmate’s lawyer(s) will be notified.

2. The 11/25/1991 Second Order Regarding Population Limits at the Wayne County Jail provided, on pages 6-10, in pertinent part, as follows:

Based upon the implementation of [the] classification plan [approved by the court], the Court Monitor has recommended that the population of the jail be reduced initially to 1205 in the Andrew Baird Facility and 516 in the Old Jail and Annex Facilities. These numbers are based upon the following computations:

Andrew Baird Facility

Total Number of Beds as of November 22, 1991	1314 <sup>2</sup>
Minus infirmary, capias and detoxification beds	14 <sup>3</sup>
Minus beds unusable because of maintenance problems	10
Minus psych beds	21 <sup>4</sup>
Equals Actual Available Housing	1,269
Minus Vacancy Rate Needed for Classification Purposes	.05 <sup>5</sup>
Equals Operational Capacity for Baird	1205

Old Jail and Annex Facilities

Total Bed Count	734 <sup>6</sup>
Minus Beds under renovation as of November 22, 1991	138 <sup>7</sup>

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<sup>2</sup> 11/25/1991 Order at p 7, n 3 stated: “This number includes 128 beds per floor on floors 6 through 12, 124 beds on the 5<sup>th</sup> floor, 120 beds on the 4<sup>th</sup> floor, 80 beds on the 13<sup>th</sup> floor, 65 beds on the 14<sup>th</sup> floor, 6 beds in detoxification cells, 21 beds in infirmary cells and 2 beds in capias cells.”

<sup>3</sup> 11/25/1991 Order at p 7, n 4 stated: “Capias and detoxification beds are subtracted altogether because they are never used as general population cells and frequently are empty. Infirmary beds at the jail are not used for general population prisoners, but have an average occupancy of 15 prisoners who are housed there for treatment purposes according to the jail’s medical administrator. Accordingly, 6 of the 21 infirmary beds as well as 6 detoxification and 2 capias beds are subtracted from the number of available beds.”

<sup>4</sup> 11/25/1991 Order at p 7, n 5 stated: “Although there are 120 beds on the male psychiatric ward located on the 4<sup>th</sup> floor, actual occupancy in this ward typically is much lower. At times, there are fewer than 105 prisoners on a given day. On the female psychiatric ward, there is capacity for 18 patients, but the actual occupancy level often is less than 12. It is unusual for the population of the male psychiatric ward to be less than 105 and the population of the female psychiatric ward to be less than 12. Because general population prisoners are not, and should not, be housed on psychiatric units, 15 male beds and 6 female beds are deducted from the bed count to take into account periods when these beds are not used by patients, and are not available for general population prisoners.”

<sup>5</sup> 11/25/1991 Order at p 8, n 6 stated: “For classification purposes, a vacancy rate of 5% is subtracted. This vacancy rate permits separate housing of prisoners in different custody levels and takes into account beds which necessarily will routinely remain vacant in order to accommodate those separations.”

<sup>6</sup> 11/25/1991 Order at p 8, n 7 stated: “This number excludes beds that are currently out of use because of extensive renovation activities that are being undertaken in the Old Jail and Annex facilities.

<sup>7</sup> 11/25/1991 Order at p 8, n 8 stated: “Housing areas throughout the Old Jail and Annex facilities are undergoing extensive renovations that have required closing of large numbers of cells. The

Minus Beds set aside for discipline	9
Minus beds unusable because of maintenance problem	13
Equals Actual Available Housing	574
Minus Vacancy Rate Needed for Classification Purposes	.10 <sup>8</sup>
Equals Operational Capacity	516
 Grand Total Operational Capacity	 1,721

This number is an interim population cap, with the need for a further reduction to 1,552 or such other number as determined by the court at a later date. The Court's order of May 25, 1988 remains in full force and effect.

Accordingly, good cause appearing, it is hereby;

ORDERED that the defendants shall maintain a maximum population of 1,205 prisoners at the Andrew Baird facility and 516 prisoners at the Old Jail and Annex facilities. It is further;

ORDERED that the Director of Jail Services shall begin immediately to release a sufficient number of inmates to achieve, within 75 days of the date of this order, the maximum capacities set forth in the preceding paragraph. This order shall not be construed, however, to preclude the defendants from exercising any duty imposed upon them or authority granted to them, by 1982 PA 325, Overcrowding of County Jail State of Emergency Act. It is further;

ORDERED that the Director of Jail Services shall immediately establish a procedure for establishing priorities and for effecting releases of inmates pursuant to this order. In general, those inmates who pose the least threat to public safety should be first released; provided, however, that no person housed in the jail upon conviction of contempt of court shall be released pursuant to this order. It is further;

ORDERED that, subject to the preceding paragraph, the Jail Director shall consider the categories recommended by the Wayne County District Judges' Association, the Wayne County Chiefs of Police and the Court in establishing

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number of closed cells may vary significantly from time to time, however, as construction activities continue. Recomputation of available bedspace will be necessary whenever there is a change in the number of cells closed for renovation."

<sup>8</sup> 11/25/1991 Order at p 8, n 9, stated: "In the old jail and annex, there are a larger number of classification categories into which prisoners must be separated. Consequently, a larger vacancy rate of 10% is used to take into account that factor and thus to permit housing of prisoners in accordance with their assigned custody level."

priorities governing release decisions, set forth in Appendix A of this order. It is further;

ORDERED that because the total bed count at the jail is in a state of flux that stems from extensive renovations being undertaken at the Old Jail and Annex facilities, the capacity of those facilities should be recomputed, using the formulations set forth in this order, whenever there are changes in usable bed space resulting from renovation activities. Any such change and the attendant re-computation shall be reported immediately to the Court, the Court Monitors, and the parties. It is further;

ORDERED that the Court may be petitioned to review the defendants' progress towards substantial compliance in light of the interim maximum capacity set in this order, and if defendants are found to be unable to achieve substantial compliance with these interim maximum capacities, the Court may take any action it deems necessary. It is further;

ORDERED that the Director shall, on a weekly basis and until further order of the Court, submit a report to the Court, the Court Monitor and all counsel, showing the daily population for the preceeding [sic] week at the Andrew Baird, Old Jail and Annex facilities. It is further;

ORDERED that, in view of the circumstances described in this order, the maximum populations established by this order shall be strictly enforced.

3. The 10/23/1997 Order Regarding Conditional Release of Inmates, on pages 1-4, provided in pertinent part as follows:

IT IS HEREBY ORDERED:

1) That all inmates released pursuant to the Court's order of November 25, 1991 shall have the following minimum conditions imposed upon their release (hereinafter referred to as "minimum conditions of release"):

- a) that the inmate shall appear as required.
- b) that the inmate shall not leave the state;
- c) that the inmate shall not commit any crime while released;
- d) that the inmate shall comply with any injunctive order(s) and/or other conditions of bond, (except the requirement of money bail) previously imposed on the inmate by any other court of competent jurisdiction;

- e) that the inmate shall not possess a firearm or other dangerous weapon;
- f) that the inmate shall not use alcohol or illicitly use any controlled substance.

2) In addition to the foregoing minimum conditions of release, the Director of Jails may impose other conditions, which may include one or more of the following components: day reporting, drug rehabilitation (in-patient and/or out-patient), home tethering and monitoring services, drug testing, mental health treatment, those conditions set forth in Michigan Court Rule 6.106(D)2, and/or any other conditions of release approved by the Court.

3) The Director of Jails shall refer inmates eligible for release, pursuant to the court's order of November 25, 1991, to:

- a) The Department of Community Justice (DOCJ). The director of DOCJ or his designee shall determine the inmate's eligibility for DOCJ operated supervised release programs and specification of the conditions for their conditional supervised release into any such program; or
- b) Such other program as may be approved by the Court.

