



JC-MS-017-005

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff

v.

CITY OF TUPELO, MISSISSIPPI, et al.,

Defendants.

CONSENT ORDER

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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 Northern District of Mississippi, Eastern Division 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 et seq.

II. DEFINITIONS

4. "Plaintiff" shall refer to the United States of America.

5. "Defendants" shall refer to the City of Tupelo, Mississippi, the Mayor of the City of Tupelo, the Chief of Police of the City of Tupelo, the members of the City Counsel of the City of Tupelo, and their agents and successors in office.

6. The terms "inmate" or "inmates" shall refer to one or more individuals sentenced to, incarcerated in, detained at, or otherwise confined at either the existing jail or any facility that is built to replace the Tupelo City Jail.

7. When referring to the existing Tupelo City 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, or otherwise a danger to themselves or others. The term "special needs cells" shall refer to those cells in the Tupelo City Jail that are suicide resistant.

8. "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 qualifications shall be those of a registered nurse or a licensed physician.

III. BACKGROUND

9. The Defendant City of Tupelo owns and operates the Tupelo City Jail ("TCJ") in Tupelo, Mississippi.

10. The Defendant Chief of Police is responsible for the day-to-day operation of the TCJ. In his official capacity, the Chief of Police has the custody, rule, and charge of the TCJ and the inmates therein.

11. On June 17, 1993, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 et seq., the United States toured the TCJ 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 TCJ violates inmates' constitutional rights.

12. While the Defendants recognize that conditions of confinement implicate the constitutional rights of inmates, they do not agree with the United States' finding that TCJ violates inmates' constitutional rights. In order to avoid litigation regarding the constitutionality of these conditions of confinement, the parties agree to the provisions set forth in this Consent Decree.

IV. SUBSTANTIVE PROVISIONS

A. New Jail Construction

13. The City of Tupelo has indicated its intention to join Lee County in funding the construction of a new jail. The City of Tupelo intends to pay Lee County to house all Tupelo City inmates in the new facility on a per diem rate per inmate.

B. Policies and Procedures.

14. The Defendants shall draft a staff manual delineating the general policies and procedures of the TCJ. The Defendants shall ensure that the TCJ 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 approval by the United States.

15. The manual set forth in the above provision shall be distributed to every staff member having contact with inmates at the TCJ. 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 annually and updated by the Defendants.

16. The Defendants shall draft an inmate handbook delineating the general policies and procedures of the TCJ. The handbook shall include, but not be limited to: all policies and procedures described in this Order which relate to inmates; the rules of the

TCJ; schedules for visitation, exercise, and recreation at the TCJ; a summary of the terms of this Order; a description of the process for obtaining bond and an attorney; a description of the disciplinary procedures; a list of the legal materials available to the inmates and a description of the process by which inmates may obtain use of such materials, a description of the emergency procedures at the TCJ; and a list of the requirements and procedures for becoming a trusty and obtaining work release privileges.

17. The inmate handbook shall be distributed to every inmate within twenty-four hours of arrival.

C. Fire Safety

18. The Defendants shall make the following renovations to the TCJ:

- (a) install and ensure proper maintenance of a hard wired smoke detection and alarm system;
- (b) properly maintain emergency exit lights;
- (c) label 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 TCJ;
- (g) continue to remove all trash bags from inmate living areas;
- (h) continue to provide each inmate with a flame retardant mattress which is 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 TCJ;

- (n) provide a secure evacuation area for inmates; and
- (o) continue to ensure that all butane lighters are removed from housing units.

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

- (a) inspection and testing of equipment at least quarterly by local and/or 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.

20. Defendants agree to ensure that the TCJ is in compliance with Mississippi state fire code and regulations and the National Fire Protection Association Standards.

21. The TCJ staff shall be trained in fire prevention and emergency procedures.

22. 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 responsible for supervising such inmates shall be required to execute their roles in the drills.

23. The TCJ must maintain approval from the State Fire Marshal and any fire safety citations must be corrected as directed by the Fire Marshal. 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 as described in ¶ 101 of this Decree.

24. Defendants agree to complete a comprehensive survey of all substandard and hazardous electrical conditions and correct such conditions.

D. Inmate Housing/Detention

25. Defendants shall continue to ensure that neither the padded cell nor the disciplinary isolation cell are used to house or detain inmates.

26. The Defendants shall continue to ensure that inmates housed in the TCJ are not segregated on the basis of race.

27. The Defendants shall not house a suicidal and/or mentally ill person in excess of forty-eight (48) hours, except for good cause shown.

28. 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.

