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IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

JOHN RAINER and MICHAEL ROSS,
et al.,

Plaintiff

UNITED STATES OF AMERICA,

Plaintiff-Intervenor

v.

LLOYD JONES, SHERIFF,
SIMPSON COUNTY, MISSISSIPPI
et al.

Defendants

Civil Action
No. J78-0135 (N)

AGREED ORDER

Rainer & U.S. v. Jones



JC-MS-006-004

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I. INTRODUCTION.

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1345.

2. Venue in the Southern District of Mississippi is appropriate pursuant to 28 U.S.C. §1391 (b).

3. The United States has met all pre-filing requirements stated in the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §1997.

II. DEFINITIONS

1. "Plaintiffs" shall refer to the class of all pretrial individuals who are now, or in the future will be, incarcerated at the Simpson County Jail in Mendenhall, Mississippi as certified in that certain cause styled "Rainer, et al, v. Lloyd Jones, et al," Civil Action #J78-0135(N) on the docket of the United States District Court for the Southern District of Mississippi, Jackson Division, as well as the class of all inmates who are now or in the future will be incarcerated in said jail.

2. "Defendants" shall refer to Simpson County, Mississippi, the Sheriff of Simpson County, the Simpson County Board of Supervisors, and their agents and successors in office.

3. "Plaintiff-Intervenor" shall refer to the United States of America.

4. "Inmate" or "inmates" shall refer to one or more individuals sentenced to, incarcerated in, detained at, or otherwise confined at either the existing jail, expansion thereof or any facility that is built to replace the Simpson County Jail.

5. When referring to the existing Simpson County Jail, the term "cell" shall refer to the inmate living areas. The term "special needs inmates" shall refer to those inmates who are suicidal, mentally ill, mentally retarded, intoxicated under the influence of alcohol or other substances, or otherwise a danger to themselves or others.

6. "Qualified professional" shall refer to an individual qualified to render the requisite and appropriate care, treatment, judgment(s), training and service, based on credentials recognized in the specific field. When referring to a "qualified health professional", the term shall refer to a registered nurse or a licensed physician.

III. BACKGROUND.

1. The Defendants own and operate the Simpson County Jail ("Jail") in Mendenhall, Mississippi.

2. The Defendant Sheriff has responsibility for the day-to-day operation of the Simpson County Jail. In his official capacity, the Sheriff has the custody, rule, and

charge of the Simpson County Jail and the inmates housed therein.

3. This action was filed on or about April 3, 1978, as a class action by two pretrial inmates of the Jail. The Complaint challenged conditions and treatment of inmates at the Jail and sought declaratory and injunctive relief. On August 15, 1978, the Court certified the action as a class action consisting of "all indigent pretrial detainees who are now confined, have in the past been confined, or will in the future be confined to the Simpson County Jail awaiting indictment or trial but who have not yet been convicted of the criminal charges for which they are being confined." An Interim Order granting plaintiffs partial summary judgment was entered on November 15, 1978. On or about March 9, 1979, a Final Order was issued. The two orders specified policies and procedures governing the living conditions, prisoner treatment, and other practices at the Simpson County Jail. On or about March 13, 1992, plaintiffs filed a motion for contempt and enforcement of prior orders and judgment for alleged willful violations of the above orders and sought damages, attorney fees, costs and other unspecified relief. Trial on the issue of contempt was set for on or about May 2, 1994.

4. On June 29, 1993, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §1997 et seq., the

United States toured the Simpson County Jail with consultants in the fields of penology, correctional health care, environmental health and safety, and correctional suicide prevention. On November 17, 1993, the United States issued a report/findings letter based on its investigation and expert tour and found that the Simpson County Jail violates inmates' constitutional rights.

5. By Motion without objection, the United States, in accompanying papers, has sought leave of this Court to intervene as of right as a plaintiff in this action.

6. The parties to this Agreed Order recognize that conditions of confinement implicate the constitutional rights of the inmates at the Simpson County Jail. In order to avoid litigation regarding the constitutionality of those conditions of confinement and the issue of contempt of previous Court orders, the parties agree to the provisions set forth in this Agreed Order. The Defendants by entering into this Agreed Order do not admit to having violated prior Court orders, nor to having violated any inmates' constitutional rights, nor to any liability for damages, injunctive relief, contempt, or otherwise to any Plaintiff, class member, or expanded class member for any of the alleged charged or reported conditions. Other than enforcement of the terms and provisions of this Agreed Order, no provisions shall be utilized by any inmate to establish liability of any

Defendant hereto for any jail conditions or inmate contempt claim based upon facts existing prior to the entry hereof. This consent decree may not be used as evidence of liability in any other civil proceeding.

IV. SUBSTANTIVE PROVISIONS.

A. Policies and Procedures.

1. The Defendants shall draft a staff manual delineating the general policies and procedures of the Simpson County Jail. The Defendants shall ensure that the Simpson County Jail is operated according to such policies and procedures. The staff manual shall include, but not be limited to, all policies and procedures described in this Order. All policies and procedures which Defendants draft shall comport with professional standards and shall be subject to review and comment by the United States and the private plaintiffs prior to implementation. The Plaintiffs shall not have the right, authority or power hereunder to veto such policies and procedures. The Defendants shall submit drafts of policies and procedures to the private plaintiffs and the United States within ninety (90) days of entry of this Order, and within thirty (30) days of such submission, private plaintiffs and United States shall conduct their review and submit their comments, if any, to Defendants. Thereafter, within thirty (30) days, Defendants

shall file the policies and procedures with the Court and the parties.