4) All inmates released under this Order shall receive written notice of any conditions imposed upon their release and that destroying or disabling home tethering/monitoring equipment or that failure to comply with any condition will result in immediate arrest and re-incarceration.

5) Any inmate released under this Order who the Director of Jails (or the person performing that function) or his/her designee (as approved by the Court), determines has failed to comply with a condition of their release or who destroys or disables home tethering/monitoring equipment, shall be subject to immediate arrest and re-incarceration. If after the Jail Director makes such a determination, the inmate is not immediately arrested and re-incarcerated, this Order constitutes authorization for the entry of an arrest warrant in the Law Enforcement Information Network (LEIN) that is valid only until the inmate's next scheduled court date.

- a) Within 24 hours of re-incarceration, the inmate shall be provided with a written statement in duplicate (hereinafter "Notice of Violation"), setting forth the facts which form the basis for the Jail Director's determination that the inmate failed to comply with a condition(s) of release or destroyed or disabled home tethering/monitoring equipment. A copy of the Notice of Violation shall be mailed to the inmate's

attorney of record, if known, within 24 hours of re-incarceration.

b) The Notice of Violation shall be on a form approved by the Court and in addition to the factual assertions required by section 5(a) above, shall include the following:

- 1) Notice to the inmate that he/she may, within 7 days of re-incarceration, request in writing a hearing before the Court to determine whether the inmate has failed to comply with a condition of release or destroyed or disabled home tethering/monitoring equipment.
- 2) Notice to the inmate that upon timely request, the hearing will be held within 28 days of re-incarceration.
- 3) A verification that within 24 hours of re-incarceration in the County Jail, the inmate was provided with the Notice of Violation and that a copy of the Notice of Violation was mailed to the inmate's attorney of record.
- 4) Sufficient space for the inmate to utilize a copy of the Notice of Violation for the purpose of requesting the hearing before the Court.

c) Within 7 days of the date of this Order, the Director of Jails (or the person performing that function), shall submit to the Court for its review and approval, with a copy to all counsel, the following:

- 1) The proposed Notice of Violation form; and
- 2) Written procedures to be followed by jail personnel in delivering the notice of violation to inmates (and their attorney) and receiving from inmates and forwarding to the Court, any written request for a hearing.

6) Any inmate who is arrested and re-incarcerated under the foregoing provisions, may request a hearing before the Court within 7 days of re-incarceration in the Wayne County Jail.

7) Upon timely written request by an inmate, a hearing will be held by the Court at the jail facilities within 28 days of re-incarceration. The hearing will be limited to determining whether the inmate has failed to comply with a condition of release or destroyed or disabled home tethering/monitoring equipment.

8) An inmate has the right to have counsel present at the hearing. House counsel will be provided for inmates who have court-appointed counsel.

9) The Director of Jails and the director of the community Justice Department shall include the following in their monthly reports to the chief Judge of the 3<sup>rd</sup> circuit Court and all other parties:

- a) The number of released inmates in compliance with the conditional release program; and
- b) The number of released inmates who were re-incarcerated for failure to comply with the requirements of the conditional release program.

10) The imposition of conditions of release by the Director of Jails shall not impede or delay releases that are necessary to maintain the population, except that every such release shall include, at a minimum, the “minimum conditions of release” set forth in numbered paragraph 1(a) through (f) above.

11) This Order does not, and shall not, be construed to relieve the defendants of the responsibility for maintaining the population cap imposed by the Court in its November 25, 1991 order.

4. The 11/16/2005 Consent Order, on page 2, paragraph 2.a., provided, in pertinent part, as follows:

The Final Judgment ordered on April 9, 1987, as modified, a copy of which is attached hereto as Exhibit A and incorporated herein, shall remain in effect as a permanent injunctive order of the Court....

5. The 11/16/2005 Consent Order, on page 3, paragraph 2.c., provided, in pertinent part, as follows:

The Second Order Regarding Population Limits at the Wayne County Jail entered on November 25, 1991, a copy of which is attached hereto as (Exhibit B), shall remain in full force and effect as a permanent injunctive order of the Court. In computing the Operational Capacity of Jail Division I (known as the Baird Detention Facility), the Jail Director shall be authorized to increase the Division I vacancy rate for classification purposes from 5% to 10%. Page 8 of the Second Population Order Regarding Population Limits at the Wayne County Jail shall be and hereby is amended accordingly.



6. The 11/16/2005 Consent Order, on page 3, paragraph 2.d., provided, in pertinent part, as follows:

The Order Regarding Conditional Release of Inmates entered on October 23, 1997, a copy of which is attached hereto as (Exhibit C), shall remain in full force and effect as a permanent injunctive order of the Court and shall apply to all three jail divisions. In addition to that order, The Director of Jail Operations, or the Court approved designee, is hereby ordered to enter, in the Law Enforcement Information Network (LEIN), a notice of an arrest warrant for a sentenced offender who has violated the conditions of the release, by filing an affidavit of non-compliance. The notice and LEIN entry will remain valid for seven years or until arrest.

7. The 6/11/2009 Order Modifying Consent Order on pages 1-2, paragraph 1 provided as follows:

The Effective Capacity of the Wayne County Jails is reduced from 2,588 to 2,076. The Effective Capacity of the Division I and II jails is set at 1,398; the Effective Capacity of the Division III jail is set at 678. Inmates housed in pre-classification housing, the infirmary, and/or special housing (as defined during the proceedings) shall not count toward determining if the jails or jail divisions are over or under Effective Capacity.

8. The 6/11/2009 Order Modifying Consent Order on page 2, paragraph 2 provided as follows:

Three floors at the Division I jail shall be closed. Two pods at the Division III jail shall be closed.

9. The 6/11/2009 Order Modifying Consent Order on page 2, paragraph 6 provided as follows:

Upon attainment of effective capacity, as set out in this Order, hospitalized inmates whose classification level meets the criteria for conditional release may be released prior to the release of other inmates who meet the same classification criteria, upon recommendation of the Director of Jail Health Services and upon approval by the committing Judge or his or her alternate.

10. The 6/11/2009 Order Modifying Consent Order on page 2, paragraph 7 provided as follows:

Upon attainment of effective capacity, as set out in this Order, and prior to the Director of Jail Operations exercising his release authority under the provisions of the Consent Order and related orders, the Director of Jail Operations may condition release upon participation by an individual in the third circuit court pretrial services unit telephone monitoring program, where the individual does not otherwise require

supervision by the Sheriff under the tether program and whose conditional release is pending.

11. The 6/11/2009 Order Modifying Consent Order on page 2, paragraph 8 provided as follows:

Conditional release priorities will be amended as follows. Category 6 will now read "Pretrial property or drug possession felons." There will be a new category 8, "persons committed for civil Friend of the Court violations." Former Category 8 will now be category 9, and former category 9 will be category 10.

12. The 10/6/2009 Order Modifying Consent Order on page 3, paragraph 4 provided as follows:

Effective October 1, 2009, the Wayne County Sheriff's Office is prohibited from housing parole absconders unless a contract to house these individuals is approved by the appropriate authorities.

13. The 10/6/2009 Order Modifying Consent Order on page 3, paragraph 5 provided as follows:

The Director of Jails upon the authority of this court as its designee may divert eligible pre-trial felons, who have been arraigned for Third Circuit Court probation violations, to appropriate and available community corrections facilities.

14. The 10/6/2009 Order Modifying Consent Order on page 3, paragraph 6 provided as follows:

Notwithstanding the provisions of any County ordinance to the contrary, and notwithstanding previously issued conditional release priorities, Director of Jails upon the authority of this court as its designee may administratively release and/or divert eligible pre-trial and convicted misdemeanants and ordinance violators such that the effective capacity of Jail Division III is reduced by 128.

