

IN THE DISTRICT COURT OF THE UNITED STATES  
 FOR THE EASTERN DISTRICT OF MISSOURI  
 EASTERN DIVISION

ROBERT E. BULLINGTON, et al., )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 WARDEN MORELAND, et al., )  
 )  
 Defendants. )

Cause No. 79-650 C (1)

Court No. 1

**FILED**

*Aug 12 1983*

EDWARD E. BARNHILL  
 U. S. CLERK OF COURT  
 E. DISTRICT OF MO.

Consolidated With )  
 )  
 RONNIE JOHNSON, et al., )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 WILLIAM O'BRIEN, et al., )  
 )  
 Defendants. )

Cause No. 76-210 C (2)

Johnson v. O'Brien



JC-MO-010-050

Consolidated with )  
 )  
 WILLIAM J. BRUCE, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ST. LOUIS COUNTY DEPARTMENT )  
 OF JUSTICE SERVICES, etc., )  
 )  
 Defendant. )

Cause No. 82-223 C (3)

STIPULATION OF THE PARTIES

Come now plaintiffs, by and through John P. Emde and James L. Thomas, their attorneys of record, and defendants, by and through Thomas W. Wehrle, St. Louis County Counselor, and Donald J. Weyerich, Special Assistant County Counselor, their

attorneys of record, and state to the Court and stipulate and agree as follows:

Introduction

1. Action No. 79-650 C (2) was filed on or about May 30, 1979 by Robert Ernest Bullington, pro se, plaintiff; thereafter, this Court entered its Order appointing James L. Thomas as attorney for plaintiff, and in due course an Amended Complaint was filed on behalf of plaintiffs and, in response thereto, defendants filed their pleadings, including an Answer to Plaintiffs' Amended Complaint.

2. On or about February 21, 1980 this Court entered its Order directing that Action No. 79-650 C (2) be maintained as a class action pursuant to Rule 23(b)(2) and certifying the class as follows:

All persons who are detained, or will be detained at the St. Louis County Jail, awaiting trial on alleged offenses against the State of Missouri.

3. On or about September 18, 1980 this Court further entered its MEMORANDUM and ORDER by which, among other things it was:

a. Ordered that the present case be consolidated with Johnson, et al v. O'Brien, et al, Cause No. 76-210 C (2), in which this Court had theretofore entered a final Judgment and Decree;

b. Ordered that Johnson v. O'Brien, supra, be reopened for the purpose of determining whether or not defendants were in compliance with the previous Order entered in said action;

c. Ordered that the case, upon consolidation, be referred to the Honorable William S. Bahn, United States Magistrate, pursuant to 28 U.S.C. Section 636(b)(1)(B); and

d. Ordered that Magistrate Bahn conduct whatever proceedings deemed necessary in order to resolve conflicts of facts with respect to this case.

4. On or about December 11, 1980 an Order was entered by Magistrate Bahn by which plaintiffs were directed to submit to the Magistrate a listing of the action required to be taken by defendants as set forth in the Order of this Court in Johnson v. O'Brien, and further directing plaintiffs' counsel to file a listing of the complaints and allegations of the class with respect to the issues raised in the present action, and further ordering the defendants to indicate to the Court the nature of the actions which have been taken by them in order to comply with the Court's order in Johnson v. O'Brien.

5. Plaintiffs and defendants, respectively, filed their Certificate of Compliance with the Court's Order of December 11, 1980, and Magistrate Bahn, in due course, both by means of a personal examination and inspection of the St. Louis County Jail and based upon the reports of the parties with respect

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thereeto, considered the question of defendants' compliance with provisions of the Order entered in Johnson v. O'Brien.

6. On February 3, 1981 Judge Bahn and counsel for plaintiffs made an unannounced inspection and tour of the entire St. Louis County Jail facility; a report of said visit and inspection was made by Judge Bahn to this Court on or about February 6, 1981.

7. Thereafter, on March 12, 1981 and March 27, 1981 Magistrate Bahn, held hearings during which arguments of counsel were heard, stipulations of counsel were made upon the record, evidence was introduced and received, and testimony was heard, received and considered by the Court.

8. On or about the 23rd day of July, 1981 the MAGISTRATE'S REVIEW AND RECOMMENDATION with respect to this action was filed with this Court, and in due course, both plaintiffs and defendants' counsel filed their respective Responses to the Magistrate's report.

9. On or about the 27th day of May, 1982, the Honorable William L. Hungate entered an Order in Cause No. 82-223 C (4), William J. Bruce, Plaintiff, vs. St. Louis County Department of Justice Services, etc., Defendant, pursuant to the terms of which Order said Cause No. 82-223 C (4) was found by the Court to involve issues and factual allegations common to the issues raised in Johnson v. O'Brien and Bullington v. Warden Moreland and further directing and ordering that, pursuant to Rule 42,

Fed. R. Civ. P., said Cause No. 82-223 C (4) be consolidated with Cause No. 79-650 C (2) and Cause No. 76-210 C (2).