2. The manual set forth in the above provision shall be distributed to every staff member having contact with inmates at the Simpson County Jail. All staff must sign a statement indicating that they have read and understand all of the provisions in the manual. The manual shall be reviewed and updated annually by the Defendants.

3. The Defendants shall draft an inmate handbook delineating the general policies and procedures of the Jail. The handbook shall include, but not be limited to, all policies and procedures described in this Order.

4. The inmate handbook shall be distributed to every inmate within twenty-four hours of an inmate intake or booking into the jail, delivery of which shall be documented.

B. Fire Safety

1. The Defendants shall make the following renovations to the Simpson County Jail:

- (a) install and ensure proper maintenance of an adequate smoke detection and hard wired alarm system;
- (b) properly maintain emergency exit lights;
- (c) label, notch and color-code cell door keys so that they are readily identifiable in case of an emergency and ensure that all correctional officers are aware of the location of all sets of keys;

- (d) install emergency lights so that means of egress are illuminated in case of emergency;
- (e) provide fire hoses or extinguishers throughout the facility and ensure that all fire suppression equipment is regularly inspected and maintained;
- (f) continue to remove all polyurethane foam mattresses, pillows, and other foam materials from the jail;
- (g) continue to remove all trash bags from inmate living areas;
- (h) continue to provide each inmate with a flame retardant mattress approved for use in correctional institutions and remove torn mattresses;
- (i) install and maintain flame retardant shower curtains;
- (j) provide adequate storage of inmate property;
- (k) continue to provide adequate storage for combustible materials;
- (l) provide equipment necessary to maintain essential lights, power, and communication in emergencies;
- (m) ensure that any fans brought in by inmates are in good working order and do not create fire hazards. This provision does not relieve Defendants from providing adequate temperature control at the Simpson County Jail; and
- (n) provide a secure evacuation area for inmates.

2. Defendants shall develop and implement a written policy and procedure for fire prevention at the Simpson County Jail which shall include, but not be limited to, the following:

- (a) inspection and testing of equipment at least quarterly by local and state fire officials;
- (b) inspection of the facility every six (6) months by local and state fire officials;
- (c) an evacuation plan which shall be certified by an independent outside inspector trained in the application of fire safety codes;
- (d) a plan for the storage and use of all flammable, toxic, and caustic materials in accordance with all applicable laws and regulations.

3. The Simpson County Jail staff shall be trained in fire prevention and emergency procedures.

4. Fire drills shall be conducted every three (3) months. Fire drills shall include all inmates, except when removal of extremely dangerous inmates would compromise the safety of the facility. In such event, actual evacuation of such inmates is not required, although staff relevant to supervising such inmates shall be required to execute their roles in the drills.

5. Defendants agree to a one-time survey of electrical conditions at the Simpson County Jail by an independent

qualified licensed electrician and to correct all substandard and hazardous conditions. Defendants further agree to maintain electrical conditions at the Jail to ensure that there are no substandard or hazardous conditions.

6. Defendants agree to provide approved waste receptacles and metal containers to store personal items that may be combustible.

7. Defendants agree to ensure that the Jail is in compliance with Mississippi state fire code and regulations, any applicable local life and fire safety codes and the National Fire Protection Association Standards.

8. Defendants agree that the Jail will maintain a certificate from the State and Local Fire Marshals and that any fire or life safety citations must be corrected as directed by the Fire Marshal(s). Copies of the Fire Marshal's reports along with a description of the corrective action taken, if any, shall be sent to the attorney for the United States, with the compliance report described in Paragraph VI (2) of this Decree.

C. Inmate Housing/Detention

1. Defendants shall not house a suicidal and/or mentally ill person in excess of forty-eight (48) hours, except for good cause shown which may include documented continued unavailability of proper housing at state owned or operated institutions.

2. Defendants shall take immediate action to limit the inmate population at the Jail so that each inmate held for more than twenty-four (24) hours in the Simpson County Jail shall have not less than fifty (50) square feet of living space. No inmates shall be housed in areas where there are fewer beds than inmates and no inmates shall be made to sleep on the floor or in any place other than a bed. No inmates shall be housed in the catwalk area. In the event that the Defendants house more inmates in the Jail than the population capacity set out above, the Defendants shall make all efforts to reduce the population to the capacities set out above. If the Jail 's population exceeds the population capacity twelve (12) days or more in any thirty (30) day period, the Defendants shall retain the services of a qualified expert to evaluate alternatives to incarceration or additional inmate housing for the Simpson County criminal justice system. If, after the expert's evaluation of the alternatives to incarceration or additional inmate housing for the Simpson County criminal justice system, the Jail's population exceeds the population capacity twelve (12) days or more in another thirty (30) day period, thereafter, within the next succeeding six (6) month period, the Defendants shall implement the reasonable recommendations of the expert.

D. Staffing, Operational Procedures and Classification

1. To maintain safety and security within the Jail and to implement the terms of this Order, the Defendants shall ensure that there are at least four (4) officers on duty for the day shift and that there are at least two (2) officers on duty for the night shifts. This officer-jailer requirement may be met by Defendants by employing one full-time qualified and professionally trained jail administrator, eight (8) full-time properly trained jailers and one (1) full-time properly trained jailer-dispatcher. There shall be at least one (1) female officer on duty at all times when one or more females are housed in the Jail. Defendants agree to draft and submit to the United States and private plaintiffs a written job description, including professional qualifications, for the position of Jail Administrator. The Jail Administrator will be responsible for the day-to-day operations of the Jail and for the implementation of this Order.