If the Wayne County Commission modifies Ordinance #95-315, the parties shall so notify the Court and set a hearing to evaluate the impact, if any, of such modification on this Court's orders.

15. The 10/6/2009 Order Modifying Consent Order on pages 3-4, paragraph 7 provided as follows:

By order of this court, the effective capacity of the jails shall be reduced as follows:

A. Three housing units at the Division III jail will be closed, reducing the effective capacity at the Division III jail by a total of 192 (inclusive of the 128 specified in paragraph 6). The reductions shall be made as soon as practicable, with an expectation that all three housing units will be closed by November 1, 2009. The

effective capacity reductions shall take effect incrementally as housing units are closed. For each housing closed, effective capacity shall be reduced by 64.

B. One and one-half additional floors at the Division I jail (one floor of men, one-half floor of women) will be closed, reducing the effective capacity at the Division I jail by 192. The reductions shall be made as soon as practicable, with an expectation that one floor will be closed by November 1, 2009, and an additional one-half floor will be closed by January 1, 2010. The effective capacity reductions shall take effect incrementally at the time housing units are closed. For each corner station (one-quarter floor) closed, effective capacity shall be reduced by 32. Upon the closure of the one-half floor currently housing women, the effective capacity for women at the Division I jail shall be set at 128.

16. The 12/18/2009 Order Modifying Consent Order Authorized on October 6, 2009, provided, in pertinent part, as follows:

IT IS HEREBY ORDERED that the Consent Order that was modified on October 6, 2009, be further modified as set forth herein and that the Director of Jails or his designee is authorized as follows:

- a) to release pre-trial felony defendants who can pay for bonds related to felony charges, but cannot pay for the bonds, or have outstanding warrants, related to non-violent misdemeanor or traffic offenses;
- b) to release pre-trial felony defendants who have Michigan Department of Corrections holds (parole detainers) and are eligible for alternatives to jail;
- c) to conditionally release sentenced felons, pre-trial and sentenced misdemeanants and ordinance violators to community based alternatives to jail, and have outstanding warrants related to non-violent misdemeanor or traffic offenses.

17. The 7/25/2011 Order Modifying Consent Order on page 1-2, paragraph 2, provided as follows:

At Division I, all housing floors shall be closed except 4 (mental health), 5 (females/mental health), 6 (inmate workers/females), and 13-14 (pre-classification); at Division II, 1 Old shall be closed; and at Division III, 3 pods shall be closed. To the extent that jail housing units ordered closed must be temporarily re-opened because of inmate population that cannot otherwise be managed, the Sheriff may, when and to the extent necessary, open housing units as necessary, and exceed the police officer limits set out in paragraph 1 of this order to provide the necessary level of security in the re-opened housing unit(s). To the extent that prisoner population levels fall such that additional housing units may be closed, the Sheriff is authorized to close additional housing units, in which case the Sheriff shall make corresponding reductions in the number of uniformed staff.

18. The 7/23/2012 Amended Consent Order on page 2, paragraph 1 provided, in pertinent part, as follows:

The Director of Jail Medical Services, Jail Mental Health Administrator and Director of Jails agree that to measurably improve the welfare and safety of inmates who are mental health consumers, or are medically needy, the eighth floor in Jail Division I (Baird Facility) shall be opened to improve the delivery of medically necessary services to the aforementioned inmates.

19. The 7/23/2012 Amended Consent Order on page 2, paragraph 2 provided as follows:

The Director of Jails, Director of Classification, Director of Jail Medical Services and Jail Mental Health Administrator shall diligently collaborate in monitoring the classification and housing assignment of the referenced inmates who are assigned to housing on the eighth floor in Jail Division I for the purpose of minimizing their risks of being physically assaulted.

20. The 7/23/2012 Amended Consent Order on page 2, paragraph 3 provided as follows:

The Director of Jails and Director of Classification shall diligently assess the assignment of inmates to housing units in Jail Division II (Old Jail) for determining the feasibility of closing housing units in Jail Division II that allows for a reduction of officers. Upon the Director of Jails making a determination that closing housing units is feasible and in the best interest of maintaining safety and security inside of the jails and shall result in the reduction of officers, the Sheriff is authorized to close the housing units in Jail Division II. 6 Annex in Jail Division II shall be closed.

21. The 6/18/2013 Stipulated Order Modifying Consent Order on page 2 provided as follows:

IT IS HEREBY ORDERED that the staffing provisions of the Consent Order shall be modified to add ten police officer positions to the staffing plan. Such staff will be utilized only to provide security and other services to housing units opened to provide Youthful Inmates<sup>9</sup> with housing that does not have sight, sound or physical contact with adult inmates pursuant to PREA.<sup>10</sup> To the extent that the number of Youthful Inmates declines such that the number of housing units set aside for Youthful Inmates decreases, such staff will be redeployed within the jail to reduce overtime.

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<sup>9</sup> The opening recital for this Order defined “Youthful Inmates” as “inmates under eighteen years of age.”

<sup>10</sup> The opening recital for this Order designated “PREA” to refer to the Prison Rape Elimination Act.

22. The 2/23/2016 Order Modifying January 30, 2015 Order and Modifying Consent Order on page 7 provided in pertinent part as follows:

IT IS FURTHER ORDERED that the second sentence of the second operative paragraph of this Court's July 25, 2011 Order Modifying Consent Order is hereby deleted, and in its place and stead is substituted the following language:

The Director of Jails may open and close housing units within the jail only as necessary to accommodate the actual population of the jail or based on inmate classification distributions.

23. The 2/23/2016 Order Modifying January 30, 2015 Order and Modifying Consent Order on page 7 also provided in pertinent part as follows:

The Consent Order is modified to state that the Director of Jails and the Court shall monitor the population in the jail on an ongoing basis to determine the appropriate level of housing unit closures/openings. To facilitate this, the Director of Jails shall regularly, but not less than weekly, inform the Court and CEO regarding the jail population and the status of housing unit closings/openings. The Director of Jails shall also make such population and housing unit closing/opening information available to the other Parties to this matter and their counsel upon request.

# EXHIBIT A

# OFFICE OF THE SHERIFF

ALBERT A. FICANO  
Sheriff



RICHARD M. NOVAI  
Undersheriff

## INTAKE AND CLASSIFICATION POLICY

It is the policy of the Wayne County Jail that inmates be processed effectively and efficiently with an emphasis placed on risk management, in accordance with the orders of the Court and the laws of the State of Michigan. The following procedures are intended to accomplish this objective by utilizing objective criteria and the subjective skills and evaluation of professionally trained staff.

Because of the variety of inmate type and wide range of characteristics within the inmate population, it is incumbent on all staff members, regardless of assignment, to assure proper placement. Therefore, all staff are to be familiar with and adhere to the following procedures.

224-2232

ADDRESS REPLY TO: 525 CLINTON, DETROIT, MI 48226

224-2233

# OFFICE OF THE SHERIFF

DEPT A. FICANO  
Sheriff



RICHARD M. NOVAK  
Undersheriff

## INTAKE AND CLASSIFICATION PROCEDURE

### I. Registry

Upon entering the Wayne County Jail (W.C.J.) all inmates will be subject to the appropriate booking procedures currently in effect. In addition to these procedures, the following will be implemented:

1. An initial booking evaluation form will be completed on each inmate and the prisoner will be admitted or refused admission in accordance with Medical Department Procedure No. 2 (form and procedure Attachment #5).
  - a) The form is intended to be simplistic and take a minimal amount of time.
  - b) The top portion is self-explanatory requiring entry of the inmate's name and number, and the entry of the officer's observations.
  - c) The waiver portion of the form need only be completed in the event an inmate is admitted under the terms of Medical Department Procedure No. 2.
  - d) This form is to be taken along with all other pertinent paperwork to R.D.C.
2. Criminal histories will be completed on each inmate admitted and taken along with all other pertinent paperwork to R.D.C.
  - a) The criminal history is prerequisite to implementing the intake screening procedure; the information therein is necessary to make the appropriate classification of each inmate.