Stipulation

10. The parties hereto stipulate and agree that all of the exhibits marked during the proceedings before Magistrate Bahn, plaintiffs' Exhibits 1 through 22, inclusive, be and are hereby offered and received in evidence in the proceedings both before Judge Bahn and before this Court.

11. The parties hereto further stipulate and agree that all of the testimony and evidence heard and received before Judge Bahn be and is hereby considered to be evidence in this case and may be considered by the Court as evidence and testimony with respect to any issue of fact or law to be decided by the Court in this action.

12. The parties stipulate and agree that Plaintiffs' Exhibit 21, generally referred to as the Feasibility Report for Expansion St. Louis County Government Center prepared by Pearce Corporation and transmitted to the County Executive and to the members of the St. Louis County Council by letter of transmittal of March 19, 1981 be received in evidence in this case (with respect to such parts of said Exhibit as relate to the St. Louis County Jail located in the Courthouse complex in Clayton, Missouri); the parties hereto further stipulate and agree that all of the factual statements contained in said Exhibit 21 with respect to said County Jail are true and accurate and that all of the statements of opinion contained in

said Exhibit are the opinions of those persons associated with the Pearce Corporation whose names appear within said report, and that the said persons making said report are, by training, experience, education and profession, qualified to state the opinions expressed therein by said persons.

13. The parties hereto further stipulate and agree that counsel for plaintiffs and the Honorable Magistrate William S. Bahn have visited, toured and inspected the jail facility operated by defendants in Clayton, Missouri and, with respect to the directive of this Court concerning the compliance by defendants with the Order in Johnson, et al v. O'Brien, et al, the parties hereto further stipulate and agree as follows:

a. The provisions of paragraph 2 of said Order concerning the renovation of the confinement areas described therein have been fully completed and counsel for plaintiffs are unaware of any respect in which defendants have failed fully to comply with the provisions of said paragraph.

b. Paragraph 4 of the aforesaid Order requires the institution and maintenance of a recreation program as more fully described in said Order; with the exception of isolated periods of time in which said program has been interrupted because of the mechanical failure of the elevators, the requirements of reconstruction resulting from escape attempts, or other factors and/or conditions not directly within the control of defendants, plaintiffs'

counsel are unaware of any respect in which defendants have not fully complied with the terms and provisions of said paragraph 4.

c. Paragraph 5 of the aforesaid Order requires the institution and maintenance of a medical program as fully set forth in said Order; defendants have at all times subsequent to the entry of said Order interpreted the word "daily" as used therein to mean "week days" (Monday through Friday) as contrasted with "weekends"; because of said interpretation, the written medical request forms completed by residents are evaluated and reviewed by the L.P.N. on Mondays through Fridays, and by senior supervisory staff in consultation with the emergency room staff of St. Louis County Hospital on Saturdays, Sundays and holidays; subject to the foregoing, plaintiffs' counsel are unaware of any significant manner in which defendants have not fully complied with the procedures set forth in paragraph 5 of the aforesaid Order.

d. Paragraph 6 of the aforesaid Order requires the institution and on-going maintenance of a program with respect to "cleaning details" within said facility; notwithstanding the fact that isolated members of the class of plaintiffs have, from time to time asserted nonspecific alleged violations with respect to the terms and provisions of said paragraph, counsel for said plaintiffs state that their investigation has revealed no significant or substan-

tial intentional violations of the requirements of said subparagraph.

e. Subparagraph 7 of the aforesaid Order requires the institution and maintenance of a program with respect to laundering the personal apparel of residents; with the exception of isolated periods of time during which defendants have experienced a malfunction of equipment resulting in the temporary interruption of said program, counsel for plaintiffs are unaware of any substantial manner in which defendants have failed to comply with the terms and provisions of said paragraph 7 of the aforesaid Order.

f. Paragraph 8 of the aforesaid Order requires the institution and maintenance of a visitation program with respect to the residents of said institution; counsel for plaintiffs are unaware of any respect in which defendants have failed to comply with the terms and provisions of the aforesaid paragraph with respect to visitation.

14. The parties hereto therefore stipulate and agree that, subject to the further order of this Court entered upon its own motion or upon motion of the plaintiffs, the matters with respect to the compliance of defendants with the Order of this Court entered in Johnson, et al v. O'Brien, et al be considered concluded and the file with respect thereto closed.

15. The issues presented by the pleadings in Bullington v. Moreland and as to which evidence, testimony and stipulations of the parties have been presented to the Court, are based upon



the contentions of the class-action plaintiffs that their constitutional rights as pre-trial detainees are violated by action or inaction on the part of the defendants with respect to the following general areas or subject matters (as set forth in the Magistrate's REVIEW AND RECOMMENDATION):

- (1) Overcrowding by excess population.
- (2) Cold food and inadequate portions thereof.
- (3) Substandard medical-dental facilities.
- (4) Lack of a serviceable library.
- (5) Failure to provide prisoners with jail rules.
- (6) Lack of cleanliness.
- (7) Prisoner mail from courts and attorneys being censored.
- (8) Strip searches, especailly after visits.
- (9) Antiquated visiting booths creating inadequate communication.
- (10) Internal assaults.
- (11) Lack of recreation.
- (12) Length of pretrial detention.