2. The Defendants shall ensure that the Jail has sufficient staff to implement all terms of this Order.

3. To ensure a safe and secure facility, Defendants shall implement a comprehensive jail officer training program, to include, at a minimum, 80 hours of pre-service or orientation training to officers (40 hours of which shall be prior to an officer being assigned to any particular post),

and an additional 40 hours of in-service training each year thereafter. In addition, the Chief Correctional Officer shall be sent, at County expense, to the jail manager's training program at the National Institute of Corrections' National Jail Center.

4. The Defendants shall ensure that jail staff members are sufficiently well-trained to be able to implement the terms of this Order that relate to their assigned duties. Such training shall include, but not be limited to, appropriate training to become certified in CPR, training by a qualified mental health professional in recognition of mentally ill and potentially suicidal inmates and training on how to deal with such inmates, and training by a qualified local medical professional on the administration of medicine and on the side-effects of medications commonly administered at the Simpson County Jail.

5. At regular intervals not less than every 30 minutes, the Jail staff shall conduct an inspection of the Simpson County Jail. The inspection shall include direct, visual, logged inspection of all inmate housing areas.

6. The Defendants shall develop and implement written policies and procedures regarding the selection and duties of inmates as trustees. The Defendants shall ensure that trustees are closely supervised and that their functions are severely limited. Under no circumstances shall trustees have

authority or supervise other inmates. No inmate, however, shall acquire, under these policies and procedures, any right or entitlement to trusty status.

7. The Defendants shall develop and implement written policies and procedures for classification of inmates which shall, for the purpose of housing inmates segregate inmates, as follows:

- (a) Sentenced male misdemeanants.
- (b) Pretrial male misdemeanants or pretrial felons (non-violent).
- (c) Convicted male felons and multiple offenders (including misdemeanants).
- (d) Mentally or physically ill (separating male from female).
- (e) Aggressive or violent inmates (convicted or pretrial) (separating male from female).
- (f) Federal inmates (convicted or pretrial).
- (g) Female pretrial and misdemeanants (including convicted misdemeanants).
- (h) Female convicted felons (including multiple offenders).
- (j) Juveniles detained pursuant to Court Order but not certified for trial as an adult.

8. The Defendants shall ensure that no juveniles are

housed in the Jail unless directed to detain, hold or house such juveniles by a court of competent jurisdiction.

9. The Defendants shall develop and implement written policies and procedures prohibiting inmates from having money in their possession while in the Simpson County Jail.

10. The Defendants shall develop and implement written policies and procedures concerning the use of mace, pepper spray, or other similar chemical agents. The policies and procedures shall comport with professional standards.

11. The Defendants shall develop and implement policies and procedures governing the use of restraint on inmates. The policies and procedures shall comport with professional standards.

12. The Defendants shall develop a policy and procedure regarding street officers within the Jail. Street officers with the exception of the Sheriff and the Chief Deputy shall not be permitted access within the Jail unless a correctional officer is within sight and sound.

13. The Defendants shall develop a policy and procedure to ensure that no officers or jailers bring in their service weapons into the Jail.

E. Ventilation and Temperature Control

1. Defendants agree to a one time survey of the ventilation system by an independent qualified professional. The Defendants shall ensure that the ventilation system in

Simpson County Jail provides adequate supply of fresh air and exhaust of unclean air. Such measures shall include the construction of fresh air intake vents as needed.

2. The Defendants shall ensure that Simpson County Jail is properly heated.

F. Plumbing and Lighting

1. Defendants shall ensure that water temperatures and the water supply in the living areas are adequate to ensure the safety of inmates and to promote hygienic practices.

2. The Defendants shall repair and maintain all leaking or inoperative toilets, showers, and sinks in the Simpson County Jail.

3. The Defendants agree to provide artificial illumination for all cells producing a minimum of twenty foot candles of light.

G. Maintenance and Sanitation

1. The Defendants shall ensure that all inmate living areas are cleaned daily. The Defendants shall continue to make available adequate scrub brushes and detergent to ensure the cleanliness of toilets, wash basins, showers, and floors, in each cell area. While inmates may be required to perform the daily cleaning work, it shall be the responsibility of the Jail personnel to inspect the cells and detention areas daily to maintain sanitary conditions.

2. The Defendants shall contract with a pest control service to spray the Simpson County Jail and shall maintain such services on a monthly basis. The Defendants further agree to recall such service whenever needed.

3. The Defendants having sanitized the entire Jail agree to recall such services whenever needed.

4. The Defendants agree to continue providing fire-resistant mattresses and pillows to inmates. Defendants shall ensure that all mattresses and pillows are routinely cleaned and sanitized.

H. Food and Water Service

1. The Defendants shall ensure that the Simpson County Jail staff supervises inmate trustees when they are distributing meals to inmates and that the staff monitor inmate living areas immediately after serving meals.

2. The Defendants shall continue to ensure that food is served to inmates at appropriate temperatures.

3. The Defendants shall continue to provide inmates with adequate amounts of potable drinking water to maintain health.

4. The menus of all meals served at the Simpson County Jail shall be created by a trained dietician or nutritionist and shall be followed carefully.