224-2232

ADDRESS REPLY TO: 525 CLINTON, DETROIT, MI 48226

224-2233



- b) Inmates are not to be processed through the R.D.C. until the criminal history is available for review.

## II. R.D.C.

The attached forms are intended to replace only the previous forms utilized for intake screening under R.D.C. Procedure No. 1. Forms used for referrals, disciplinary procedures, P.J. 210's, etc., will remain in use until further notice. The forms attached will replace the current face sheet, the social interview sheet, and the reassignment sheet. The social service daily assignment record, p. 2, has been modified by the deletion of the record of phone call section, as phone calls will no longer be provided in R.D.C. absent extenuating circumstances.

The forms attached for interview and classification were designed to provide a simplistic clinical approach to designation of classifications. Intake procedures are to be modified as follows:

1. Upon intake into the R.D.C. waiting area, the inmate is to complete his own visiting list, unless totally incapable of doing so (Attachment #4).
  - a) The list will be collected and the data listed entered at a designated time.
2. Inmates will then be processed through the X-ray Section.
  - a) The X-Ray records will be an independent record and not a part of the intake/medical file.
3. Inmates will then be processed through the Medical Section utilizing the current medical history and assessment form (Attachment #3).
  - a) The basic procedures of drawing blood and taking of vital signs will continue.
  - b) Review of previous medical files will continue per previous procedure.
  - c) Obtaining blood for VDRL is preferred but not requisite; if two (2) attempts prove unsuccessful, the record is to denote same and no further attempts made.

4. Inmates will then be processed by the Social Services Staff. At this time the interviewer will have the criminal history, the medical history, and all other pertinent records to complete this form.

- a) This form is designed to include basic information concerning education and personal data along with, and perhaps most importantly, subjective evaluation and perceptions on the part of the interviewer. (Attachment #2).

5. The interviewer will at this point utilize the Reception Classification form, which replaces the old face sheet. (Attachment #1).

- a) In the upper right-hand corner of the sheet is a check-off area for all of the above previously-mentioned processes.

- b) In the upper left-hand corner is a basic information section.

- c) Section I is the basic classification category, definitions to be found in the definition section which follows.

- d) Section II is devoted to double-bunking criteria. The only clear criteria being the "first offender." The law enabling double-bunking strictly prohibits the double-bunking of first offenders of any type. The definitions set out below will provide a guideline to filling out this section but will not displace professional judgment or discretion. The only requisite is that the interviewer record the basic for making his or her determination on the interview sheet or the reception classification sheet.

- e) Section III is a totally objective portion of the form in which each inmate will fall into a specific category. The appropriate definitions are in the section below.

- f) Section IV designates the physical compatibility of inmates to be double-bunked. It is only necessary to complete this section if the inmate is double-bunked qualified.

- g) Section V is the focal section in which the final classification code is listed. The first character indicates the basic category, the second the specific category, the third the physical compatibility of the double-bunked inmate (if not to be double-bunked the word "No" will be entered here. This three-digit code will also be entered on the inmate floor card in the upper left-hand corner above the inmate's name.
- h) The final area on this form is reserved for the comments of the interviewer or any person reviewing this form.

The flow of inmates through R.D.C. and the content of the various forms themselves are subject to modification to enhance operations and suggestions and input are encouraged. This form should be redone whenever the classification is changed on a specific inmate.

### III. Definitions: Reception Classification Form

The following definitions are means as a general guide for professional staff to enable competent evaluation and classification of inmates. This section deals only with the Reception Classification form due to the need for unconstrained professional discretion on the interview.

#### A) Section I Basic Categories

1. Juvenile. The mandatory definition of a juvenile is any inmate sixteen (16) years of age or younger. Statutory requirements require segregation of juveniles; however, other considerations may require holding in special areas on a lockin status. This may include but may not be limited to the Psychiatric Section, the Infirmary, maximum security, etc.
2. Youth. Youthful inmates are those between the ages of seventeen (17) and twenty-two (22) years of age. While this group should be housed in the same proximate area, constraints are not nearly as severe as those regarding juveniles. As a group, they are generally more volatile and aggressive than most other age groups and should be closely scrutinized if considered for double-bunking.

3. Adults. Those inmates between the ages of twenty-three (23) and thirty-five (35).
4. Senior. Those inmates thirty-six (36) years of age or older.
5. Medical. This category includes those inmates assigned to the Medical Area designated due to illness or injury, the Psychiatric Area, the Infirmary, or those inmates hospitalized.
6. Hard Core. This category indicates the habitual recidivist who is, or nearly, institutionalized to the institution setting. General factors are the previous incarceration history of the individual and a perceptible predatory attitude. An individual in this category would more than likely dominate and victimize fellow inmates if placed in one of the more general categories.
7. Trusty. Individuals in this category are utilized to perform duties throughout the facility; they will also be eligible for training programs. They will have considerable freedom of movement and may engage in food handling. For these reasons, the following criteria must be observed:
  - a) Medical clearance. The individual must have no contagious or communicable disease, debilitating infirmity, or need for controlled substance medication.
  - b) Security clearance.
  - c) Attitude clearance.

B) Section II - Double-Bunking Criteria

1. Violent behavior history. Of all the criteria for double-bunking, this requires the most evaluation. The law does not prohibit double-bunking of those persons who are charged with crimes against the person or even those who have injured or killed another, but does require that persons of a similar background be housed together. It is a simpler approach to define those who are prohibited from double-bunking, basically those individuals who are given to acts of aggression and violence against others.

Evidence of this propensity may be found in the criminal history, previous jail records, or based on the subjective evaluation of the interviewer. The current charge of the individual is a factor to be considered, but the judgment of the interviewer is controlling. As an example, a person charged with murder may well have been a crime of passion committed by a person not normally given to acts of violence, or an armed robber may well be a timid person who is aggressive only if armed. Only those persons who are perceived to be a threat to another in a one-to-one double-bunked situation should be ruled out in this category..

2. Sexual deviance and/or homosexual history. Persons in this group are to be housed separately in a single cell status for the protection of others, as well as the protection of themselves. Pedophiliacs and homosexuals are as much subject to sexual abuse as they may be aggressive. Previous records, current charges, and self-admission are the primary determining factors. Effeminate males or masculine females with no history or charge indicating sexual deviation should be considered in the special security risk factor.
3. Special Security Risk. This is the most varied group of individuals for which double-bunking is contraindicated. This label is applicable to those classified for maximum security, protective custody, juvenile status, disciplinary status, etc. As mentioned above as an example, an effeminate male may well require single-cell status in protective custody for his own protection.
4. First Offenders. Regardless of basic or specific category, first offenders are strictly prohibited from double-bunking by law. First offenders must be separated in single-cell status based on their grouping in the basic and specific category.
5. Psychiatric restriction. Not all persons classified as emotionally disturbed are prohibited from double-bunking. Of primary concern on intake all new referrals to the Psychiatric Section will be single-bunked until further evaluation and determination by the professional staff. Once referred, the appropriate code system and diagnosis if the Psychiatric Staff will act independently to determine proper placement in the designated sections. Upon discharge from the Psychiatric classification, this form will again be implemented to redetermine appropriate placement.

