

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

LOUIS HAMILTON  
VERSUS  
ERNEST N. MORIAL

CIVIL ACTION  
NO. 69-2443  
SECTION "LLM"

CONSENT DECREE

This class action, brought on behalf of all present and future inmates housed in the facilities of the Orleans Parish Prison system known as the Old Parish Prison, House of Detention, Community Correctional Center, Templeman I and Emergency Detention Center, alleges that certain environmental conditions and practices at these facilities violate the United States Constitution. The defendants herein are Charles C. Foti, Jr., Orleans Parish Criminal Sheriff; Sidney Barthelemy, Mayor of the City of New Orleans; Leonard Simmons, the Chief Administrative Officer of the City of New Orleans; Dorothy Mae Taylor, Joseph J. Giarrusso, Peggy Wilson, James Singleton, Jackie Clarkson, Lambert Boissiere, Jr. and Johnny Jackson, all members of the City Council of the City of New Orleans; Richard Stalder, Secretary of the Louisiana Department of Public Safety and Corrections; Rose Forrest, Secretary of the Louisiana Department of Health and Hospitals; and Edwin W. Edwards, Governor of the State of Louisiana.

The allegations in this phase of the case, known as the "conditions phase", are contained in ¶¶ 30 - 53 of the Amended Complaint filed January 22, 1992. This agreement resolves those allegations. Although the defendants categorically deny the allegations, they believe it will be in the best interests of the City of New Orleans, the State of Louisiana and the members of the plaintiff class for there to be an expeditious, orderly, and comprehensive settlement of this phase of this case without the necessity of a trial. The plaintiffs share this belief. As a consequence, the parties now agree to forego a trial on the merits of the issues as set forth in ¶¶ 30 - 53 of the Amended Complaint filed January 22, 1992 and to bring this phase of the litigation to a conclusion by submitting this Consent Decree to the Court for its review and ultimate approval.

The Sheriff maintains that he is currently undertaking the projects and providing the services and programs listed hereinbelow. His entry into this Consent Decree is not intended to indicate that this lawsuit caused or prompted any of these projects, services or programs, all of which were initiated, implemented or planned prior to the initiation of this litigation. His entry into this Consent Decree is intended solely to terminate this litigation and any uncertainties created in connection therewith. This paragraph does not in any way impact upon plaintiffs' contention that attorneys' fees are due and owing on this aspect of the litigation.

Further, it is not the intention of the Sheriff in entering into this Consent Decree to provide to any inmates any projects, services or programs which exceed minimal constitutional requirements or to vest in them any liberty interests not currently existing under federal or state law or under federal or state court decisions of courts having jurisdiction over him. Consequently, if federal or state law or jurisprudence is subsequently modified so as to reduce minimal constitutional requirements, or lessen liberty interests, the Sheriff reserves the right to petition this Court for a modification of any or all of the requirements set forth herein so as to properly reflect the changes in federal or state law or jurisprudence.

Additionally, the Sheriff has entered into this Consent Decree based and premised upon continued housing of current levels of state and parish inmates and pre-trial detainees and the continued funding at current levels by the State and City of prisoner per diems as well as other levels of funding, services and obligations of the City and State required by current law and jurisprudence, state and federal, and current state and federal Consent Decrees. If such funding, levels of prisoners, services or other obligations are reduced, the Sheriff reserves the right to petition this Court for a change in the provisions of this Consent Decree to properly reflect the impact that such reduced funding levels, or levels of prisoners or services or obligations, have on his ability to comply with provisions of this Consent Decree.

The City likewise has entered into this Consent Decree based upon its ability to provide current levels of funding and services as well as upon the discharge of obligations and services of all parties hereto as reflected in current law, jurisprudence and current consent decrees, state and federal. The City reserves the right, if such funding or levels of services or obligations are reduced, to petition the Court for a change in the provisions hereof to properly reflect the impact that such reduced funding or level of services or obligations has on its ability to comply with the terms of this Consent Decree.

Notwithstanding any other provision herein, the provisions of Rule 60, Fed.R.Civ.P., shall govern any petition for modification of this consent decree.

With the full and informed consent of the parties, in order to resolve all of the claims asserted in ¶¶ 30 - 53 of the Amended Complaint filed January 22, 1992, but without any acknowledgment or finding of liability or other determination on the merits, the parties and their successors agree to entry of the following as an order of the court.

The Sheriff will:

- A. Comply with the State Health Code and reports of the state health officer;
- B. Comply with the State Fire Code as interpreted by the State Fire Marshal and reports of the State Fire Marshal;
- C. Close the Emergency Detention Center upon completion of construction of Phase II and Phase III. It is

anticipated that E.D.C. will close on August 23, 1993.

- D. Provide a storage unit acceptable to the State Fire Marshal for each prisoner;
- E. Open the new Lockup unit currently under construction by June 1, 1994. The Sheriff has already adopted and will continue to enforce a policy that no detainees will spend more than 36 hours in Central Lockup;
- F. Construction will begin on the new central kitchen currently planned by December 31, 1994. It is anticipated that construction will be completed by December 31, 1996. This facility will be constructed on the site where E.D.C. is currently located, which site is currently owned by the City of New Orleans.

**Community Correctional Center:**

The Sheriff will:

- 1. Use best efforts to maintain a balanced HVAC system.
- 2. Complete current renovation of the fire alarm system including wiring, sensors and central panels.

**Old Parish Prison:**

The Sheriff will:

- 1. Use best efforts to maintain a balanced HVAC system.
- 2. Complete lighting, plumbing, and other currently scheduled renovations of the A-3 and A-4 Tiers. It is anticipated that this work will be completed by December

31, 1994.

3. Complete currently planned installation on tiers of smoke barriers with self-locking door enclosures. It is anticipated that this work will be completed by June 30, 1994.