E. Staffing and Operational Procedures

29. To maintain safety and security within the TCJ, the Defendants shall hire and maintain four full-time jailers working twelve hour shifts and two part-time jailers to cover the 168 hour work week. There shall be at least one jailer on duty at all times. There shall be at least (1) female officer on duty at all times when female(s) are housed in the TCJ.

30. The Defendants shall ensure that the TCJ has sufficient staff to implement all terms of this Order. In addition, sufficient staff shall be hired and trained so that the required staffing levels can be maintained even during periods of staff illness or vacation.

31. The Defendants shall ensure that current and new TCJ staff members are sufficiently well-trained to implement the

terms of this Order. Such training shall include, but not be limited to, appropriate training and certification in CPR (cardiopulmonary resuscitation), training by a mental health professional to recognize and deal with special needs inmates, and training by a local health professional on administering medicine along with recognizing the side-effects of medications commonly administered at the TCJ.

32. Defendants shall implement an adequate training program. All employees must complete 40 hours of in-service training every year. In addition to the 40 hour in-service training, new staff shall complete an additional 40 hours of pre-service or orientation training before beginning active duty at the TCJ. The Defendants may satisfy this pre-service or orientation training through the Correspondence Course for Jailers developed by the United States Department of Justice National Institute of Corrections and instituted by the National Sheriffs' Association in Alexandria, Virginia.

33. The Chief Correctional Officer shall be sent, at City expense, to the training courses offered to jail managers by the United States Department of Justice National Institute of Corrections ("NIC").

34. At regular intervals, not less than every thirty minutes, the TCJ staff shall conduct an inspection of the TCJ. The inspection shall include direct, visual, logged inspection of all inmate housing areas.

35. The Defendants shall develop and implement written policies and procedures for selecting inmates as trustees. The Defendants shall ensure that trustees are closely supervised. Under no circumstances shall trustees have authority over or supervision of other inmates.

36. The Defendants shall repair and maintain the video monitors in the facility.

37. The Defendants shall develop and implement written policies and procedures to classify inmates in accordance with the level of custody required (i.e. inmate supervision and custodial management issues), and the level of security (dangerousness, nature of offense). Classification decisions shall be based on each inmate's personal, social, medical, and criminal history. Security of the institution and staff and inmate safety should be the primary concerns in all classification and housing decisions.

38. The Defendants shall ensure that no juveniles are housed in the TCJ.

39. The Defendants shall develop and implement written policies and procedures prohibiting inmates from having money in their possession while in the TCJ.

40. The Defendants shall develop and implement written policies and procedures concerning the use of mace or other similar chemical agents. All uses of mace or similar chemical agents shall be documented. Chemical agents may only be used in situations in which an inmate is in imminent danger of harming

others and all other reasonable alternative means of control have been tried. The Defendants shall identify all persons for whom chemical agents pose a danger to health and chemical agents shall not be used on such persons. Persons subjected to chemical agents shall be afforded the opportunity to cleanse themselves of the chemical agent and shall be provided with immediate medical attention, if necessary.

41. The Defendants shall develop and implement policies and procedures governing the use of restraints which comport with professional standards.

F. Ventilation and Temperature Control

42. The defendants shall ensure that the ventilation system in TCJ provides an adequate supply of fresh air and exhaust of unclean air, that is at least 10 cubic feet of fresh or recirculated filtered air per minute per occupant for inmate cells.

43. The defendants shall ensure that TCJ jail is adequately heated.

G. Plumbing and Lighting

44. Defendants shall ensure that hot water supply to living areas is adequate and that water temperatures are approximately 110 degrees fahrenheit and that under no circumstances shall hot water temperatures exceed 120 degrees fahrenheit.

45. The Defendants shall repair all leaking or inoperative toilets, showers, and sinks in the TCJ and shall maintain them in an operational condition.

46. The Defendants agree to provide for all cells artificial illumination producing a minimum of twenty footcandles of light.

H. Maintenance and Sanitation

47. The Defendants shall ensure that 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 perform the daily cleaning work, it remains the responsibility of the Defendants to ensure that the facility is maintained in a sanitary condition.

48. The Defendants shall contract with a pest control service to spray the TCJ monthly. Additionally, the Defendants shall recall the service whenever needed.

49. The Defendants shall ensure that all mattresses and pillows are routinely cleaned and sanitized.

I. Food and Water Service

50. The Defendants shall ensure that the TCJ staff supervises inmate trustees when they are distributing meals to inmates and that the staff monitor inmate living areas immediately after meals are served.