C) Section III, Specific Category

1. This section is the most clinically objective and straightforward on the form. The determining factor is simply the charge on which the person is currently being held.

a) The only special notation here is in the definition of misdemeanor. Contrary to previous directive, this will be determined by the nature of the charge or conviction, rather than the amount of time given as a sentence. Felony charges in the Michigan Penal Code are specific, and this source is to be utilized to resolve any questionable issue.

b) Abbreviations in this section defined:

1. Rec. - Recidivist or repeat offender.
2. D.B. - Double-bunk qualified.
3. Y - Yes
4. N - No
5. Sent. Misd. - Sentenced misdemeanor.
6. Misd. - Misdemeanant.

c) Civil Violation is any charge which is not a misdemeanor or felony criminal charge. This would include such charges as nonpayment of support or contempt of court.

D) Section IV, Double-Bunk Physical Compatibility

1. This section is relative only to those persons to be double-bunked and is to minimize the risk of physical harm due to inequality of physical characteristics.

a) S.A.T. - refers to height of the person and means short, average and tall.

1) M A L E	CRITERIA	F E M A L E
Under 5'6"	(S = Short)	Under 5'4"
5'6" to 5'11"	(A = Average)	5'4" to 5'9"
Over 5'11"	(T = Tall)	Over 5'9"

b) L.M.H. - refers to weight of the person and means light, medium and husky.

1) M A L E	CRITERIA	F E M A L E
139 Lbs & Under	(L = Light)	119 Lbs & Und
140 to 180 Lbs	(M = Medium)	120 to 160 Lb
181 Lbs & Under	(H = Husky)	161 Lbs & Ove

Discretion of placement within three (3) digits (see § E)1.c) below).

E) Section V, Classification Status.

1. This is the most important section on this form and the culmination of all the foregoing data research. Specific areas of the Jail will be designated for those with these status codes based on experience and need. For all intents and purposes, these will be general codes with the special classifications, such as Psychiatric, Infirmary, Maximum Security, etc., the exceptions.
  - a) This three (3) digit character should always be complete here and in the upper left-hand corner of the floor card above the inmate's name.
    - 1) If the inmate is not double-bunked qualified, Section IV need not be completed but the word "NO" should appear in the #3 Box, printed **BOLDLY!**
  - b) Based on the criteria and information above, the code meaning of these three (3) characters will become universal within the Jail, i.e., 3K - NO = Adult, pretrial misdemeanor recidivist, not to be double-bunked.
  - c) Weight and height variations for double-bunking are permitted for cellmates within a range of three (3) digits, i.e., a number 4 in the Compatibility Code may be double-bunked with a 1, 2, 3 or a 5, 6, 7, but never with an 8 or 9. Likewise, a number 1 should never be paired with anything higher than 2, 3 or 4.

F) Comment Section. As on the interview sheet, a great deal of difference is given to professional judgment and subjective evaluation. The only requirement for deviation from the above criterion and procedure is that the rationale for such changes be entered to become a part of the permanent record.

G) General Information

1. Language barriers may, at the discretion of the interviewer, present a special consideration in housing of an inmate which outweighs other criteria.
2. Racial balance is to be maintained on a ward basis. It is permissible to have a complete ward of one race, but if any racial mixture is made at all it must be as close to a 50-50 mix as possible.

Responsibility for racial balance is initially that of the classification staff; however, the transient nature of the inmate population is such that racial balance must be continually monitored by Security and other ancillary service staff.

3. Forms and systems, as well as operation of intake and screening are not to be considered final and complete. In this period of adjustment there are many unknown factors yet to be realized. It is imperative that the feedback and input of professional and paraprofessional staff be obtained to modify and revise programs to reach optimum operational capabilities.

J. L. Byrd  
Medical Administrator

JLB:mlt



NAME \_\_\_\_\_ DOB \_\_\_\_\_ PROCESS COMPLETED  
 INMATE # \_\_\_\_\_ RACE \_\_\_\_\_ AGE \_\_\_\_\_ X-RAY \_\_\_\_\_ BLOOD \_\_\_\_\_  
 ADMISSION DATE \_\_\_\_\_ CHARGE \_\_\_\_\_ PHYSICAL \_\_\_\_\_  
 INTERVIEW \_\_\_\_\_

I. BASIC CATEGORY

1. JUVENILE [ ]
2. YOUTH [ ]
3. ADULT [ ]
4. SENIOR [ ]
5. MEDICAL [ ]
6. HARD CORE [ ]
7. TRUSTY [ ]

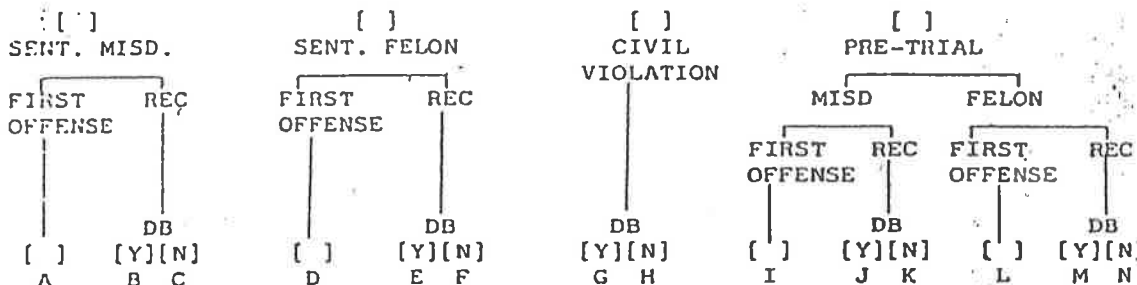
ENTER NUMBER  
AND SEC.V-#1

II. DOUBLE BUNKING CRITERIA

- NO YES
- [ ] VIOLENT BEHAVIOR/OR NATURE [ ]
- [ ] SEXUAL DEVIANCY/HOMOSEXUAL HIST. [ ]
- [ ] SPECIAL SECURITY RISK [ ]
- [ ] FIRST OFFENDER [ ]
- [ ] PSYCHIATRIC RESTRICTION [ ]

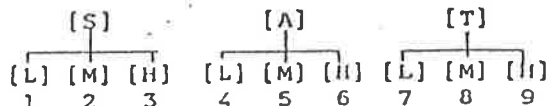
☐ ALL "NO": D.B. QUALIFIED ☐ ANY "YES": NOT D.B. QUALIFIED ☐  
 COMPLETE SEC.IV ENTER "NO" IN  
 ENTER RESULT IN SEC.V-#3  
 SEC.V-#3

III. SPECIFIC CATEGORY



☐ ENTER LETTER HERE AND IN SEC.V-#2

IV. DOUBLE BUNK PHYSICAL COMPATABILITY



☐ ENTER NUMBER HERE  
AND IN SEC.V-#3

V. CLASSIFICATION STATUS

- #1-BASIC CATEGORY
- #2-SPECIFIC CATEGORY
- #3-D.B. COMPATABILITY

COMMENTS

PREPARED BY \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_ AM/PM

# INTAKE INTERVIEW

Name \_\_\_\_\_ D.O.B. \_\_\_\_/\_\_\_\_/\_\_\_\_

Inmate # \_\_\_\_\_ Next-of-Kin \_\_\_\_\_

Phone # \_\_\_\_\_

Education: Grade Completed: 5 6 7 8 9 10 11 12

College: 1 2 3 4 Grad Degree

Attitude: Cooperative Hostile Withdrawn  
Depressed Disturbed Uncommunicative  
Uncooperative Other - Explain: \_\_\_\_\_

Special Cautions: [ ] Mental [ ] Suicidal [ ] Addict  
[ ] Alcoholic [ ] Medical Referral  
[ ] Sexual Deviance [ ] Language Barriers  
[ ] Juvenile [ ] Other \_\_\_\_\_

