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RE: Harper, et al. v. Fulton County et al
CIVIL ACTION NO. 04-CV-1416-MHS

Introduction

This quarterly report covers the period from January through March, 2009. It is based on reading and re-reading Consent Decree documents, other relevant materials and inmate letters; meeting with all parties involved in the class action suit case, including various inmates and Fulton County Jail detention officers; meeting with the Sheriff and Chief Jailer; attending jail strategic management meetings; reviewing jail reports on complying with Consent Decree orders; and e-mails, telephone conversations and correspondence from all parties, including Fulton County Jail inmates. It is submitted in accordance with requirements of Section V of the Consent Decree in the above cited case.

As reported in the ninth quarter report, Sheriff Myron Freeman failed to be re-elected as Sheriff of Fulton County. The new Sheriff is Theodore Jackson. His first day as Sheriff of Fulton County was January 1, 2009. One of his first appointments was Riley Taylor as Chief Jailer over the Fulton County Jail. Upon coming into office, the Sheriff's initial problem fully affecting the Sheriff's Department was his fiscal year 2009 budget. The Sheriff requested a total budget of 98 million dollars and was authorized 93.4 million dollars by the Fulton County Board of Commissioners. However, prior to the final budget decision, the Sheriff met with each Fulton County Commissioner in an effort to reach an agreement on his requested budget. The Sheriff also met with the Monitor and shared with him how the 93.4 million dollar budget would impact Consent Decree compliance. The Monitor subsequently met with the Fulton County Defendant's Attorneys and Fulton County Manager to discuss the Sheriff's budget prior to its final decision. The Monitor expressed that he was in disagreement with the 93.4 million dollar budget, as opposed to the Sheriff's requested budget, because it could have an impact on staffing that could prevent full compliance with the Consent Decree. As a result of these meetings, the Fulton County Manager sent a letter to the Sheriff and Monitor detailing the reasons why the Sheriff's budget would be 93.4 million dollars and not the Sheriff's requested budget. He also stated that the Sheriff would have additional opportunities to present any shortfalls in his budget in April and June, 2009. At that time decisions would be made to increase the Sheriff's budget to cover the shortages. However, at the April, 2009 Sheriff's budget modification submission, the entire request was denied by the County Commissioners.

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The Monitor shared the County Manager's letter with Judge Marvin Shoob and expressed his disagreement with the County Manager's reasons for the 93.4 million dollar budget. The Monitor also thought that this could impact compliance with the Consent Decree. Therefore, to insure that the Sheriff's budget is adequate, Judge Shoob issued an **ORDER** that stated: "...If the Sheriff believes that the County Defendants have appropriated insufficient funds for him to comply with the Consent Decree, then he should first notify the County Defendants and seek additional funding. If the necessary funding is not provided, then the Sheriff should notify the Court, and a hearing will be scheduled to determine whether the County Defendants should be held in contempt. If found in contempt, possible sanctions will include not only monetary fines but possible incarceration of individual defendants."

The first visit to Fulton County during the Court Monitor's tenth quarter report was January 14, 15, and 16, 2009. Throughout this visit, the Monitor conducted or participated in meetings and tours with the following parties and entities:

- Sheriff Jackson, Plaintiff's Counsel (Steve Bright), and Chief Taylor in Sheriff's Office;
- Weekly strategic management meeting at the Fulton County Jail on Consent Decree compliance issues;
- Chief Taylor and staff discuss staff deployment and future inmate programs;
- Fulton County Department of General Services to discuss and tour MEP projects in the Fulton County Jail and the medical clinic's relocation;
- All Consent Decree parties in the Fulton County Attorney's board room to discuss the Monitor's ninth quarter report and to meet the new Fulton County Sheriff;
- Fulton County Manager to discuss the Sheriff's Fiscal Year (FY) 2009 budget proposal; and
- Federal Judge Marvin Shoob, Chief Law Clerk Michael Robinson, Sheriff Jackson, and Chief Taylor to discuss Sheriff Jackson's new administration and the Sheriff's possible FY 2009 budget. It was during this meeting that the Sheriff expressed to Judge Shoob that he would like the Monitor to come to Fulton County once a month (as opposed to every three months) in an effort to aid the Sheriff's Department in reaching and maintaining Consent Decree compliance.