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

52. The Defendants shall provide inmates with adequate amounts of potable water.

J. Medical Care and Mental Health Care Services

53. Defendants must either hire or develop a contractual relationship with the following medical and mental health personnel: (1) a part-time physician, or registered nurse under the supervision of a licensed physician, to serve as health care authority responsible for all aspects of health care at the TCJ, including (a) conducting sick call services a minimum of twice a week, (b) providing on-call medical coverage, (c) arranging for admission when necessary to a local hospital and (d) providing for hospitalized inmates; (2) a local psychiatrist, psychologist or psychiatric RN to provide mental health sick call services as needed in addition to other routine and emergency services; (3) a local dentist to provide dental care services to inmates; and (4) major sub-specialty medical providers to evaluate and provide care for inmates referred to them by the central health care authority.

54. Defendants shall develop and implement adequate written policies and procedures governing access to and delivery of medical services and mental health care.

55. The written policies and procedures governing medical and mental health services shall include an adequately detailed admission screening form. In consultation with a qualified health professional and in accordance with accepted corrections standards, the Defendants shall revise and update the health screening form to 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), and mental health provider(s); (6) 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, and 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 substance abuse; (9) history of tuberculosis to include date and result of last TB skin test; and (10) other communicable diseases.

56. The 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.

57. A registered nurse or physician must review all medical screening forms daily and must file such screening forms in the inmate's medical record or chart.

58. Defendants shall identify and develop a properly equipped area of the TCJ to be utilized as the medical triage, examination, and treatment area.

59. Within two weeks of intake, Defendants must also give each inmate a health assessment including initial history, to include any known allergies, and physical examination consisting of blood pressure, pulse, temperature, and respiration. Defendants must record the results of the examination on a

standardized form that is placed in the inmate's medical record along with the inmate's intake screening form.

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

- (1) written sick call request slips; (2) a collection method without any inmate trusty involvement, where the request slips go directly to a registered nurse or physician; (3) logging procedures to record each request for sick call services; (4) review of inmate requests by a registered nurse or physician on a daily basis to determine urgency of need to be seen; (5) a sick call clinic, held at least twice per week, conducted by physician or by a registered nurse under the supervision of a physician; and (6) recording the results of sick call in an inmate's record in a generally accepted professional format.

61. Defendants shall permit illiterate inmates to orally access the system by requesting access through a correctional officer who must fill out a request slip for the inmate within a reasonable time after the oral request.

62. If the health care professional recommends that any inmate needs further medical treatment or review, the Defendants shall promptly arrange and transport the inmate for such treatment.

63. The Defendants shall ensure that the dentist referred to above in ¶ 53 provides dental care services for inmates with serious dental problems. Such services shall not be limited to extractions.

64. The Defendants shall provide adequate mental health services to the inmates. To this end, Defendants shall ensure that the local mental health professional referred to above in ¶ 53 shall provide 24-hour on-call consultation as well as in-person intervention and evaluation. Furthermore, mentally ill inmates shall be housed in an appropriate environment that facilitates staff supervision and personal safety.

65. Defendants must provide immediate access to medical care in case of an emergency and must develop and implement an emergency response policy and procedure that specifies the steps which will be taken to respond to identified medical or psychiatric emergencies in the TCJ. Defendants must plan, implement, and document semi-annual 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.

66. Defendants must train and certify all personnel in Basic Life Support Cardiopulmonary Resuscitation (BLS-CPR) with re-certification on an annual basis.

67. Defendants must develop and implement a policy and procedure to specify minimum follow-up frequency and minimum evaluation for inmates identified with chronic illness (e.g. asthma, diabetes, hypertension, positive PPD status, AIDS, seizure disorder, etc.).

68. In all cases of inmates confined at the TCJ for seven days or more, Defendants shall administer a PPD test for

tuberculosis (TB) with the results of the test forwarded immediately to the facility's health care authority. If the test result is positive, the Defendants shall immediately schedule the inmate for a chest x-ray, with appropriate medical care and attention, including isolation if required.

69. Defendants shall develop and implement policies and procedures regarding HIV and AIDS in conjunction with the local public health department or a physician. In addition:

- a) Defendants shall ensure that voluntary HIV testing and counseling is available on a confidential basis to inmates who request testing. An inmate's HIV test results or HIV status shall not be released to other inmates without the written informed consent of the inmate in question.
- b) For the purpose of obtaining any necessary medical care and counseling, Defendants shall ensure that a physician shall examine any inmate identified HIV+;
- c) Defendants shall ensure that all correctional staff receive adequate training in HIV related issues. The defendants shall also 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. HIV+ inmates with minor symptoms may be appropriately housed in the general population based on a case by case evaluation and decision by a physician. Asymptomatic persons with HIV+ shall be housed in the general population unless they exhibit behavior that creates a risk of HIV transmission to other inmates or staff (e.g., rape, biting, throwing feces) or unless the HIV+ inmate is at risk of physical harm from other inmates; and
- e) any inmate who is HIV+ and has active tuberculosis shall be segregated from all other inmates

until such time that he or she 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.