Note any reason this individual should not be subject to the  
Reception Classification System: \_\_\_\_\_

Prepared by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ AM/P

ATTACHMENT #2

PHYSICIAN ASSESSMENT FORM

BLOOD \_\_\_\_\_

NAME \_\_\_\_\_ INMATE # \_\_\_\_\_ DATE \_\_\_\_\_

D.O.B. \_\_\_\_\_ AGE \_\_\_\_\_ SEX \_\_\_\_\_ RACE \_\_\_\_\_ HEIGHT \_\_\_\_\_ WEIGHT \_\_\_\_\_

T.P.R. \_\_\_\_\_ B/P \_\_\_\_\_ / \_\_\_\_\_ ALLERGIES \_\_\_\_\_

RECENT ILLNESS OR INJURY \_\_\_\_\_

DOCTOR \_\_\_\_\_ ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_ MEDICATION \_\_\_\_\_ DATE OF LAST DOSAGE \_\_\_\_\_

PROSTHETIC DEVICE (i.e.: LIMBS, DENTURES, GLASSES, ETC.) \_\_\_\_\_

DO YOU NOW, OR HAVE YOU IN THE PAST, HAD ANY OF THE FOLLOWING:

	YES	NO		YES	NO
1. FREQUENT HEADACHES	_____	_____	11. EPILEPSY	_____	_____
2. BLACKOUTS OR FAINTING SPELLS	_____	_____	12. TOOTH OR GUM TROUBLE	_____	_____
3. FREQUENT CHEST PAINS	_____	_____	13. HEART CONDITION	_____	_____
4. RHEUMATIC FEVER	_____	_____	14. TUBERCULOSIS	_____	_____
5. ASTHMA	_____	_____	15. WHOOPING COUGH	_____	_____
6. COUGHED OR VOMITED BLOOD	_____	_____	16. ULCER OR STOMACH PAIN	_____	_____
7. HEPATITIS	_____	_____	17. DIARRHEA OR BLOODY STOOL	_____	_____
8. PAINFUL URINATION	_____	_____	18. CRAB OR LICE	_____	_____
9. BACK INJURY	_____	_____	19. DIABETES	_____	_____
10. HYPERTENSION	_____	_____	20. VENEREAL DISEASE	_____	_____
FEMALES ONLY					
21. PREGNANCY	_____	_____	23. PROBLEM WITH PERIOD	_____	_____
22. VAGINAL DISCHARGE	_____	_____			

EXPLAIN \_\_\_\_\_

REFERRALS:  
METHADONE \_\_\_\_\_

DRUG/ALCOHOL REGIME \_\_\_\_\_

MEDICAL OFFICE \_\_\_\_\_

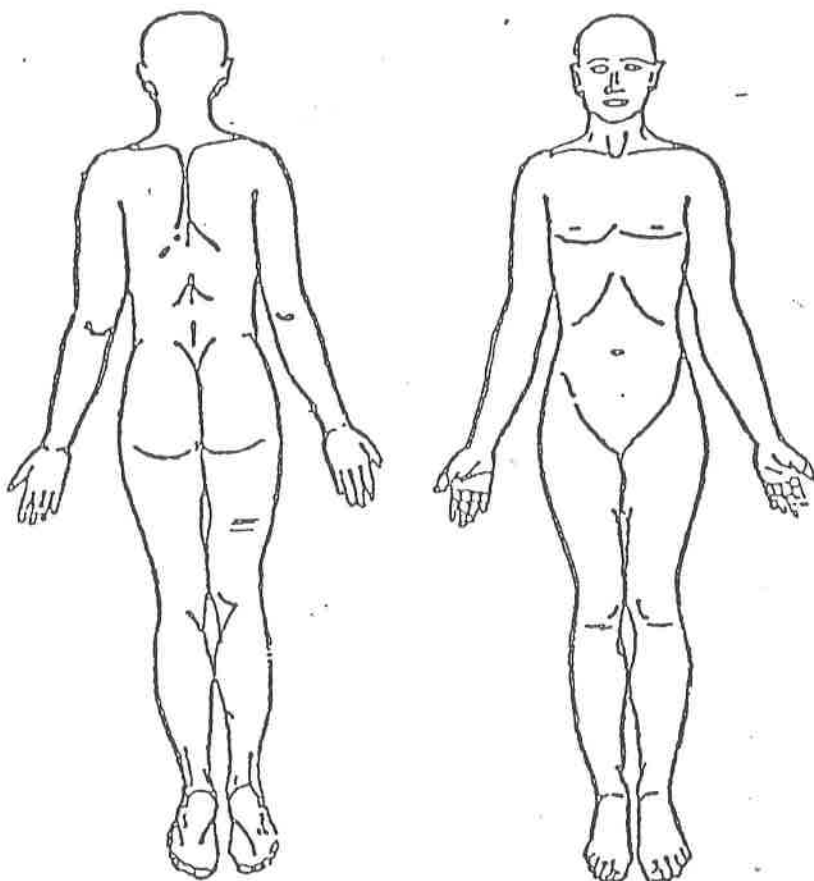
PSYCH. DEPT. \_\_\_\_\_

DENTIST \_\_\_\_\_

HOSPITAL E.R. \_\_\_\_\_

ATTACHMENT #3

**MEDICAL STAFF EVALUATION**  
(Note on Chart and Explain Below)



1. RECENT INJURY \_\_\_\_\_ 2. SKIN \_\_\_\_\_ 3. EYES \_\_\_\_\_  
4. MOUTH or THROAT \_\_\_\_\_ 5. ABDOMEN \_\_\_\_\_ 6. EXTREMITIES \_\_\_\_\_

EXPLAIN: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
MEDICAL STAFF AND TITLE

APPROVED FOR TRUSTY \_\_\_\_\_

ATTACHMENT #3

# EXHIBIT B

## DEPARTMENTAL COMMUNICATIONS

## AVOID VERBAL ORDERS

Inspector Richard Stover

ALL CONCERNED

DATE December 26, 19

Red Tag System

Now, the "Red Tag" System for denoting unusable cells is now in effect and it has become apparent that there is some confusion as to the procedure to follow and precisely what constitutes an unusable cell. The following is a synopsis of an unusable or "Red Tag" cell:

1. Locking malfunction; any cell in excess of one on any given ward that will not lock. A single cell that will not lock on a ward is not unusable.
2. Plumbing leak; an excess amount of standing water in a cell caused and coming from an active plumbing leak, if standing water is due to the fact that the inmate has not mopped water up and there is no evidence of any type of water leakage in the cell, then it would not constitute an unusable cell.
3. Plumbing stoppage; a toilet that is plugged and cannot be documented as being plugged by the prisoners occupant, then the cell is unusable. The Court Order further requires "running potable water." It is our position that the cell must have cold water. Inmates should not be required to drink hot water. A plugged sink likewise is not cause to "Red Tag" a cell. As long as a toilet in a cell is functioning, the occupant can bail the water and make use of the sink. One other point on plugged toilets is that, once detected, the individual cell should be locked to prevent prisoners on the ward to utilize the toilet as a waste bin. In instances where this is perpetrated by prisoners, disciplinary procedures should be initiated as "malicious destruction of County property." And, suspended only if the prisoners on the ward correct the situation by clearing the basin.

(SIGNATURE)

Inspector Richard Stover

4. Hole in vent; while holes in the vents inside the cell are not related to the sanitary conditions, they do constitute a serious break-in and are to be considered an unusable cell. Broken beds or any other part of the cell adjudged to constitute a serious security problem will be unusable. In such cases, the reporting Officers must be ready to stand accountable for their decision.