I. Medical Care

1. In consultation with a qualified health professional and in accordance with accepted corrections standards, the Defendants shall revise and update as necessary the health screening form used to evaluate all inmates upon their admission to the Jail. The health screening form used to evaluate all inmates upon their admission to the Jail shall record, at a minimum, the following information upon intake: (1) past medical, surgical, mental health, and dental history; (2) current injuries and illness; (3) current medications; (4) allergy information; (5) personal physician(s), dentist(s), mental health provider(s); (6) review of systems to include questions regarding recent fever, cough, weight loss, night sweats, chest pain, abdominal pain, bleeding episodes, changes in urination or bowel habits including bleeding from either site or skin rash; (7) mental health screening to include suicide attempt history as well as questions designed to uncover significant depression and or hallucinations; (8) history of alcohol or substance abuse; (9) history of tuberculosis including the date and result of last TB skin test; and (10) HIV Status (answer optional).

2. Defendants must provide in-service training to all appropriate staff in how to complete the screening form. Such training shall be conducted by a qualified health

professional. Health screening shall only be performed by trained personnel.

3. All medical screening forms with positive responses must be reviewed by a nurse or other medical personnel and must become part of an inmate's medical record or chart.

4. Defendants shall identify and develop an area of the Jail to be utilized as a medical treatment and examination area and shall ensure that it provides and is equipped at a minimum as follows:

- (a) A private examination and treatment room for medical and mental health care, large enough to accommodate the equipment, fixtures, supplies, furniture and storage hereinafter provided for.
- (b) The medical equipment to be provided for the examination and treatment room shall consist at a minimum of: hand washing facilities, examining table, gooseneck light, scales, thermometers, blood pressure cuffs, stethoscope, face masks, plastic gloves, stretchers or gurneys, and standard first-aid kits.
- (c) Within the examination and treatment room, in addition to adequate space for examination and treatment of inmates, there shall be provided an adequate writing desk, adequate storage for

administrative files, secure storage of health records and a telephone.

Policies and procedures shall be developed to implement Paragraphs 12 and 13 of Section I. "Medical Care" of this Consent Order and the copies of the records prescribed by said paragraphs and the policies and procedures shall be kept among the administrative files and secure storage provided for above.

5. Within one week of intake, Defendants must also give each inmate a medical examination by a qualified health professional which will include, at a minimum, an initial history and health assessment consisting of blood pressure, pulse, temperature, and respiration and record the examination on a standardized form that is placed in the inmate's medical record along with their intake screening form. Additionally, the qualified health professional may make inquiry of the inmate regarding the inmates' HIV status. The information obtained from said inquiry shall remain in the inmate's file and shall be kept confidential unless necessary for treatment purposes.

6. Defendants shall develop a sick call policy and procedure that includes, at a minimum, the following:

(1) written sick call request slips; (2) confidential collection method with no inmate trustee involvement in which the request slips go directly to the nurse; (3) logging

procedure to record each request for sick call services; (4) review of inmate requests by a qualified health professional on a daily basis to determine urgency of need to be seen; (5) sick call clinic to be held with minimum once per week frequency conducted by a physician with the nurse in attendance; (6) recording the results of all sick call encounters in inmate records in a professionally accepted standard format. If the health care professional recommends that any inmate needs further medical treatment or review, the Defendants shall, within twenty-four (24) hours of such recommendation, arrange for and transport the inmate to obtain such treatment with the exception of those inmates in need of emergency care.

7. Defendants shall establish a system of triage (medical sorting) of all medical complaints to determine urgency of need to be seen. Such triage shall be conducted by a qualified health professional. Inmates determined by a qualified health professional to need further medical care shall be seen by a physician within 24 hours of that determination with the exception of those inmates in need of emergency care.

8. Defendants must either hire or develop a contractual relationship with the following medical and mental health personnel: (1) a full-time, on-site registered nurse who shall be responsible, among other things, for

dispensing medication to inmates and formulating and monitoring a system to ensure that inmates receive their medication as prescribed by the attending physician; (2) a part-time medical doctor who will serve as the core medical provider and will conduct weekly sick call and provide other necessary medical services; and (3) a local psychiatrist, psychologist or psychiatric RN (with appropriate and available psychiatric back-up) to provide mental health sick call services on an as needed basis in addition to other routine and emergency services.

9. The local mental health professional established above shall provide 24-hour on-call consultation as well as in-person intervention and evaluation.

10. Mentally ill inmates shall be housed in an appropriate environment that facilitates staff supervision and personal safety.

11. Defendants shall continue to provide emergency dental health care to inmates as determined by a qualified licensed dentist. Such emergency services shall not be defined solely as extractions. Defendants shall also develop and implement a system for evaluating and prioritizing dental complaints.

12. Defendants must develop a system to store individual medications that includes a master log of all inmates with physician orders for prescriptions or over the counter

medications. Medicine and food shall not be stored in the same refrigerator.

13. Defendants must require a medical physician or pharmacist to review all medications inmates bring with them to the Jail to ensure that the prescription is currently valid and corresponds to the prescription label and that the medication has not expired. Defendants must develop a written procedure for their medication delivery system that includes a medication administration record system that allows appropriate staff to document the dispersal and receipt of each dose of medication with the inmate's signature (with use of a refusal form when medications are refused).

14. All Jail officers must be trained in the side effects of frequently prescribed drugs and what actions to take if such side effects are noticed.

15. Defendants must develop and implement policies and procedures to specify the care and treatment for inmates with chronic illness (e.g. asthma, diabetes, hypertension, positive PPD status, AIDS, seizure disorder, etc.).