16. Subsequent to the entry by this Court of the Order of September 18, 1980 as aforesaid, counsel for the parties hereto separately, and also with Magistrate Bahn, met and conferred on numerous occasions for the purpose of discussing, clarifying and attempting to resolve the foregoing issues raised by plaintiffs' Complaint and listed in the preceding paragraph; as the result of the foregoing efforts, between September 18, 1980 and the date of this Stipulation, numerous practices, procedures

and policies have been amended, promulgated, adopted, implemented and/or maintained by defendants with respect to their operation of the St. Louis County Jail with the result that many of the complaints of plaintiffs have been eliminated, rectified or resolved; for the purposes of continuity, and for the convenience of the Court, the parties have listed as numbered subparagraphs of paragraph 17, the corresponding 12 "general areas" of plaintiffs' complaints alleged in the Complaint as categorized by the Honorable Magistrate in his Report (and as listed in paragraph 15 hereof), and as to each category, the parties have set forth the agreed facts with respect to said category followed by an agreed statement of the proposed remedy with respect thereto which, upon approval by the Court, the parties agree may be incorporated in the Court's final Order; as to such categories wherein the parties agree upon the facts, but have not agreed upon the appropriate remedy or relief, if any, to be granted, the parties hereto stipulate and agree that said issues may be determined by the Court as hereinafter set forth in paragraph 21 hereof.

17. The complaints alleged in plaintiffs' Complaint, as categorized by the Magistrate in his Report of July 23, 1981 are as follows:

1. OVERCROWDING BY EXCESS POPULATION

(a) Statement of Stipulated Facts

St. Louis County Jail at Clayton, Missouri is operated as a "maximum security" institution; with the exception of

two areas (one, the "Intake Service Center", a receiving and processing unit located on the ground floor of the "old courthouse building", and the second, the "recreation area" located on the second floor of the same building), all persons confined in St. Louis County Jail are housed and maintained at all times within the area on the fourth floor of the building (for the purposes of this action, the parties hereto do not include within the definition of "persons confined in St. Louis County Jail" such persons as may be in the custody of defendants in the "work release program" under the terms of which persons are in the custody of the defendants except for such periods of time as such person is released to work at an outside place of private employment; work release subjects are housed customarily in an area located on the third floor of the courthouse); all persons coming into the custody of defendants are initially received at the "Intake Service Center" (ISC), and if said person is to be remaining in the custody of defendants for confinement either in the St. Louis County Jail or in the Adult Correctional Institution (ACI) at Gumbo, said person is in due course moved from the basement of the building to the fourth floor facility of St. Louis County Jail where the detainee is initially housed in the so-called YELLOW ZONE or intake center.

YELLOW ZONE

The intake center consists of a unit of 12 cells plus two cells used for the temporary detention of female prisoners or other prisoners initially to be isolated from other residents, which two cells are separated from the remaining 12 cells; each of the 12 YELLOW ZONE cells is approximately 6 ft. X 9 ft. X 8 ft., thereby containing an area of approximately 54 sq. ft.; during the course of this litigation, and as the result of stipulations of the parties, defendants have installed one additional fold-down bunk in each of the 12 cells so that at the present time each such cell has sleeping accommodations for two persons; each cell further is equipped with a toilet and a wash basin; one separated shower stall serves all residents housed in the YELLOW ZONE; the YELLOW ZONE is used for the housing of residents first entering the system prior to classification by the social service staff for assignment to a specific area in the main confinement area of the jail; the area is further used to house persons who are awaiting transfer to ACI, for persons who defendants anticipate will make bond but have not yet completed the mechanical requirements, and occasionally for persons being held without warrant under the so-called "20 hour rule"; persons housed in the YELLOW ZONE normally do not remain therein for more than 72 hours; for statistical purposes, defendants do not include in their computations of total

number of inmates any of the persons confined within the YELLOW ZONE; during periods of maximum occupancy and because of circumstances beyond their control, defendants have from time to time placed additional mattresses on the floor of the cells in the YELLOW ZONE thereby increasing on said occasions the occupancy to three residents per cell; based upon the standards set forth by the Eighth Circuit with respect to minimum number of square feet per resident, the cells in the YELLOW ZONE meet constitutional standards for area at such times as the population thereof is limited to not more than two persons per cell.

(b) Proposed Remedy

The parties hereto stipulate and agree that no more than two persons shall be housed in each of the 12 cells located in the YELLOW ZONE of St. Louis County Jail, except that, in the event of specific, unusual circumstances one additional person may be placed in each of said cells provided that none of the three persons so confined in said cell shall be maintained therein for any period of time in excess of 18 consecutive hours.