The "Red Tag" System is meant to identify those cells that are unusable to facilitate repair of cell and assure that prisoners are not in same. It should alleviate personal liability in the instance of cell suit for the Officer at lockup, but will only help facilitate repair if properly verified. The Officer's responsibility then is as

1. Verify that there is a problem in a cell constituting an unusable cell. Jail policy is that Officers may not enter a ward without a Command Officer in cases related to disciplinary action; however, this does not negate entering the ward (using proper security measures) to verify cell conditions.

The predominant responsibility for the identification of "Red Tag" cells will fall on the Afternoon Shift, but all Shifts are expected to implement their use. The Afternoon Shift specifically is to make an inspection of the floor as early in the Shift as possible in order to provide the number and location of "Red Tagged" cells on their respective floor, to the psychiatric social worker making cell assignments. This information is also to be utilized in the completion of the population summation report which should only reflect "Red Tagged" cells.

2. All other routine maintenance should be processed by use of form P.J. 95 (Maintenance Work Order).
3. Emergency maintenance, i.e., flooding, should be reported as prescribed in previous procedures.

The filling out of the "Red Tag" should be as follows:

1. Upon verifying the cell as unusable, the floor Officers are to make out the "Red Tag" listing the ward and cell, the nature of the defect, the date the tag is made out, the name and badge number of the reporting Officer and direct it to Officer Byrd.

3. The white portion of the tag is to be put in the Jail Administrator's tray in the Shift Commander's office. The yellow copy is retained and filed in the floor card box by the floor Officer. Copies of white slips will be made by the maintenance officer and provided to the trades supervisor as initial notification.

4. The "Red Tag" itself is to be hung on the fuse holder in the lock box on the Annex Side of the Jail and on the Old Side; they are to be hung in the lock box on the cell indicator.

5. The yellow portion of this tag will be given to the trades supervisor for his record and initial notification of a "Red Tag" cell.

6. The white portion will be used to write a corresponding work order (cross-indexed with red tag number) to document man hours worked and for records at Buildings Division.

7. The "Red Tag" itself is only to be removed by the appropriate tradesman. When he does so, he is to sign and date the tag on the lower perforated section and turn in the entire tag to the trades supervisor. Floor Officer can then dispose of the yellow portion of tag in floor card box.

8. The trades supervisor is to take the tag (after making whatever notations necessary for his records) to the Jail Administrator's office, where the maintenance officer is to maintain a final record of the entire transaction.

In addition, this is a complex and much involved system with input from many people and impacting on numerous other systems. In order to function, the cooperation and conscientious effort of all parties is required. We are faced collectively with dealing with outside elements, and antiquated and, in some instances, delapidated facility, and a population that is hardly cooperative and becoming increasingly demanding through litigation. The system is meant to facilitate repair, lessen individual Officers' liability, and to create a more efficient overall operation. Success in obtaining these can only be achieved through a cooperative effort.

END



# APPENDIX 3

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

WAYNE COUNTY JAIL INMATES,

et al.

Plaintiffs,

vs.

EDWARD McNAMARA, et al.,

Defendants.

Civil Action No.  
71-173-217CZ

CONSENT ORDER REGARDING APPOINTMENT  
OF THE DIRECTOR OF JAIL OPERATIONS

Whereas the Wayne County Sheriff (hereinafter "Sheriff") filed a motion seeking modification of the Consent Order for Settlement of Jail Suit entered by the Court on November 30, 1989 (hereinafter "Consent Order"); and

Whereas the Sheriff's motion seeks authority to appoint the Director of Jail Operations (hereinafter "DJO"); and

Whereas the plaintiffs, the Wayne County Chief Executive Officer (hereinafter "CEO"), and the Wayne County Commissioners have opposed the modification of that provision of the Consent Order; and

Whereas the parties have resolved their differences and wish to memorialize their agreement;

Now, therefore, in consideration of the mutual promises set forth herein, the parties stipulate and agree as follows:

SELECTION AND APPOINTMENT OF THE  
DIRECTOR OF JAIL OPERATIONS

1. All future appointments to the position of DJO shall be made in accordance with the following procedure:

a. The CEO and Sheriff shall designate one representative each to identify candidates for the position of DJO. The representative of the Sheriff and the representative of the CEO shall constitute the search team (hereinafter "search team"). The search team shall identify up to five candidates for the position of DJO and submit those names to the Sheriff. The Sheriff shall then select and appoint one of those candidates to serve as DJO. The search team shall interview and evaluate candidates prior to submitting their names to the Sheriff.

b. No candidate shall be submitted to the Sheriff or considered for the position of DJO unless both members of the search team agree.

c. In the event that the search team is unable to agree upon candidates for the position of DJO, the issue shall be submitted to the Court for a final decision in accordance with the following procedure:

1. The CEO and Sheriff each shall submit to the Court and serve upon each other the names of at least two, but no more than five, candidates for the position of DJO. Each name shall be accompanied by a written statement regarding the qualifications of that candidate. Within seven days thereafter, the Sheriff and CEO shall each submit written comments regarding

the qualifications of any candidate whose name is submitted by the opposing party. The names of all candidates, as well as any comments regarding their qualifications, shall be submitted under seal and reviewed in camera by the Court. The Court shall enter an order sealing the records.

2. The Court may reject any or all of the candidates whose names are submitted by the Sheriff or CEO. In that event, the Court shall direct the Sheriff and CEO to submit the names of additional candidates. The Court may also enter other orders, as necessary, to ensure that qualified candidates are identified.
3. From those candidates submitted by the Sheriff and CEO, the Court shall select up to five and submit those names to the Sheriff. The Sheriff shall then select and appoint one of those candidates to serve as DJO.

d. It is the intent of the parties and the Court that candidates for the position of DJO shall be identified promptly after notice of a resignation or impending vacancy is received. Accordingly, the search team shall submit candidates to the Sheriff or, in the event of a disagreement by the search team, the Sheriff and CEO shall submit candidates to the Court within 90 days after written notice of an impending vacancy in the DJO position is received by the Sheriff. The Court may extend this deadline for good cause shown.

e. Counsel for the plaintiffs' and counsel for the Wayne County Commission shall receive written notice of

1. a vacancy or impending vacancy in the DJO position;
2. the submission of names to the Court pursuant to paragraph (c)(1), above; and
3. any hearing or conference scheduled by the Court with regard to the selection of the DJO.

2. The DJO shall report to and may be terminated by the Sheriff. The DJO shall be an employee at-will, exempt from Wayne County civil service requirements related to selection and termination of employees.

SELECTION AND APPOINTMENT OF THE  
CLASSIFICATION DIRECTOR AND MAINTENANCE MANAGER

3. All future appointments to the position of Classification Director shall be made in accordance with the following procedure:

a. The search team, as defined above, shall identify up to five candidates for the position of Classification Director and submit those names to the Sheriff. The Sheriff shall then select and appoint one of those candidates to serve as Classification Director. The search team shall interview and evaluate candidates prior to submitting their names to the Sheriff. The DJO shall be involved in the interview process and consult with the search team regarding each candidate. In addition, the Sheriff shall consult with the DJO before making a final selection of a candidate for Classification Director.

b. No candidate shall be submitted to the Sheriff or considered for the position of Classification Director unless both members of the search team agree.

c. In the event that the search team is unable to agree upon candidates for the position of Classification Director, the issue shall be submitted to the Court for a final decision in accordance with the following procedure:

1. The CEO and Sheriff each shall submit to the Court and serve upon each other the names of at least two, but no more than five, candidates for the position of Classification Director. Each name shall be accompanied by a written statement regarding the qualifications of that candidate. Within seven days thereafter, the Sheriff and CEO shall each submit written comments regarding the qualifications of any candidate whose name is submitted by the opposing party. The names of all candidates, as well as any comments regarding their qualifications, shall be submitted under seal and reviewed in camera by the Court. The Court shall enter an order sealing the records.
2. The Court may reject any or all of the candidates whose names are submitted by the Sheriff or CEO. In that event, the Court shall direct the Sheriff and CEO to submit the names of additional candidates. The Court may also enter other orders, as necessary, to ensure that qualified candidates are identified.