70. The Defendants must ensure that essential prenatal care is provided.

71. In order to ensure that medications inmates bring with them to the TCJ are currently valid and correspond to the prescription label, Defendants must develop a method for a registered pharmacist or physician to review such medications at the earliest opportunity but no later than the next scheduled sick call following an inmate's incarceration.

72. 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.

73. 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. Defendants shall make all reasonable efforts to have an inmate sign a refusal form when an inmate refuses medications.

74. Officers that dispense medication must be trained in the side effects of frequently prescribed drugs and what actions to take if such side effects are noticed.

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

76. Defendants shall establish and implement written procedures for an adequate detoxification program, including access to medical supervision of an intoxicated inmate. Officers shall be adequately trained in the detoxification program.

77. Defendants shall continue to ensure that inmate trustees have no access to medical records, medication, or control access to medical services.

78. No inmate shall be disciplined for or otherwise discouraged from accessing the health care delivery system.

K. Suicide Prevention Measures and Special Needs Inmates

79. The Defendants shall ensure that suicide prevention measures are in place at TCJ. To this end, the Defendants shall:

- (a) repair and retrofit each cell containing obvious protrusions that are conducive to suicide attempts, including, but not limited to, exposed light fixtures and wide gauge mesh screens;

- (b) retrofit the cell bars in the drunk tanks with Lexan and allow for proper ventilation and lighting;
- (c) ensure that all cell doors allow for proper supervision;
- (d) purchase rescue equipment including, but not limited to, a first aid kit, a 911 rescue tool, disposable gloves, and a CPR pocket mask;
- (e) screen all inmates for suicide risk and other special needs prior to their admission to the TCJ. Such screening shall thoroughly assess a potential inmate's mental health and shall comport with current mental health professional and correctional standards;
- (f) provide training by a jail suicide prevention expert or licensed mental health professional to all TCJ staff and Tupelo Police Department officers who are responsible for supervising or monitoring TCJ 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 high-risk groups and critical periods for suicides and suicide attempts;
- (g) ensure that mace is never utilized on suicidal inmates; and
 - (h) ensure that physical restraints are used only as a last resort for periods in which the inmate is engaged in self-destructive behavior and that a mental health professional is immediately notified when a decision has been made to utilize physical restraints.

80. 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 appropriate housing of special needs inmates based on their needs and the

ability of the jail staff to monitor them;

- (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 an inmate who is actively suicidal, either by threatening or engaging in the act of suicide. The inmate shall be observed on a continuous uninterrupted 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 an inmate who has expressed thoughts of suicide and/or has a prior history suicidal behavior, but is not considered actively suicidal. The inmate shall be observed by an officer at staggered intervals (e.g. 5, 15, 10 etc.) not exceeding 15 minutes. The officer shall document the Constant Watch check every 15 minutes in a suicide watch log, and document the Close

Watch as the staggered check occurs. Inmate trustees and video cameras 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 TCJ staff members, between arresting and transporting officers and TCJ staff, between TCJ staff and TCJ administration and between TCJ staff and the special needs inmate;
- (d) the notification by TCJ staff to local or state mental health authorities that a special needs inmate (except intoxicated) has been admitted to the TCJ;
- (e) the notification to the special needs inmate's family that he or she has been admitted to the TCJ;
- (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;

- (g) the establishment of a mechanism by which TCJ 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 TCJ staff will refer 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 TCJ 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.

L. Exercise and Recreation

81. The Defendants shall develop and implement written policies and procedures to ensure that inmates are provided

access to outdoor exercise (weather permitting), a minimum of one hour per day, five (5) days per week. If the weather does not permit outdoor exercise then the Defendants shall ensure that inmates have access to indoor exercise, a minimum of two hours per day, five (5) days per week.

82. At their own expense, inmates may receive by mail direct from the publisher, a reasonable number of periodicals, newspapers, books and reading materials which may be kept in an inmate's cell so long as such materials do not create a fire hazard.

M. Visitation and Outside Contact

83. 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 non-weekend day.

84. 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 Tupelo and cannot visit during the regularly scheduled visitation hours.