RED ZONE

Statement of Stipulated Facts and Proposed Remedy

The cells in the RED ZONE, or main confinement area are the cells which were reconstructed in compliance with this Court's Order in Johnson v. O'Brien, supra; the area and the population limits comport with minimum standards as set forth by the

Eighth Circuit Court of Appeals and the provisions contained in the Order in Johnson v. O'Brien with respect thereto, may be, by the consent of the parties, ratified and reaffirmed in the present Order.

#### GREEN ZONE

##### Statement of Stipulated Facts

The GREEN ZONE consists of three cells each containing four bunks and each measuring 8 ft. X 14 ft. X 8 ft. (height), or 112 sq. ft. per cell; the zone also includes an area commonly referred to as a "day room" into which the three cells open; the area of the day room contains 564 sq. ft.; except for the time period between 1 a.m. and 7 a.m., the residents in the GREEN ZONE are not confined to their individual cell, but rather are free to move about in all of the cells as well as in the day room; to accommodate additional residents; bunks are from time to time set up in the day room for one or more additional residents; residents housed in the GREEN ZONE normally are persons who do not present significant disciplinary problems.

##### Proposed Remedy

Based upon the minimum area standards set forth by the Eighth Circuit, the parties stipulate and agree that occupancy of the GREEN ZONE shall be limited to four persons in each of the three-man cells, and in addition thereto, additional residents up to, but not exceeding, four (4) in number may, as necessary, be housed in the day room of the GREEN ZONE, pro-

vided, however, that all residents housed in the GREEN ZONE shall be permitted to move about in the day room a minimum of 12 out of any 24 consecutive hour period (except in the event of specific objective unusual circumstances as determined by defendants); defendants may, from time to time, petition this Court for further orders with respect to any change in procedure with respect to confinement of residents within the GREEN ZONE.

#### NORTH MODULE

##### Statement of Stipulated Facts

The NORTH MODULE is composed of a common area containing 530 sq. ft. on to which nine one-man doorless rooms open; each of the nine one-man rooms contains 58 sq. ft.; thus, the combined area of the NORTH MODULE is 1,052 ft.; toilet facilities are available only in each of the individual rooms, and there is a single shower facility in the common area. The number of residents housed in the NORTH MODULE in normal circumstances ranges from nine to fifteen persons.

##### Proposed Remedy

In accordance with the minimum standards set forth by the Eighth Circuit Court of Appeals, the parties stipulate and agree that not more than 14 residents be housed in the NORTH MODULE.

## SOUTH MODULE

### Statement of Stipulated Facts

The SOUTH MODULE consists of a common area containing 600 sq. ft. plus ten individual rooms opening onto the common area, each of which individual rooms contains approximately 52 sq. ft. of area; thus, the total area is approximately 1,120 sq. ft.; each of the individual rooms contains toilet facilities and there is a shower stall located in the common area. The number of residents housed in the SOUTH MODULE in normal circumstances ranges from eight to fourteen persons.

### Proposed Remedy

In accordance with the minimum standards set forth by the Eighth Circuit Court of Appeals, the parties stipulate and agree that not more than 14 residents be housed in the SOUTH MODULE.

## CLOSE SECURITY

### Statement of Stipulated Facts

The CLOSE SECURITY area consists of five two-man cells, each of which measures 5 ft. X 9 ft X 8 ft. (height), or 45 sq. ft. per cell; the five cells in the CLOSE SECURITY area open onto a day room containing 409 sq. ft.; prior to September, 1982, on a rotating basis, the two persons in a respective cell were permitted in the day room for one hour periods at a time, so that an individual confined in the CLOSE SECURITY area remained confined to his cell except for three (3) hours out of any 24 hour period during which he was permitted use of the day



room; subsequent to September, 1982, all ten residents of this area are permitted to use the day room between the hours of 7 a.m. and 10 p.m.

Proposed Remedy

Based upon the minimum standards set forth by the Eighth Circuit Court of Appeals, the parties agree that use of the cells in the CLOSE SECURITY area shall be restricted to not more than one person per cell or a total of five residents, except that in situations of documented emergency beyond the control of defendants, two persons may be confined in one or more of each said five cells, so long as no individual resident shall be confined in any such cell in excess of seventy-two hours with another resident.

ISOLATION

Statement of Stipulated Facts

There are seven ISOLATION cells, each consisting of approximately 63 sq. ft. and each housing one resident. The ISOLATION cells are used for disciplinary purposes, for administrative segregation, and for isolation of residents having emotional, psychological or severe medical problems.

Proposed Remedy

Based upon the minimum standards set forth by the Eighth Circuit Court of Appeals, the parties agree that the ISOLATION cells may be used for purpose of housing one resident per cell as is presently the practice.

## INFIRMARY

### Statement of Stipulated Facts

The INFIRMARY consists of a segregated secure area containing approximately 158 sq. ft.; the area further contains toilet facilities and a shower stall; the normal capacity of the area is three residents; on occasion a fourth bed is added to the area because of medical necessity.

### Proposed Remedy

Based upon the standards set forth by the Eighth Circuit Court of Appeals, the parties stipulate and agree that three residents may be housed in the INFIRMARY, and that, from time to time, defendants may house an additional inmate in said area when, in the opinion of defendants, specific demonstrated additional need for INFIRMARY space is required in order to provide for the health, safety and security of the residents.