**House of Detention:**

Where indicated, the Sheriff or the City will:

1. City will by September 1, 1993 provide funding for design services by professional consultants for an HVAC system. The City will include funding in its current 5 year capital plan for construction of an HVAC system. Once funding is provided by the City the Sheriff will install this HVAC system. In the event the City Council fails to approve funding for the construction of the HVAC system, plaintiffs reserve the right to petition the Court for an Order requiring the City to provide funding for this project.
2. The Sheriff will complete currently scheduled renovations of unrenovated tiers, said renovations to be substantially similar to renovations already completed on other tiers. It is anticipated that this work will be completed by December, 1995.
3. City will by September 1, 1993 provide funding for design services by professional consultants and for the construction of a fire alarm system. The Sheriff will

install the fire alarm system by January 1, 1994.

4. City will by September 1, 1993 provide funding for design services by professional consultants and for the construction of smoke barriers with self-locking door enclosures on all levels where inmates are housed (levels three through ten). The Sheriff will install these smoke barriers with self-locking door enclosures by January 1, 1994.

Templeman I:

The Sheriff will:

1. Complete currently scheduled renovations including waterproofing, repair of showers and repainting. It is anticipated that this work will be completed by December 31, 1994.
2. Use best efforts to maintain a balanced HVAC system.

Items A-G, infra, undertaken by the Sheriff and, where indicated in item F, the State, apply to all inmates in the Orleans Parish Prison System except juveniles under juvenile court jurisdiction.

- A. Recreation: Schedule and conduct, weather and security permitting, three hours of weekly outdoor exercise for general population inmates. The type of outdoor recreation may be modified for disciplinary purposes but not denied in the entirety.

B. Clothing, Bedding, Personal Hygiene (The term "requesting" in §§ 3 and 4, infra, will mean a situation where an inmate's family will not provide the item and the inmate has requested the item):

1. Provide two sets of uniforms to each inmate.
2. All uniforms will be in serviceable condition.
3. Provide underwear to inmates requesting these items.
4. Provide shoes to inmates requesting shoes.
5. Provide sweatshirts if needed to inmates during cold months.
6. Provide a bed off the floor for each prisoner who has left Central Lockup and gone to general population.
7. Provide each prisoner with a serviceable supply of towels.
8. Provide each prisoner with a serviceable blanket.
9. Provide each prisoner with a serviceable mattress.
10. Establish a laundry system which reasonably insures that inmates get their laundry back.
11. Provide initially to all inmates, and thereafter as needed and requested, an adequate supply of hygiene items including a toothbrush, toothpaste or powder, soap, toilet paper and sanitary napkins.
12. Provide an adequate supply of cleaning materials to inmates so that they can clean their bedding and living areas on a weekly basis and clean their mattress upon initial issuance thereof.

C. Programming:

1. A.B.E. and G.E.D. classes and substance abuse counseling will be offered to all sentenced inmates. Closed-circuit television programming will be used to provide these services.
2. Inmates will have access to dayrooms or common areas except during counts, lights out or emergency lockdown.
3. Chronological juveniles subject to the jurisdiction of the adult court system will be permitted to receive schooling to the extent that such is required by state law.
4. Provide writing materials and postage to indigent prisoners.

D. Security and Classification:

1. Implement the April 1993 classification policy of the Orleans Parish Criminal Sheriff's Office.
2. Develop and implement policies and procedures governing the use of force by Sheriff's deputies. At a minimum the policy must include:
  - a. written standards establishing when the use of physical force is appropriate;
  - b. a requirement that all use of force incidents be documented and reviewed by the facility warden;
  - c. a system for the Special Investigation Division or the Internal Affairs Division to investigate all allegations of excessive force.

- d. when there is an occurrence which, under Sheriff's Office policy, will require the completion of a use of force report, the medical department will be immediately notified after the use of force.
3. Correctional staff must personally observe all maximum and medium security inmates every hour.
4. Require that all prisoners who are physically injured be seen by medical staff and an incident report be made.

E. Disciplinary Practices:

1. Inmates housed in disciplinary units will be allowed one hour out of their cells between 7:00 a.m. and 9:00 p.m. each day.
2. Inmates housed in disciplinary units will be scheduled for and receive, weather and security permitting, one hour per week of outdoor exercise. The type of outdoor recreation may be modified but not denied.
3. Inmates housed in disciplinary units will be allowed access to reading and writing materials.
4. Inmates housed in disciplinary units will be allowed to keep their mattresses during the day.
5. Establish a schedule of offenses and penalties similar to those used in federal, state or large metropolitan institutions.

F. Liaison with D.O.C.:

D.O.C. and the Sheriff will establish a system of cooperation in preparation of parole reports and pre-release services for

DOC inmates at Orleans Parish Prison.

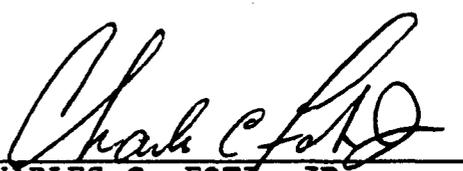
G. Monitoring and Compliance:

1. The Sheriff will provide a written report to the court regarding the state of compliance every six months for two years, thereafter upon plaintiffs' motion and order of the Court. At the end of two years the Sheriff anticipates filing a motion to close this case.
2. Plaintiffs' counsel can petition for inspection of the facilities on ten days' written notice.
3. The Sheriff will provide quarterly to the court and plaintiffs' attorney a representative sample of grievances and use of force reports and all serious injury reports.

Agreed this 22<sup>nd</sup> day of ~~October~~<sup>NOVEMBER</sup>, 1993 at New Orleans, Louisiana.

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