The Monitor's second visit to Fulton County during this period was February

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11, 12, and 13, 2009. Throughout this visit, the Monitor conducted or participated in meetings and tours with the following parties and entities:

- Sheriff Jackson's public safety meeting in Sheriff's board room with local public safety officials in attendance;
- Chief Taylor and staff to discuss future alternative to incarceration programs that could be implemented in and around the Fulton County Jail;
- Chief Taylor and Jail command staff to discuss Consent Decree compliance issues and status;
- County Attorney to discuss the Sheriff's FY 2009 budget;
- Chief Taylor's Consent Decree strategic management meeting;
- Superior Court Chief Judge, Sheriff Jackson, and Chief Taylor to visit the court's alternatives to incarceration programs;

Note: During this visit, the Monitor was hospitalized on February 13, 2009. He remained in the Atlanta hospital for six weeks before returning to his home in Baltimore, Maryland.

During this reporting period (January through March, 2009), a tremendous effort concerning Consent Decree compliance items has been initiated by the new Sheriff's administration. Many of the major Consent Decree compliance items have received continuous attention. Consent Decree items that were not addressed by the previous administration are on the agenda of the Sheriff. It is anticipated by the Monitor that many Consent Decree items will receive near or full compliance status in future reports.

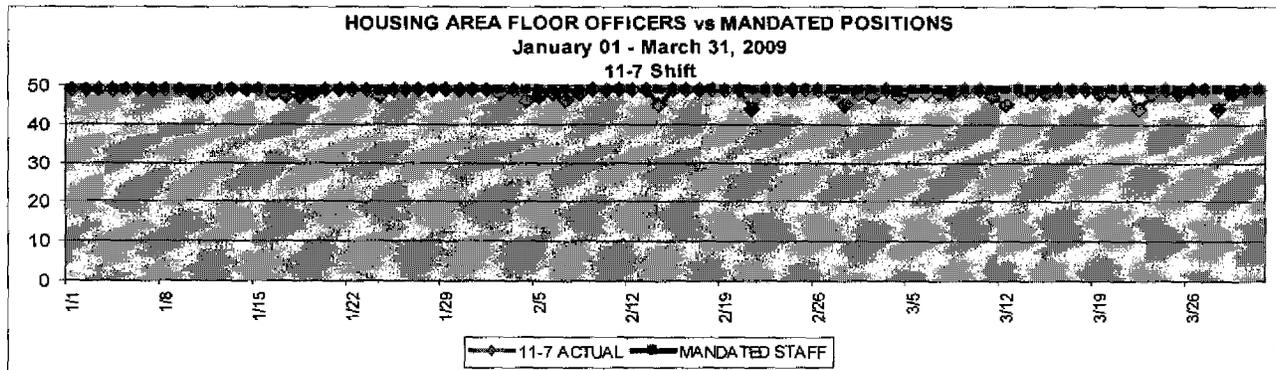
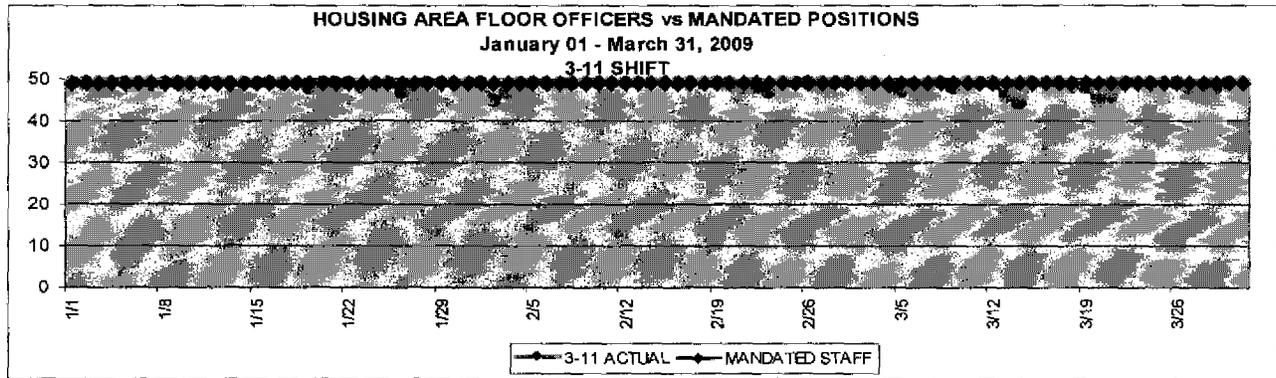
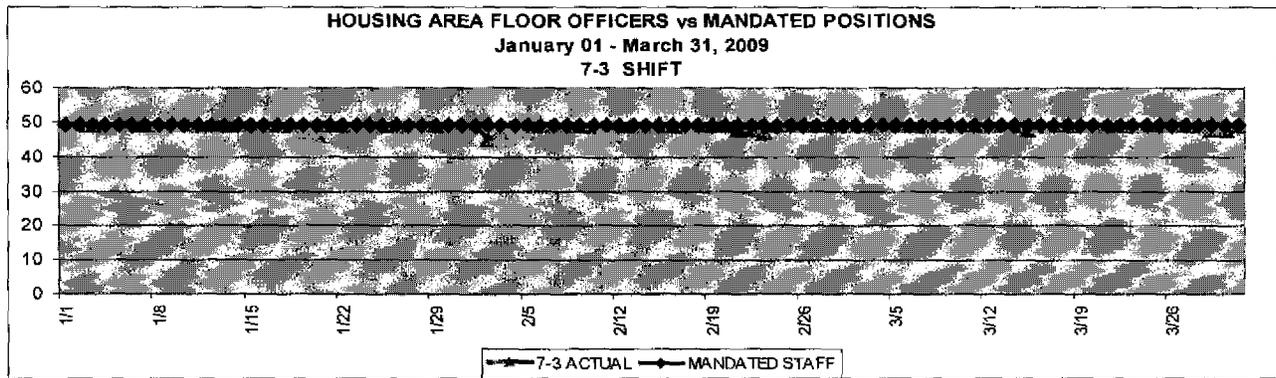
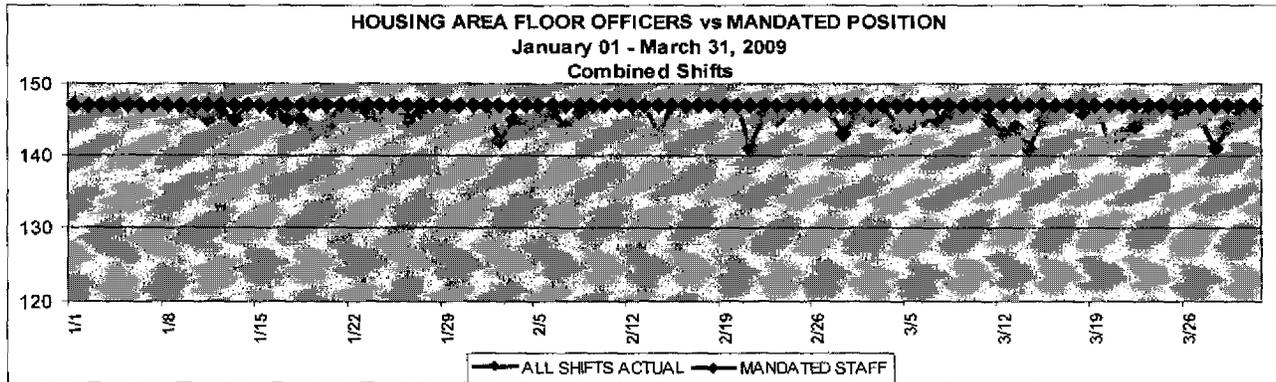
The Chief Jailer submitted his (January through March, 2009) monthly reports to the Monitor for his information, comments, and recommendations. The summary of those reports is presented in the following section.