## 2. COLD FOOD AND INADEQUATE PORTIONS THEREOF

### Statement of Stipulated Facts

Individual members of the class of plaintiffs have different complaints concerning the food served in the institution; the complaints range from food being served cold, to a dislike for specific vegetables; the menus are determined by qualified dietitians employed by St. Louis County and who physically work at St. Louis County Hospital; there is some evidence that some of the residents are unaccustomed to the balanced diets selected by the dietitians and served by the institution which could form the basis for the complaints of some of the resi-

dents; because of the crowded conditions and the fact that all meals are delivered from the kitchen to the individual resident's cell, there can, from time to time, be some delays or difference in delivery time with respect to different areas of the institution which accounts for the complaints with respect to cold food; at the time of the numerous inspections by counsel for defendants and by the Magistrate all items of "hot" food appeared to be well within acceptable ranges of temperature for serving; the evidence with respect to this area of plaintiffs' Complaint is somewhat inconsistent, contradictory and nebulous, and it is difficult to conclude that the actions of defendants with respect to the food served in St. Louis County Jail fail to meet constitutional minimum standards.

### 3. SUBSTANDARD MEDICAL-DENTAL FACILITY

#### Statement of Stipulated Facts

The Order of the Court in the Johnson v. O'Brien case remains in effect, and said Order is being met by defendants with respect to medical procedures; the licensed practical nurse visits each custody area of the institution at approximately 9:00 a.m. Monday through Friday and receives the written medical complaints submitted by the residents; on Saturday, Sunday and holidays, the written complaints are reviewed by senior staff members who then consult with the emergency room at St. Louis County Hospital with respect to any complaints received by them which are believed to require review by medically trained personnel; a medical doctor visits the Jail

on Monday, Wednesday and Friday and a psychiatrist and/or psychologist is available on Tuesdays, Thursdays and Saturdays; subsequent to the institution of this action and to the Order entered in the Johnson case, the defendants established a general dental therapy facility at the Adult Correctional Institution at Gumbo; at the present time residents of St. Louis County Jail with dental problems are transported to Gumbo for treatment of their dental needs; at the present time, both licensed practical nurses work Monday through Friday for the same eight hour shift; the parties agree that the medical needs of the residents cannot be adequately supplied during a single eight hour period.

Proposed Remedy

The parties hereby stipulate and agree that that portion of this Court's Order in Johnson v. O'Brien be reaffirmed with respect to the maintenance of the medical program with the following clarification and addition; the written forms described in paragraph 5 of the Order in the Johnson case shall be reviewed by a licensed practical nurse on duty at the Jail who shall visit each detention area and attend to each inmate who has previously indicated a desire for medical attention; such shall be done Monday through Friday, inclusive; on Saturday, Sunday and legal holidays, a senior member of the staff shall visit each detention area and attend to each inmate who has previously indicated a desire for medical attention; such senior staff person shall then communicate with qualified

personnel at St. Louis County Hospital for the purpose of determining whether or not any resident is in need of further immediate medical attention; as to any such inmate who is determined by the staff at St. Louis County Hospital to be in need of immediate medical attention, defendant shall forthwith transport said inmate to St. Louis County Hospital for the purpose of receiving such medical attention; further, defendants shall employ licensed practical nurses assigned to St. Louis County Jail and shall cause their schedules to be such that on Monday through Friday there shall be one or more such licensed practical nurse on duty at the jail at least 16 of the 24 hours of the day.

#### 4. LACK OF A SERVICEABLE LIBRARY

##### Statement of Stipulated Facts

The defendants presently provide selected legal materials for use by the residents; a library containing adequate legal materials both satisfies the residents' constitutional right to access to the Courts and also provides the detainees with an opportunity to occupy their time in a useful and pacific endeavor; the materials of a legal nature currently available in the Jail library are useful to the residents for the above purposes but are not totally adequate and the contents of the library with respect to legal materials should be increased.

##### Proposed Remedy

The following listed materials, at a minimum, shall be supplied by defendants as and for a library at St. Louis County

Jail to be used by the inmates in accordance with such reasonable rules concerning the use thereof as may be, from time to time, promulgated and enforced by the defendants:

1. An adequate supply of legal size stationery;
2. Two manual typewriters in good working order;
3. Volumes 38, 39, 40 and 41 of VAMS;
4. Missouri Rules of Court pamphlets;
5. Vernons Annotated Missouri Rules (Rules 1-102 in four volumes);
6. Southwestern Reporter - Missouri cases only (last ten years to date);
7. Blacks Law Dictionary;
8. Missouri Digest (one set);
9. Titles 18 and 28 United States Code Annotated;
10. Federal Practice and Procedure by Wright and Miller, Volumes 1-3 only;
11. Supreme Court Reporter (1953 to date);
12. Corpus Jurus Secundum - criminal law sections only (7 volumes);
13. Federal Rules of Criminal Procedures pamphlets; and
14. Missouri Revised Statutes plus yearly supplements (1978 Edition).