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

86. 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 for adequate visitation between these persons.

N. Hygiene and Personal Items

87. The Defendants shall continue to provide each inmate with a mattress, mattress cover, sheets, pillow, blanket, washcloth, and a towel. The Defendants shall purchase enough uniforms to provide inmates with clean clothes if such is not otherwise available. All bed linen, towels, washcloths, inmate clothes and uniforms shall be cleaned at least once per week.

88. The TCJ shall continue to provide inmates with an adequate supply of soap, hair shampoo, toothbrushes, toothpaste, toilet paper, a comb, deodorant, and shaving equipment.

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

O. Access to Courts

90. 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.

91. The Defendants shall provide to every inmate, not more than forty-eight hours after their initial appearance, reasonable telephone contact, free of charge, with the inmate's local attorney.

92. 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.

93. The Defendants shall provide inmates with immediate 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 TCJ;
- 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 Tupelo Public Defender's Office;
- j. a complete listing of the holdings of the Lee County law library;
- k. five copies of this Order.

94. 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.

95. The Defendants shall develop and implement policies and procedures to provide inmates with access to the legal materials contained in the law library located in the Lee County Law Library. Such procedures shall either provide inmates with physical access to the law library or provide inmates with up to 5 (five) of the library's legal books per week. Such procedures shall ensure that inmates are provided with sufficient time with the books for reasonable opportunity for 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.

96. 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 Lee County Law Library. In this event, the parties shall confer and agree as to the selection of books for the library.

P. Disciplinary System

97. The Defendants shall include the rules of the TCJ, with a complete list of possible punishments for violations thereof, in the inmate handbook. Written notice of any rules violation, a hearing before a TCJ officer not involved in the investigation of the rules violation and an appeal to the TCJ'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.

98. No corporal punishment shall be imposed on any inmate at the TCJ.

99. 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.

V. CONSTRUCTION, IMPLEMENTATION, AND TIMING OF COMPLIANCE

100. 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.

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

102. The compliance reports shall describe the actions that Defendants have taken during the reporting period to implement

this Consent Decree with specific reference to the provisions of the Consent Decree on which they are reporting. As part of the status report, Defendants shall include a report listing the daily population of the TCJ and the number of inmates in each cell.

103. If Defendants fail to timely comply with the requirement of this Order, the United States shall have the right to seek additional relief from the Court.

104. All parties shall bear their own costs including attorney fees.

105. The Defendants shall maintain sufficient records to document their compliance with all terms of this Order. Defendants shall also maintain any and all records required by or developed under the Consent Decree. During the period in which the Court maintains jurisdiction over this action, the United States shall have with two days notice access to copies of all documents which relate to the implementation of this Order. The United States and its attorneys, consultants, and agents shall have with two days notice access to the TCJ, TCJ inmates, and TCJ staff, as necessary to address issues affected by this Order.

106. The Defendants shall immediately explain the terms of this Order to all persons responsible for implementing this Order, including TCJ's staff and Tupelo police officers, in order to ensure their understanding of the requirements of this Order and the necessity for strict compliance therewith. All TCJ 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, agents, assigns, or successors.

107. 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 TCJ is being operated under the terms and conditions of an Order entered by the United States District Court for the Northern District of Mississippi, Eastern Division and that upon request, any inmate shall be afforded a copy of the complete Order.

108. The parties recognize that at the time of the signing of this Consent Decree, Tupelo City intends to join Lee County in funding the construction of a new jail facility and intends to house all of its inmates in this new facility. Nothing in this Consent Decree shall be interpreted to prohibit the construction of such a facility.

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

Agreed to by:

COUNSEL FOR UNITED STATES:

Date: August __, 1994



Deval L. Patrick,
Acting Assistant Attorney General
Civil Rights Division
United States Department of Justice

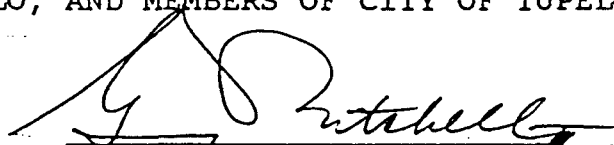
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CHIEF OF POLICE OF CITY OF TUPELO, AND MEMBERS OF CITY OF TUPELO
CITY COUNSEL

Date: August 19, 1994



Guy Mitchell III, Esq.
Tupelo City Attorney
105 South Front Street
Tupelo, MS 38801
(601) 842-3871

It is hereby Ordered, the ____ day of _____, 1994.

UNITED STATES DISTRICT JUDGE