STATISTICAL STAFFING REPORT SUMMARY

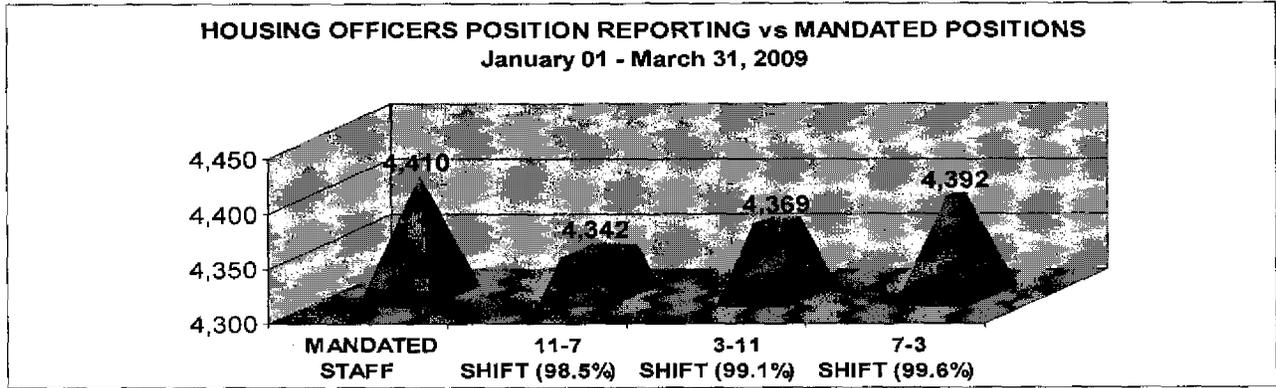
Quarterly Report (January 01, 2009 through March 31, 2009) Housing Officers

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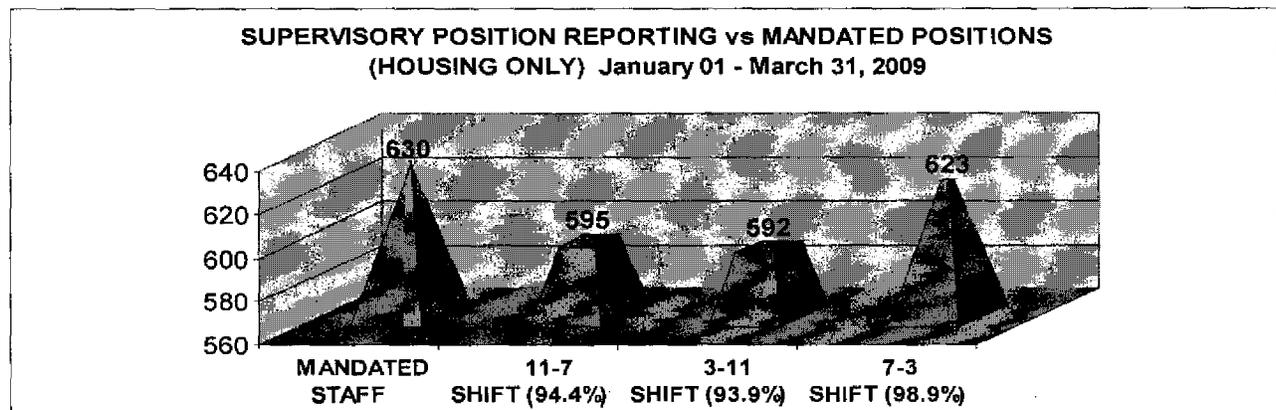
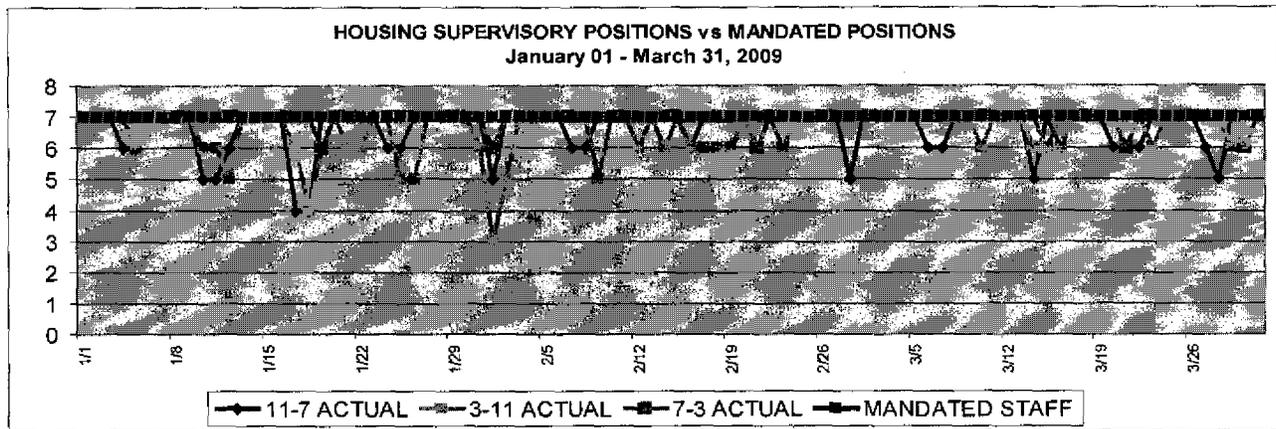