5. FAILURE TO PROVIDE PRISONERS WITH JAIL RULES

Statement of Stipulated Facts

Prior to the institution of this action, defendants had discontinued a prior practice of distributing printed rules to residents upon their entry into the institution; during the course of these proceedings, by stipulation, it was agreed that rules would be revised, submitted to counsel for plaintiffs for

suggestion, comment and criticism, and then promulgated, printed and distributed to the residents; this stipulation has been completed and at the present time written rules and regulations are provided to each person entering the St. Louis County Jail; a copy of said rules and regulations marked plaintiffs' Exhibit 22 has been filed with the Court.

Proposed Remedy

Defendants shall furnish to each person entering St. Louis County Jail a written or otherwise printed copy of the rules and regulations of said institution, which are currently promulgated in the form evidenced by Exhibit 22; defendants shall, from time to time, when deemed necessary, review, revise and reprint said rules and regulations; nothing in this Order shall be deemed in any wise to restrict the right of defendants to establish, promulgate and distribute any and all reasonable rules and regulations with respect to the operation of St. Louis County Jail so long as said rules and regulations meet all constitutional tests, are not inconsistent with existing orders of this Court, and are published and distributed to the residents upon entry into the institution.

6. LACK OF CLEANLINESS

Statement of Stipulated Facts and Proposed Remedy

Defendants are in compliance with the Order of this Court with respect to the cleaning of the residents' areas and the laundry of personal articles as set forth in the Court's Order in Johnson v. O'Brien and said Order is reaffirmed and ratified.

7. INMATE MAIL FROM COURTS AND ATTORNEYS AND CENSORSHIP

Statement of Stipulated Facts

Individual members of plaintiff class complained that incoming mail bearing the return address of a court or an attorney at law was censored by institutional staff prior to delivery to residents; the rules promulgated by defendants during the course of this litigation include specific provisions with respect to receipt of mail from courts or attorneys and compliance with said Rules fully eliminates plaintiffs' complaints.

Proposed Remedy

Defendants shall at all times carry out the provisions of defendants' rule with respect to "mail" set forth on page 9 of the current rules of the institution which provides in part: "Any letter from your attorney, judge or governmental official will be delivered to you unopened."; any such mail from an attorney, judge, government official, or the like delivered in an unopened condition by the staff of St. Louis County Jail may, upon direction from a member of the staff be required to be opened by the resident in the presence of a member of the staff who shall have the right to inspect the contents of said envelope for contraband material, but he shall not read any written material contained in said envelope.



## 8. STRIP SEARCHES AFTER VISITS

### Statement of Stipulated Facts

Prior to the institution of this action, inmates were routinely subjected to a "strip search" in connection with said inmates receiving a visit in accordance with the rules of the institution; all visits are "secure visits" in which no contact either by way of person or objects is permitted between the resident and the visitor, and thus in most circumstances, said strip searches may be considered unnecessary to preserve the "maximum security" character of the institution; in unusual circumstances or for specific reasons strip searches of inmates in connection with visitation may be deemed to be reasonable and necessary.

### Proposed Remedy

It is agreed that inmates shall not be subject to routine "strip searches" in connection with the exercise of their visitation privileges; however, in the event a senior member of the staff of St. Louis County Jail has reasonable grounds to believe that a strip search is necessary in connection with a specific visitation, a strip search of a resident in connection with a visitation may be required.

## 9. ANTIQUATED VISITING BOOTHS CREATING INADEQUATE COMMUNICATION

### Statement of Stipulated Facts

As indicated previously in this Stipulation, all visitations in St. Louis County Jail are "secure" visits; in connection therewith, each of the visiting booths is equipped with a



mechanism which is designed to permit the passage of sound between the resident and his visitor while at the same time totally prohibiting the passage of any object between said persons; because, from time to time, unknown persons have attempted to tamper with said device, repairs have been made thereto which somewhat inhibit the passage of sound in an appropriate manner; defendants have agreed that profit made from the sale of sundry items to the residents could be made available for the purchase of equipment for telephonic communications between resident and visitor thereby eliminating the need for the aforesaid devices, and thus permit the removal thereof while at the same time improving communications between resident and visitor.

#### Proposed Remedy

Defendant shall prepare a plan for the installation of telephonic communication devices for the visiting booths in St. Louis County Jail to replace the present device used to transmit the sound between visitor and resident; said plan shall provide for the installation of said devices on a staggered basis based upon receipt of available funds from anticipated profit from the sale of merchandise in the commissary.