16. Defendants shall develop and implement policies and procedures regarding HIV and AIDS in conjunction with the local public health department or a physician. These policies and procedures shall include:

A. Defendants shall ensure that voluntary HIV testing and counseling is available to inmates who request it on a confidential basis. Unless otherwise provided by state law, the Defendants shall keep results of the test confidential and shall not make them available to any person, other than the medical authority of the facility, without the specific written informed consent of the inmate;

B. Defendants shall ensure any inmate identified HIV+ shall be taken to a health care professional who has the expertise to manage HIV cases for the purpose of obtaining any necessary medical care and counseling;

C. Defendants shall ensure that all correctional staff receive adequate training in HIV related issues. In addition, the Defendants shall ensure that all inmates receive structured HIV education;

D. Defendants shall ensure that inmates who are HIV+ and symptomatic shall be housed in a medical area appropriate for the acuity of their symptoms such as an infirmary, hospice or hospital. In some cases, HIV+ inmates with minor symptoms may be appropriately housed in general population based on a case by case evaluation by a physician. Asymptomatic persons with HIV+ shall be housed in general population unless they exhibit behavior which creates a risk of HIV transmission to other inmates or staff (e.g., rape,

biting, throwing feces) or if the HIV+ inmates is at risk of physical harm from other inmates; and

E. Any inmate who is HIV+ and has active tuberculosis shall be segregated from other inmates until such time that the inmate is no longer infectious.

None of the provisions set forth above shall affect inmates' rights under the American with Disabilities Act, 42 U.S.C. §12101 et seq.

17. Defendants must immediately develop and implement a structured TB/communicable disease screening program for all inmates. At a minimum, such program shall provide that in all cases of inmates confined to the Jail for more than 30 days, the Defendants shall administer a PPD test for TB with results forwarded to the facility's physician. If the test is positive, the inmate shall be immediately scheduled for a chest x-ray, with appropriate medical care and attention including isolation to be provided thereafter as indicated.

18. Defendants must develop and implement an emergency response policy and procedure that specifies the plan for (1) activating the Emergency Medical System and (2) responding to identified medical or psychiatric emergencies in the Jail. Defendants must plan, implement, and document quarterly emergency medical response drills for all shifts to test preparedness to respond to a medical emergency. These drills must be observed and critiqued by a physician.

19. Defendants must ensure that all jail personnel are trained in Basic Life Support Cardiopulmonary Resuscitation (BLS-CPR) with re-certification on an annual basis.

20. Defendants shall develop and implement written policies for blood and body fluid spills, medical waste disposal, and outdated drug disposal.

21. Defendants shall establish and implement written procedures for a detoxification program including adequate initial assessment of intoxication levels of inmates upon booking and access to medical supervision of an intoxicated inmate. Officers shall be adequately trained in such detoxification program.

22. In addition to the provisions above, Defendants shall maintain the Jail's certification with the National Commission of Health Care.

J. Exercise/Recreation.

1. Defendants shall develop and implement written policies and procedures to ensure that inmates are provided access to outdoor exercise (weather permitting) for a minimum of one (1) hour per day two (2) days per week and shall provide a suitable area for indoor exercise and recreation for a minimum of one hour per day three (3) days per week.

2. The Defendants shall purchase appropriate exercise equipment for inmate use.

3. At their own expense, a reasonable number of periodicals, newspapers, books and reading materials may be kept in an inmate's cell so long as such materials do not create a fire hazard or the contents or use of which constitutes a rules violation as provided in the jail rules and regulations and in the inmates' handbook.

K. Visitation and Outside Contact

1. The Defendants shall expand visitation hours to permit each inmate to receive at least two (2) hours of visitation time per week, the time divided into two visitation periods. The visitation periods shall include one visitation period on a weekend day. Inmates shall be entitled to one non-conjugal contact visit at least once per month which shall count toward the inmates' permitted weekly visitation times.

2. The Defendants shall make reasonable efforts to allow visitors from outside of the local area visitation time in situations where the visitor cannot often travel to Mendenhall and cannot visit during the regularly scheduled visitation hours.

3. Visits by persons providing services or assistance such as ministers, physicians, mental health or addition therapists, probation officers, attorneys and legal assistants providing inmate legal services shall not count against general visitation opportunities.

4. If an inmate or an inmate's spouse, parent, or child is hard of hearing, elderly, infirm, or otherwise unable to visit through the standard visiting procedures, the Defendants shall make reasonable efforts to provide the inmate with contact visits with the disabled visitor.

L. Hygiene and Personal Items

1. The Defendants shall continue to provide each inmate with a non-flammable mattress, mattress cover, sheets, pillow, blanket, washcloth, and a towel. The Defendants shall purchase enough uniforms to provide inmates with clean clothes within twenty-four (24) hours of intake or booking if such is not otherwise available. Inmates may provide their own clothing if they so desire. All bed linen, inmate clothes and uniforms shall be cleaned at least once per week, and towels and washcloths three (3) times per week.

2. All inmates, confined or expected to be confined in the Jail at least overnight shall be provided with an adequate supply of soap, hair shampoo, toothbrushes, toothpaste, toilet paper, a comb, deodorant, and shaving equipment.

3. All female inmates shall be provided a reasonable supply of feminine hygiene supplies upon request.

4. Inmates shall be permitted to shower once per day.

5. Clean bed linen shall be issued to each inmate upon his or her being placed in any cell and at weekly intervals

thereafter. Mattresses should be sanitized before being issued to an incoming inmate. All mattresses must be sanitized at least twice a year at six month intervals.

M. Access to Courts

1. The Defendants shall provide to any inmate a reasonable amount of paper, envelopes, writing implements, and postage for legal correspondence with attorneys, legal services or assistance organizations, and courts. The Defendants shall provide, free of charge for indigent inmates and at not more than \$.10 per page for others, sufficient photocopying of legal documents to satisfy court procedural requirements and to permit the inmate to retain a single copy of each document.

