

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

FAVIAN BUSBY and MICHAEL)	
EDGINGTON, on their own behalf and on)	
behalf of those similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	No. 20-cv-2359-SHL
)	
FLOYD BONNER, JR., in his official)	
capacity, and SHELBY COUNTY)	
SHERIFF'S OFFICE,)	
)	
Defendants.)	

INSPECTION ORDER

Pursuant to Federal Rule of Evidence 706, the Court hereby appoints Michael K. Brady as an expert witness in the field of jail and prison operations as it relates to the prevention and mitigation of the spread of infectious diseases and public health in the correctional setting. The appointed expert shall provide information to the Court responsive to the Plaintiffs' Motion for Temporary Restraining Order (ECF No. 2), and render an expert opinion on the current health and safety of medically-vulnerable Plaintiff-detainees at the Shelby County Jail ("the Jail")¹ in light of the COVID-19 pandemic, including but not limited to the Facility's compliance with the pertinent CDC and Shelby County Public Health guidelines and other applicable standards. The expert's findings shall include, if warranted, recommendations regarding corrective measures that, in his expert opinion, should be implemented at the Jail to protect the medically-vulnerable from the COVID-19 virus at the Facility.

¹ The Jail is located at 201 Poplar Avenue, Memphis, TN, 38103.

Further, the Court **ORDERS** that Mr. Brady shall be granted unrestricted access to the Facility unannounced, and may bring with him laptops or other similar equipment with internet access, cameras, cell phones, writing implements, and any other equipment required to conduct his site visit/s. Once in the Facility, Mr. Brady shall be permitted to inspect areas of the facilities without limitation and shall be permitted to speak with staff and inmates in confidence and outside of the presence of Facility supervisors and staff. The inspection shall take place anytime between the hours of 8 a.m. and 11 p.m. on any day of the week and may last for 1-2 days. The inspection will be unaccompanied by either Party, and Defendants shall make available a security escort and guide who is familiar with the Facility and its policies and procedures.

Defendants are further **ORDERED** to make available reasonable personal protective equipment, including but not limited to N95 masks and protective eyewear to Mr. Brady and shall permit him to bring within the Jail such personal protective equipment as he deems necessary.

It is further **ORDERED** that Mr. Brady may confer with counsel for the Plaintiffs and Defendants each, *ex parte*, at his sole discretion. Mr. Brady shall annotate any conferences with either Party in his report.

It is further **ORDERED** that Mr. Brady shall be permitted to review all pertinent Facility and detainee records and documents including medical and mental health records, electronic or otherwise, and video footage in connection with his investigation. Mr. Brady is empowered to

make document and records request to the Parties and their healthcare provider.² The Parties shall respond to Mr. Brady's requests in a timely fashion.

It is further **ORDERED** that the Facility shall make all supervisors and staff available for interviews, including telephonic interviews conducted by Mr. Brady or his associates immediately and without undue delay, if requested by Mr. Brady.

Mr. Brady shall provide a written report to the Parties and the Court as soon as possible, but no later than **June 29, 2020**. The report should address, at minimum, the Inspector's findings on the following issues, to the extent, in the opinion of Mr. Brady, these issues impact medically-vulnerable detainees:

- (1) the Jail's Pre-Intake /Intake procedures;
- (2) the Jail's Quarantine /Isolation procedures;
- (3) the Jail's efforts to educate inmates/detainees preventing the spread of COVID-19;
- (4) the Jail's efforts to train facility staff on preventing the spread of COVID-19, including policies and procedures;
- (5) the Jail's cleaning practices in light of COVID-19;
- (6) the availability of hygiene products, cleaning products, and personal protective equipment ("PPE") to inmates/detainees, particularly the medically-vulnerable;
- (7) the Jail's efforts to implement social distancing;
- (8) the Jail's efforts to limit movement in the Jail;
- (9) the Jail's policies concerning medically screening staff and/or visitors to the Jail;
- (10) the Jail's responses to inmates who test positive for COVID-19;

² If a Party believes it is necessary to protect a particular document, it may provide said document with a confidentiality agreement to Mr. Brady directly. The Court will address any additional dispute, if necessary.

- (11) the Jail's treatment of medically-vulnerable inmates/detainees as defined by the Centers for Disease Control and Prevention;
- (12) detainees' access to healthcare when they exhibit symptoms associated with COVID-19;
- (13) the Jail's efforts to reduce the population of the Jail due to COVID-19;
- (14) any other aspect of confinement which the Inspector believes is relevant to protect the medically vulnerable; and
- (15) how all of the above has progressed throughout the COVID-19 pandemic.

To the extent the inspection, review, and report includes protected health or other sensitive information, it shall be kept in restricted or under seal access pursuant to this Court's protective Order to be issued by separate filing, if necessary.

Nothing in this Order precludes either party from hiring its own expert to conduct its own inspection.

IT IS SO ORDERED, this 18th day of June, 2020.

s/ Sheryl H. Lipman _____
SHERYL H. LIPMAN
UNITED STATES DISTRICT JUDGE