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Overall Compliance Rating: 99.06% as it relates to Housing Officers

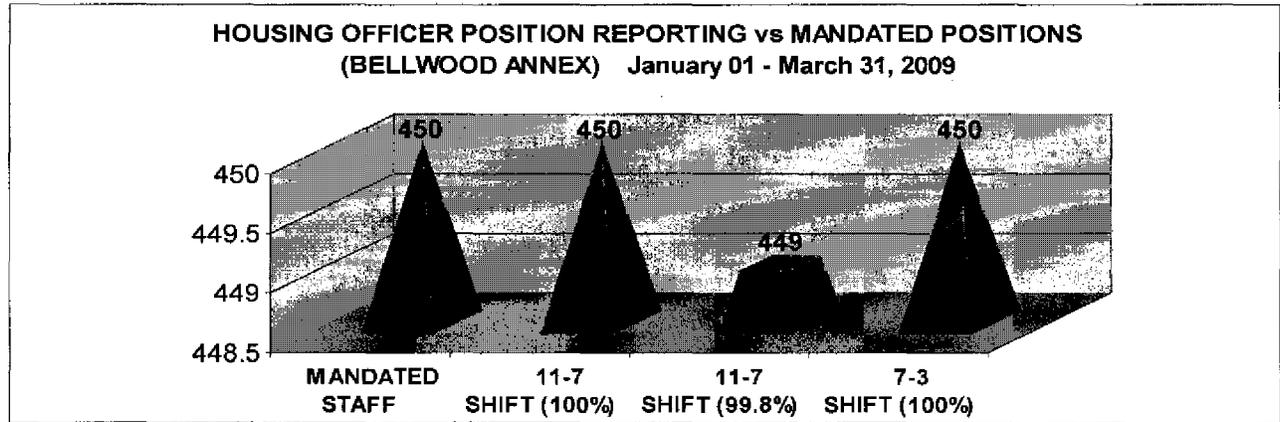
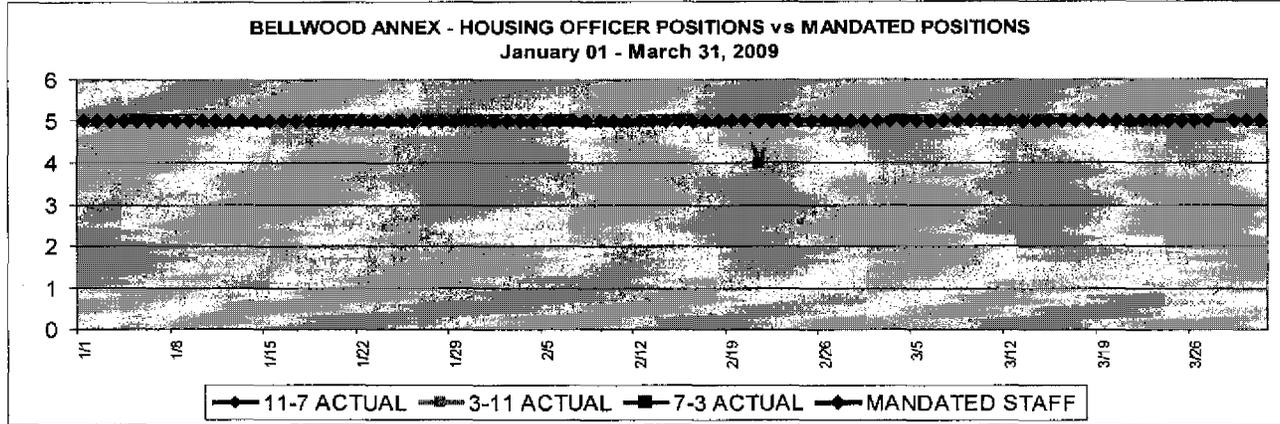
Quarterly Report (January 01, 2009 through March 31, 2009) Housing Supervisors