2. The Defendants shall provide to every inmate, not more than forty-eight hours after their initial court appearance, reasonable telephone contact, free of charge, with the inmate's local attorney. In addition, inmates shall be provided with one (1) free phone call to their local attorney per week.

3. At no cost to the Defendants, inmates shall be permitted to purchase and receive whatever law books and other legal research materials that they wish. Inmates shall be permitted to keep these materials in their cells consistent with security and fire safety requirements.

4. The Defendants shall provide inmates with daily access to legal materials consisting of at least the following materials:

- a. a leading law dictionary;
- b. a simple book on criminal procedure, and a simple book on civil procedure;
- c. a simple treatise on evidence or trial techniques or practices;
- d. a general guide to legal research;
- e. current civil and criminal procedures rules, including local rules, and mailing addresses of the United States District Court for the Northern and Southern Districts of Mississippi, the Mississippi Supreme Court, and all local courts which have jurisdiction over inmates at the Simpson County Jail;
- f. a current copy of the Mississippi Code provisions, and an index of the Code to assist inmates in specifying the Code sections they need to review;
- g. a current copy of the Mississippi Digest and the West's Federal Practice Digest, with supplementary pocket parts and volumes;
- h. a number of self-help "how to" guides for legal issues in the State of Mississippi;

- i. the business address and phone number of the Public Defender's Office;
- j. a complete listing of the holdings of the Simpson County law library;
- k. five copies of this Order.

5. The above listed legal materials shall be available for use by inmates between, at a minimum, 8:00 a.m. and 5:00 p.m. The Defendants may, at their option, establish a room where inmates can be taken to use the legal materials, or may keep the materials in a jail office and allow inmates to request that materials be delivered to their cells. Inmate requests for access to legal materials shall be met promptly.

6. The Defendants shall develop and implement policies and procedures to provide inmates with access to the legal materials located in the Simpson County Law Library. Such procedures shall either provide inmates with physical access to the law library or provide inmates with up to five (5) of the library's legal books per week. Such procedures shall ensure that inmates are provided with sufficient time with the books for meaningful legal research. In the event that an inmate is facing a specific court deadline or statute of limitation, the Defendants shall make reasonable efforts to allow the inmate additional access to legal materials if it is requested.

7. At the Defendants' option, a law library may be created for the exclusive use of inmates, thereby eliminating the need for inmates to use the Simpson County law library. In this event the parties shall confer and agree as to the selection of books for the library.

N. Disciplinary System

1. The Defendants shall include the rules of the Simpson County Jail, with a complete list of possible punishments for violations thereof, in the inmate handbook. Written notice of any rules violation, a hearing before a Simpson County Jail officer not involved in the investigation of the rules violation, and an appeal to the Simpson County Jail's Chief Correctional officer shall be provided to an inmate prior to any punishment being imposed, except that the Defendants may administratively segregate an inmate in emergency or life-threatening situations.

2. No corporal punishment shall be imposed on any inmate at the Jail.

3. The terms of this Order relating to safety, crowding, health, temperature, hygiene, food, and access to courts shall not be revoked or limited for any inmate for disciplinary reasons.

4. An inmate may not be punished except for conduct which violates an existing rule or regulation. Isolated confinement for reasons other than discipline can only take

place after the Jail Administrator has set forth the written reasons for such isolation with a copy thereof furnished to the inmate.

5. Any inmate accused of an infraction of an existing rule or regulation shall be given written notice of the charge against him, which notice shall identify the jail rule alleged to have been violated and must be served upon the inmate at least twenty-four (24) hours prior to the hearing conducted by the Disciplinary Tribunal.

6. The inmate must be afforded an opportunity to appear before the Disciplinary Tribunal within twenty-four (24) hours to respond to the charge at which time the inmate shall have an opportunity to confront and cross-examine the person bringing the charge. In no event shall the person bringing the charge serve on or as the Disciplinary Tribunal which conducts the hearing.

7. The findings of the Tribunal and the punishment inflicted, if any, shall be in writing with a copy furnished to the inmate who shall have the right, on written request, to have the same reviewed by the Sheriff. The Sheriff's decision shall be final.

8. Jail officials shall have the authority to take immediate necessary action without excessive force to prevent acts of violence, injury to inmates or staff, destruction of property, escape attempts, or restore order and preserve the

security of the Jail. Where such necessary action is taken, a complete report shall be made stating the names of all inmates involved in the occurrence, the names of staff officials and other persons present at the time of the occurrence and shall include a detailed statement of the events made by the officer present and in charge. Such report shall be signed by the officer making the charge.

9. No inmate shall be held in solitary confinement for longer than thirty (30) days. Any such period of disciplinary confinement shall be subject to review, with written notice to the inmate of the reasons for his or her continued solitary confinement at intervals of no greater than seven (7) days.

10. Any contact between an inmate and staff must be documented and made a permanent part of the inmate's prison file, contact shall include blows from any source, including chemicals, weapons or other instruments.