### 10. INTERNAL ASSAULTS

#### Statement of Stipulated Facts

Plaintiffs submitted evidence of specific internal assaults which are defined by the parties as assaults by one inmate upon

another; investigation by counsel for plaintiffs and by representatives of defendants have independently revealed evidence of other instances of internal assault; however, in the overwhelming number of specific cases, the victim of the assault, for various reasons, either refuses to testify concerning said matters or is reluctant to cooperate with law enforcement officials, with the result that successful prosecution (either criminally or administratively) is essentially impossible; upon receipt by defendants of any complaint from a resident with respect to internal assaults, both internal procedures are undertaken and a report is made with the Clayton Police Department; said department responds, interviews the complainant and makes a report thereof; actual criminal prosecution of said matters is not within the jurisdiction of defendants and defendants cooperate with appropriate authorities in the event of the institution of criminal proceedings; within the limitations of the design of the confinement areas of the present St. Louis County Jail meaningful increased observation of residents in an effort to reduce potential internal assaults is impractical and could not reasonably be expected to result in any reduction thereof; the correctional officers assigned to the respective areas of the institution must be vigilant to guard against the opportunity for said assaults.

## 11. LACK OF RECREATION

### Statement of Stipulated Facts

The Order of the Court in Johnson v. O'Brien with respect to recreational facilities is being met by defendants; the recreational area has been altered and the facilities presently include bar bells, strength testing devices, weight machines, foosball machines, punching bags, handball court and facilities for basketball; the program is operated from approximately 8:00 a.m. until midnight and each inmate is given the opportunity for use of the facilities in accordance with the previous Order; counsel for plaintiffs are unaware of any significant or substantial complaints from any of the plaintiffs with respect to the operation and use of the recreational program; the present program has inmate acceptance and should be continued.

## 12. LENGTH OF PRETRIAL DETENTION

### Statement of Stipulated Facts

With minor exceptions caused by unusual isolated circumstances, the facility operated by defendants on the fourth floor and known as St. Louis County Jail is used for the detention of male persons on one of the following basis: (a) detained in a pretrial status and charged with a crime against the person such as murder, rape, armed robbery, kidnapping or the like or (b) held in custody on a writ issued by a Court requiring the production of a person previously committed to the custody of the Missouri Department of Corrections, whose presence is required in St. Louis County in connection with

some judicial proceeding or (c) a person in custody awaiting hearing on a petition for the revocation of probation or parole or (d) a minor certified under the provision of the Juvenile Code for trial as an adult. Each of said persons is committed to the custody of defendants pursuant to an order issued by an appropriate Court; the defendants in this action have no discretion as to whether or not, or upon what terms any resident is released from custody; because of the nature of the charges for which pretrial detainees are held in St. Louis County Jail, to-wit a felony, each inmate is represented by an attorney at law, retained by him or by the public defender; questions with respect to reduction in bond or release on the resident's own recognizance are matters which must be submitted to a Court for determination and counsel for said residents, and not defendants are the appropriate persons to submit said motions to the Court; the defendants in the present action are not personally capable of exercising control over the length of time between the institution of a charge against a member of the class and the date on which judicial resolution of said charge is reached; the question of excessive pretrial detention and any relief to which a person may be entitled as the result thereof, are more appropriately presented to a Court by a member of the class of plaintiffs in said person's criminal action than as claims against the present defendants in this action.

18. In addition to the foregoing 12 areas of complaints as catagorized by the Honorable Magistrate in his Review and

Recommendation, plaintiffs presented evidence concerning the manner in which residents aged 16 and under are housed in St. Louis County Jail; upon entry of an Order by the Judge of the Juvenile Division, certifying that an individual is to be proceeded against as an adult, custody of the subject is relinquished by the Juvenile Court and, if warrants are issued by the prosecuting attorney, the subject is forthwith transferred to the St. Louis County Jail; the number of certified juveniles maintained in St. Louis County Jail varies from time to time; on March 9, 1981 eight certified juveniles 16 years of age or under were residents of St. Louis County Jail; more recently as few as three certified juveniles were residents of St. Louis County Jail; at such time as there are appropriate numbers of certified juveniles, either the SOUTH MODULE or the CLOSE SECURITY areas, respectively, were used by the defendants for the housing of certified juveniles so that in such circumstances the certified juveniles were segregated from other residents to the greatest extent possible while still residing within the confines of the jail; both the Statutes of Missouri, 211.151(4), and 211.331(2) R.S.Mo. 1978 and the Rules promulgated by the defendants (see Exhibit 22, page 49, paragraph 3) prohibit the housing of certified juveniles in such circumstances as they are either housed or mingled with adult prisoners; the Supreme Court of Missouri in State v. Kemper, Mo. App. 1975 535 S.W. 2d 241, held that it is a violation of Missouri statute to house certified juveniles in such circum-

stances as they came into contact with adult prisoners; all parties to this action stipulate and agree that any and all persons under the age of seventeen years certified by the Juvenile Court to be prosecuted under the general existing law as adults must be housed in such a manner as totally to segregate them from all other adult detainees.

Proposed Remedy

The parties stipulate and agree that on such occasions as any person 16 years of age or under is detained by defendants, said person shall be kept in an area totally segregated from all persons aged 17 or over; in such circumstances as persons 16 years of age or under are maintained by defendants in St. Louis County Jail not only shall all such persons be housed in an area separate and apart from other inmates but also said juveniles shall not be fed, given recreation, toilet and/or showering facilities or in any other manner permitted to come into contact or associate with any detainee aged 17 or over.