3. From those candidates submitted by the Sheriff and CEO, the Court shall select up to five and submit those names to the Sheriff. The Sheriff shall then select and appoint one of those candidates to serve as Classification Director.

d. It is the intent of the parties and the Court that candidates for the position of Classification Director shall be identified promptly after notice of a resignation or impending vacancy is received. Accordingly, the search team shall submit candidates to the Sheriff or, in the event of a disagreement by the search team, the Sheriff and CEO shall submit candidates to the Court, within 90 days after written notice of an impending vacancy in the Classification Director position is received by the Sheriff. The Court may extend this deadline for good cause shown.

e. Counsel for the plaintiffs' and counsel for the Wayne County Commission shall receive written notice of

1. a vacancy or impending vacancy in the Classification Director position;
2. the submission of names to the Court pursuant to paragraph (c)(1), above; and
3. any hearing or conference scheduled by the Court with regard to the selection of the Classification Director.

4. The process set forth above for selection and appointment of the Classification Director also shall be followed in the selection and appointment of the Maintenance Manager.

5. The Classification Director and Maintenance Manager shall be "at will" employees who are exempt from Wayne County civil

service requirements related to selection and termination of employees.

6. Effective immediately, the Classification Director and Maintenance Manager shall report to the DJO. They shall be terminated only by the Sheriff.

SELECTION AND APPOINTMENT OF THE  
INTERNAL COMPLIANCE MONITOR

7. All future appointments to the position of Wayne County Jail Internal Compliance Monitor shall be made as follows: -

a. The search team shall submit to the Court at least two, but no more than five, candidates for the position of Internal Compliance Monitor.

b. In the event that the search team is unable to agree upon candidates, the Sheriff and CEO each shall submit to the Court and serve upon each other at least two, but no more than five, candidates for the position of Internal Compliance Monitor.

Each name shall be accompanied by a written statement regarding the qualifications of that candidate. Within seven days thereafter, each party shall submit written comments regarding the qualifications of any candidate whose name is submitted by the opposing party. The names of all candidates, as well as any comments regarding their qualifications, shall be submitted under seal and reviewed in camera by the Court. In addition, the Court shall enter an order sealing all such records.

c. The Court may reject any or all of the candidates whose names are submitted by the Sheriff and CEO. In that event, the Court shall direct the Sheriff and CEO to submit the names of



additional candidates. The Court may also enter other orders, as necessary, to ensure that qualified candidates are identified.

d. It is the intent of the parties and the Court that candidates for the position of Internal Compliance Monitor shall be identified promptly after notice of a resignation or impending vacancy is received. Accordingly, the search team shall submit candidates to the Sheriff or, in the event of a disagreement by the search team, the Sheriff and CEO shall submit candidates to the Court, within 90 days after written notice of an impending vacancy in the Internal Compliance Monitor position is received by the Sheriff. The Court may extend this deadline for good cause shown.

e. Counsel for the plaintiffs' and counsel for the Wayne County Commission shall receive written notice of

1. a vacancy or impending vacancy in the Internal Compliance Monitor position;
2. the submission of names to the Court pursuant to paragraph (6)(b), above; and
3. any hearing or conference scheduled by the Court with regard to the selection of the Internal Compliance Monitor.

f. The Court shall exercise sole authority to select, appoint and terminate the Internal Compliance Monitor. The salary of the Internal Compliance Monitor shall be comparable to that of a Department Administrator I. The Internal Compliance Monitor shall be considered an employee at-will who serves at the pleasure of the Court. The Internal Compliance Monitor's position, however, shall remain in the budget of the Sheriff's Jail Operation.

8. The Internal Compliance Monitor shall report to the Court and to the DOJ regarding the defendants' state of compliance with all remedial orders entered in this litigation. The Internal Compliance Monitor shall have access to all county and jail records bearing on matters of compliance as well as the full cooperation of all staff and officials of the defendants with regard to all inquiries pertaining to compliance with the orders of this Court. The Internal Compliance Monitor may conduct confidential interviews with the defendants, their employees, and officials and with inmates housed in the jail. The Court may enter other orders as necessary to ensure accurate and complete reporting by the Internal Compliance Monitor regarding matters of compliance.

## WARD RECONDITIONING

EXHIBIT C

### ELECTRICAL

Check, repair, replace and clean, where necessary, the following:

- a) all switches and circuit breakers
- b) all bulbs, ballasts and broken fixtures
- c) all fire and smoke detectors
- d) all locking mechanism electrical components with short circuits
- e) all inmate alarm, voice monitoring and communication systems
- f) all light fixtures in showers
- g) hard wiring of television sets

### PLUMBING

Check, repair, replace, caulk and clean, where necessary, the following:

- a) all cartridges in cell and shower areas
- b) any leaks (supply and drain)
- c) water temperature and flow. Record temperatures.
- d) sprinkler piping and heads
- e) drain piping under shower

### HVAC

Check, repair, replace, clean or adjust, as necessary, to ensure the following:

- a) proper air flow and temperature at all grills
- b) all grills are clean
- c) proper operation for of thermostat

### GENERAL

Check, repair, or replace, as necessary, the following:

- a) bunks and cell furniture for proper anchoring
- b) all locks, closures, sliders, strike plates, hinges and access doors.
- c) all broken glass
- d) damages walls, floors, ceilings, and other surface areas
- e) flooring and stair nosings in deputy control areas.

### PAINTING

- a) Paint all wall surfaces
- b) Epoxy paint all shower areas
- c) Caulk all cracks and crevices
- d) Paint deputy station
- e) Treat and/or seal floor surface areas where necessary

# APPENDIX 4



APPENDIX A

The Circuit Court

for the Third Judicial District of Michigan

701 City-County Building

Detroit, Michigan 48226

RICHARD G. KAUFMAN  
CHIEF JUDGE

AREA CODE 313  
TELEPHONE 824-8850

July 17, 1990

Dear Community Leader:

The Wayne County District Judges' Association, the Wayne County Chiefs of Police and myself have reached a tentative agreement on how beds at the new Wayne County Jail will be allocated. The purpose of this agreement is to try to provide some relief for the district courts in finding jail space for misdemeanants. Implementation of this agreement would commence with the opening of the new jail scheduled for some time in 1991.

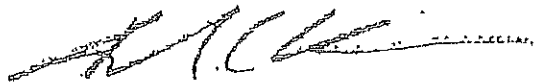
The tentative agreement is that the following categories would be used to prioritize the availability of beds at the new jail. Persons in lower number categories will be given priority on available jail space.

- |                |   |
|----------------|---|
| Category One   | - persons convicted of contempt   |
| Category Two   | - alternative work force violators from either the County program or other community work force program with a twenty day limit |
| Category Three | - pretrial violent felons   |
| Category Four  | - pretrial property felons with capias history  |
| Category Five  | - a misdemeanor allotment of 360 beds (50% to City of Detroit, 50% to other Wayne County communities)                           |
| Category Six   | - pretrial property felons  |
| Category Seven | - sentenced felons  |
| Category Eight | - sentenced misdemeanants other than those included in the allotment  |
| Category Nine  | - pretrial misdemeanants other than those included in the allotment   |

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The purpose of this letter is to inform you of this tentative agreement. It is my intent to implement this agreement upon the opening of the new jail. If you wish to comment on this agreement, please send any written comments to my office.

Respectfully,



Richard C. Kaufman

RCK/cms