0. Suicide Prevention Measures and Special Needs
Inmates

1. The Defendants shall ensure that suicide prevention measures are in place at Simpson County Jail. To this end, the Defendants shall:

- a. retrofit the cells that have been set aside for inmates deemed a suicide threat to allow for adequate observation and to ensure that

there are no physical features that would facilitate suicide(s), including, but not limited to, repairing exposed light fixtures and wide gauge mesh screens. The designated cells shall be reviewed by a qualified suicide expert who shall recommend corrective measures, if any, which shall be implemented by Defendants;

- b. provide larger viewing windows where necessary to allow for proper inmate supervision;
- c. purchase rescue equipment including, but not limited to, a first aid kit, a 911 rescue tool, disposable gloves, and a CPR pocket mask;
- d. screen all inmates for suicide risk and other special needs prior to their admission to the general population of the Simpson County Jail. Such screening shall comport with the requirements of Paragraph I.1 of this Order and with current mental health professional and correctional standards;
- e. ~~provide training by a jail suicide prevention expert or licensed mental health professional to all Simpson County Jail staff and Simpson County officials who are responsible for~~

~~supervising or monitoring inmates.~~ Such training shall include, but not be limited to, the proper response to a suicide or suicide attempt, including how to cut down a hanging victim and other first-aid measures, the identification and screening of special needs inmates and training about the high-risk groups and periods for suicides and suicide attempts.

- f. ensure that mace is never utilized on suicidal inmates; and
- g. ensure that removal of clothing (excluding belts, shoelaces, etc.) issuance of a paper gown, and/or use of physical restraints is only done as a last resort for period in which the inmate is engaged in self-destructive behavior and mental health staff is immediately notified when a decision has been made to remove an inmate's clothing and/or utilize physical restraints.

2. The Defendants shall develop and implement written policies and procedures on suicide prevention and the treatment of special needs inmates, which shall include, but not be limited to, the following:

- (a) the placement of all special needs inmates in appropriate housing based on their needs and the ability of the jail staff to monitor;
- (b) the establishment of two levels of supervision for suicidal and/or special needs inmates -- "Constant Watch" and "Close Watch." Constant Watch is reserved for the inmate who is actively suicidal, either by threatening or engaging in the act of suicide. The inmate shall be observed on a continuous, non-interrupted basis (i.e. one-on-one) by an officer who has a clear unobstructed view of the inmate at all times. Close Watch is reserved for inmates who express thoughts of suicide and/or has a prior history of suicidal behavior, but is not considered actively suicidal. The inmate shall be observed by an officer at staggered (e.g. 5, 15, 10 etc.) intervals not to exceed 15 minutes. The officer shall document the Constant Watch check every 15 minutes in a suicide watch log, and document the Close Watch check as the staggered check occurs. Close circuit television and/or inmate trusties may supplement, but never be utilized to substitute the physical observation of the officer.

- (c) the communication of information relating to special needs inmates between and among all Simpson County Jail staff members, between arresting and transporting officers and Simpson County Jail staff, between Simpson County Jail staff and Simpson County Jail administration and between Simpson County Jail staff and the special needs inmate;
- (d) the notification by Simpson County Jail staff to local or state mental health authorities that a special needs inmate (except intoxicated) has been admitted to the Simpson County Jail;
- (e) the notification to the special needs inmate's family (except those inmates incarcerated for intoxication) that he or she has been admitted to the Simpson County Jail;
- (f) the assessment of all special needs inmates as soon as reasonably possible by a qualified mental health professional to assess the inmate's level of suicide risk or other specialized needs;
- (g) the establishment of a mechanism by which Simpson County Jail staff will communicate with health care providers regarding the status of potentially suicidal inmates or inmates who have recently attempted suicide;

- (h) the establishment of a mechanism by which Simpson County Jail staff will refer special needs inmates, including potentially suicidal inmates and inmates who have recently attempted suicide, to mental health care providers or facilities for placement;
- (i) the documentation of all attempted and completed suicides and notification to Simpson County Jail administrators, outside authorities and family members of all attempted and completed suicides;
- (j) the establishment of follow-up and administrative review procedures for all attempted and completed suicides, including the determination of what changes, if any, are needed in the Suicide Prevention Program.
- (k) Defendants shall activate two-way jail intercom from 10:00 P.M. to 7:00 A.M. daily.

P. Previous Court Orders

The following provisions of the Court Order dated November 14, 1978 and March 7, 1979, in Civil Action No. J78-0135(N), more fully identified above are incorporated herein:

1. Mail

Defendants shall provide policies and procedures for the handling of inmate mail, incoming and outgoing, which shall cover the following:

(a) Defendants shall not open or otherwise interfere with any incoming mail to an inmate from an official of any federal or state court or any federal or state official or from the inmate's attorney of record in any pending legal action, civil or criminal, in any duly constituted local, state or federal court.

Any other incoming mail to any inmate from any other source may be opened by authorized jail staff in the presence of the inmate addressee and inspect the same for drugs, weapons, or any other material prohibited by state or federal laws or by Jail rules and regulations.

There shall be no restriction placed on the number of letters that an inmate may write.

Defendants shall not open or otherwise interfere with any outgoing mail of inmates.

All incoming mail and packages shall be inspected and distributed to inmates by jail staff only.

2. Meals

Inmates shall continue to be served three (3) meals a day prepared pursuant to a menu approved by a trained dietician or nutritionist.

Inmates requiring special diets for medical reasons shall be provided the same upon documentation of the medical doctor requiring the same.

Inmate requests for special diets for religious reasons shall be honored, the substitute diet being nutritionally adequate and supplying comparable calories and vitamin content as those provided to other inmates.

3. Preliminary Hearings.

Every inmate upon arrest shall be taken before a proper officer or Committee Magistrate without unnecessary delay. In no instance shall an alleged offender be held in custody for more than forty-eight (48) hours without a preliminary hearing, or review of his or her case, to determine the existence of probable cause for his or her arrest, or in the case of an indigent inmate, the appointment of counsel. In any case, the requirements of this paragraph relating to preliminary hearings may be waived in writing by the inmate or may be waived by his counsel.