19. Counsel for plaintiffs in Cause No. 79-650 C (2) and Cause No. 76-210 C (2) are not counsel for plaintiff in Cause No. 82-223 C (4), William J. Bruce, Plaintiff, v. St. Louis County Department of Justice Services, Inc. which action was, as heretofore indicated, consolidated into this action by order of Judge William L. Hungate; the parties hereto, however, stipulate and agree that the Complaint filed, pro se by plaintiff in that action alleges that plaintiff was at the time of the filing thereof a pretrial detainee resident of St. Louis




County Jail; by his Complaint, plaintiff Bruce seeks an order permitting said plaintiff to have "contact" visits with visitors; said "contact" visits, presumably being defined as a visitation between a resident of the jail and a visitor, in which the resident and the visitor are permitted to touch or otherwise physically come into contact with each other; plaintiff seeks no relief by way of money judgment against defendants in said action; the parties hereto state and represent to the Court that on or about March 13, 1981 William J. Bruce was admitted as a resident of St. Louis County Jail on charges of forcible rape and kidnapping on warrants issued by the State of Missouri; at said time defendants herein further were in possession of detainers from the states of Indiana and Kentucky with respect to plaintiff Bruce; on or about April 15, 1982 William J. Bruce left the custody of defendants herein and was transported to the Department of Corrections of the State of Missouri in Jefferson City, Missouri on a commitment and sentence of 50 years to said Department; at no time subsequent to April 15, 1982 has plaintiff Bruce been in the custody of defendants in St. Louis County Jail; counsel for defendants in this action state to the Court that any and all complaints and/or claims of plaintiff Bruce are included within the matters before this Court in the allegations of the class action in Cause No. 79-650 C (2) and that any and all relief to which plaintiff Bruce is or may be entitled should be included within the final Order entered by this Court in said action No.

79-650 C (2); counsel for defendants further state that the individual action filed by Mr. Bruce not only should be considered included within the aforesaid class action, but also any such claims have been rendered moot by the removal of said plaintiff Bruce from custody of defendants on or about April 15, 1982; counsel for plaintiffs in Cause No. 79-650 C (2) and 76-210 C (2) state that the plaintiffs in said actions have not and do not take the position that the residents in St. Louis County Jail have an unqualified constitutional right to contact visits.

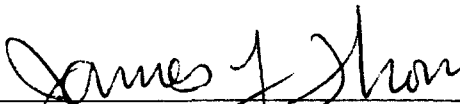
20. The counsel for plaintiffs in this action have made claim against defendants for allowance of attorneys' fees and expenses incurred in representing the members of the class in this action; the parties hereto stipulate and agree that counsel for plaintiffs shall within the time period directed by the Court file with the Court their verified Motion for Allowance of Attorneys' Fees together with Affidavits in support thereof and that upon receipt of copies thereof by counsel for defendants, defendants may have such time thereafter as may be set by the Court within which to file defendants' Suggestions in Opposition to Plaintiffs' Motion for Attorneys' Fees; the parties hereto stipulate and agree that said claims for attorneys' fees may be submitted to the Court for consideration and determination in the foregoing manner in lieu of presentation of testimony and evidence to the Court.

21. The parties hereto stipulate and agree that all issues before the Court in Cause No. 79-650 C (2), Bullington v. Warden Moreland, be submitted to the Court for determination, adjudication and entry of an appropriate final Order, Judgment and Decree based upon the evidence and exhibits heretofore heard and received, the stipulations of the parties made in open Court, upon the foregoing STIPULATION OF THE PARTIES, and upon the aforesaid Motion of plaintiffs for attorneys' fees.

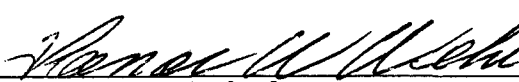
Dated this 12 day of ~~March~~<sup>August</sup>, 1983.

  
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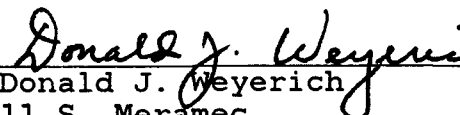
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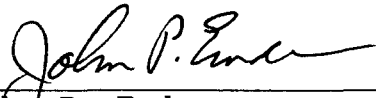
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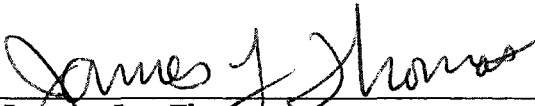
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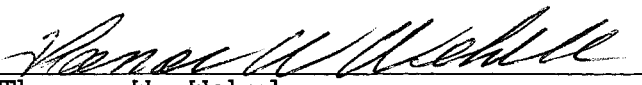
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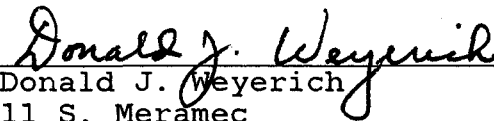
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