4. Attorney-Client.

Defendants shall allow attorneys and their paralegals access to their clients at all reasonable times. However, as to class members not represented by private plaintiffs' attorney, interviews of such inmates shall be only after written consent of the inmate's counsel of record.

Defendants shall afford a private room in which attorney/client conferences may be conducted confidentially and in privacy.

5. Bail.

The Defendants shall institute a procedure for admitting non-monetary bail for pretrial detainees, both misdemeanor or felons. This procedure shall comport with the laws of the State of Mississippi as to the amount of the bail, property or recognizance bond which shall be set in the case of misdemeanants by the Sheriff, and in the case of felonies, by a court of competent jurisdiction.

In all cases, the Sheriff shall collect, with the non-monetary bail, all statutory fees mandated in conjunction with the arrest, confinement and release.

6. Appointed Counsel.

The Defendants shall continue the system of appointed counsel presently in operation in Simpson County, Mississippi. In all cases in which it is determined by a court of competent jurisdiction that the inmate is indigent appointed counsel shall be provided to such inmate upon judicial determination of his indigence.

7. Religion.

Defendants shall make room and time available to inmates for weekly religious worship.

8. Superceded Provisions.

The parties agree that all other provisions of the 1978 and 1979 Court Orders not specifically referenced in

this Agreed Order have been superseded and that the provisions of this Agreed Order shall govern henceforth.

V. CONSTRUCTION, IMPLEMENTATION, AND TIMING OF COMPLIANCE

1. Except where otherwise specifically indicated, the Defendants shall implement all provisions of this Order within one hundred and twenty (120) days of the entry of this Order.

2. The Defendants shall submit quarterly compliance reports to the United States and private plaintiffs and the Court, the first of which shall be filed within sixty (60) days after entry of the Agreed Order. Thereafter, the reports shall be filed 15 days after the termination of a quarter.

3. The compliance reports shall describe the actions that Defendants have taken during the reporting period to implement this Agreed Order and with specific reference to the provisions of the Agreed Order on which they are reporting. As part of the status report, Defendant shall include a report listing the daily population of the Jail and the number of inmates in each cell.

4. If Defendants fail to timely comply with the requirement of this Order, the United States and private plaintiffs have the right to seek additional relief from the Court.

5. The Defendant shall maintain sufficient records to document their compliance with all terms of this Order. Defendant shall also maintain any and all records required by or developed under the Agreed Order. During the period in which the Court maintains jurisdiction over this action, the United States and private plaintiffs shall have unrestricted access to copies of all documents which relate to the implementation of this Order, including files maintained by Defendants for the purposes of monitoring Defendants' compliance with this Consent Order, subject, however, to the inmate's waiver of his medical privilege as to his medical records. Upon reasonable notice to the Defendants, the United States and private plaintiffs and its attorneys, consultants, and agents shall have reasonable access to inmates in the facility and Simpson County Jail staff as necessary to address issues affected by this Order. The Defendants' counsel may be present, if requested by the staff member, at any meeting between the United States' and private plaintiffs' attorneys, consultants, and agents and a staff member. Upon reasonable notice to the Defendants' counsel, counsel for the United States and private plaintiffs shall have access to all staff and facilities as necessary to address issues affected by this Order. The Defendants' counsel may be present, if requested by the staff member, at

any meeting between attorneys for the United States and private plaintiffs counsel and a staff member.

6. The Defendants shall immediately explain the terms of this Order to all persons connected with the Simpson County Jail, including staff and Simpson County police officers, in order to ensure their understanding of the requirements of this Order and the necessity for strict compliance therewith. All Simpson County Jail staff members and other individuals responsible for implementing this Order shall sign a statement indicating that they have read and understand this Order; such statements shall be retained by the Defendants. The Defendants shall require strict compliance with this Order by their respective employees and agents.

7. The Defendants shall provide continuous notice of this Order to inmates by posting, within ten (10) days of the signing of this Order and continuously thereafter, one (1) copy near the control room. In addition to the general posting of this Order, the inmate handbook described herein shall advise inmates of the fact that the Jail is being operated under the terms and conditions of an Order entered by the United States District Court for the Southern District of Mississippi and that upon request, any inmate shall be afforded a copy of the complete Order.

8. The Court shall retain jurisdiction in this case to ensure that this Decree is implemented until one year after the entry of this Order and upon a finding by the Court that the Defendants have faithfully implemented all terms of this Agreed Order.

9. The parties contemplate that if all agree that the Defendants have faithfully implemented all terms of this Agreed Order within the time specified, the parties shall jointly petition the Court for dissolution of the Order and dismissal of this cause.

10. Nothing herein contained shall prevent the Defendants from petitioning the Court for relief from this Order or dismissal of this cause at any time after expiration of one (1) year from the date hereof. Defendants shall bear the burden regarding any such motion.

11. A separate order shall be entered simultaneously with this Consent Order concerning monetary damages, private plaintiffs' attorneys fees, costs, expert fees, and providing that there shall be no monetary recovery to the United States.

12. The plaintiff class shall be given such notice, if any, as the Court may require.

AGREED TO BY:

COUNSEL FOR UNITED STATES:

Date: November 9, 1995

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IT IS HEREBY ORDERED, the 9th day of November,
1995.

Jim Shee
UNITED STATES DISTRICT JUDGE