Overall Compliance Rating: 95.7% as it regards to Housing Supervisors

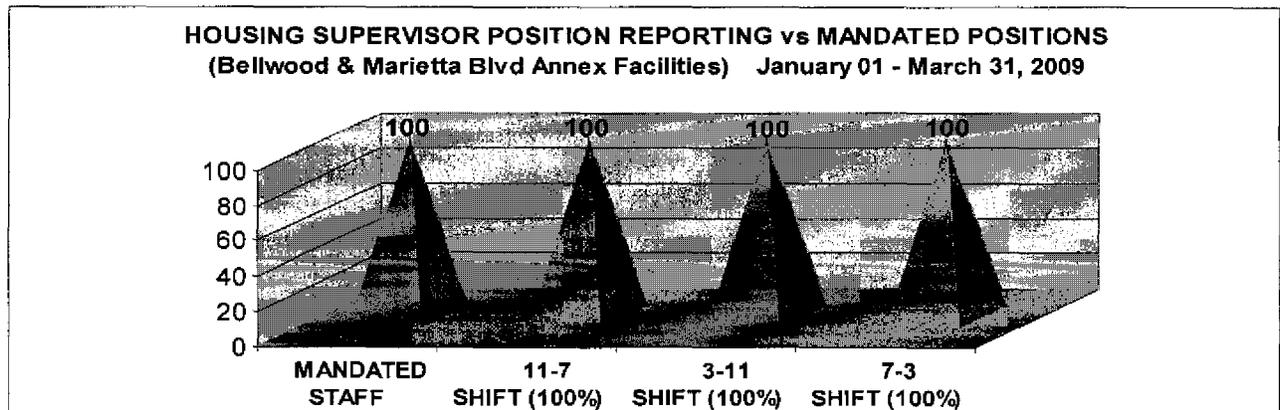
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Quarterly Report (January 01, 2009 through March 31, 2009) Bellwood Annex



Compliance Rating: 99.9% as it relates to Housing Officers

Quarterly Report (January 01, 2009 through March 31, 2009) Bellwood Supervisors



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Compliance Rating: 100% as it relates to Bellwood Housing Supervisors

SUMMARY

This summary will highlight various non-compliance sections, subsections, and items of the Consent Decree that are detailed in the appendix sections of this report. However, in the conclusion of this report, a list of all Consent Decree non-compliance items will be presented.

During this quarter, the new Sheriff's administration has achieved success in many Consent Decree items, when compared to the former administration. However, there are Consent Decree items that are still in need of a great deal of work. The Chief Jailer has assured the Monitor that as the new administration matures, all items in the Consent Decree will be in or near compliance. Items still in need of attention are listed in the conclusion section of this report. Likewise, the Georgia Department of Corrections was unsuccessful in reaching full compliance with the mandated section of the Consent Decree relevant to it. The following section presents the status (compliance or non-compliance) of major Consent Decree items:

MAJOR CONSENT DECREE ITEMS' COMPLIANCE OR NON-COMPLIANCE STATUS

STAFFING

Staffing has improved during this period in an outstanding way. This is seen in both officer and supervisor staffing of Consent Decree mandated post assignments. During the first quarter of the new administration, significant Consent Decree compliance initiatives and efforts are major components of the administration's daily procedures. As previously presented in the Chief Jailer's Section of this report, staffing and overtime statistics show the progress made during this period of evaluation. However, even with these successes, much compliance work remains to be completed. **This staffing item has not reached compliance.**

POPULATION

During this reporting period (January through March, 2009), because the medical section of the jail had to relocate to other parts of the jail to allow the MEP

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project to proceed with renovations, the main jail's population capacity changed from 1,842 to 1,638. The average daily inmate count in the main jail, during this period, was 1,668. The reduction in inmate population at the main Fulton County Jail is attributed to additional beds contracted with other county jails. As a result of the inmate population reduction, the closing of the Marietta facility located on the Fulton County Jail complex was initiated in late December, 2008. The population control efforts made by the new administration bring the Sheriff close to full compliance with the population mandates of the Consent Decree.

HOUSING

During this reporting period, Fulton County outsourced Fulton County inmates to Atlanta City Jail, DeKalb County Jail, Union City Jail, and Hall County. Housing inmates in these facilities allowed Fulton County to maintain Consent Decree housing compliance within the Fulton County Jail. Fulton County Jail inmates are no longer being housed in South Georgia jails. **The housing item has reached compliance.**

MEDICAL SERVICES

During this reporting period, because of the MEP project, the Main Medical Clinic, Medical Observation Unit, and the Acute Psychiatric Units were temporarily relocated to the North Tower of the 2nd floor of the Jail. The move has resulted in several challenges to providing health care to the inmates in an environment conducive to appropriately addressing the inmates' medical needs. The challenges are caused by available space, equipment, and facility design. Thus, the dental and x-ray operations have been affected resulting in the number of inmates getting access to dental and x-ray services. These operations have experienced about 20% to 27% reduction in patients brought to the clinic for these services.

INMATE GRIEVANCES

The Inmate Grievances Procedures have been improved significantly and operate effectively. **The Inmate Grievance item has reached compliance.**

INMATE RELEASES

The Inmate Release Process continued to have inmates who are delayed beyond the 24-hour period that is mandated in the Consent Decree. Most of these delays were attributed to other law enforcement agencies that must be notified by the

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Sheriff to pick up their particular inmates. Although very little agency contact information was provided by the Sheriff, the Chief Jailer reports that he has experienced that many of these agencies are notified numerous times before they respond, resulting in days, and in some cases weeks, before pick up. Among the longest delays are those inmates awaiting pick up by Immigration Customs Enforcement. Lastly, release delays caused by release paperwork from the courts have greatly been reduced during this period from dozens to typically less than a half dozen per week.

EMERGENCY EVACUATION PLAN

Developing an adequate Fulton County Jail inmate and staff emergency evacuation plan continues to be a high priority need for the Jail. However, there are major efforts being initiated by the new administration to develop a comprehensive emergency evacuation plan. Other improvements include, as mandated, fire drills conducted at the main Jail, Bellwood, Marietta, and Alpharetta facilities. **The Emergency Evacuation Plan item has not reached compliance.**

CAMERAS AND TAPING SYSTEMS

Cameras and taping systems are in serious need of repair and/or replacement. At the present time, many of the cameras are working. However, the system continues to be in need of total replacement. Fulton County now recognizes the importance of this Consent Decree item and has allocated \$1 million to replace the existing system with a more adequate and modern system. The new administration was very persistent in convincing County officials of this critical need. **The Cameras and Taping System item has reached near full compliance.**

SECURITY ROUNDS

Although records indicate near perfect Consent Decree Compliance with security round, the Chief Jailer reports two isolated incidents where the actual round made differed from round recorded. The individuals have been identified and progressive discipline will be pursued. This is a strong indication that a modern system of computerized digitized records to a central location is necessary. Such a system will prevent falsified rounds from being recorded. **Security rounds has reached near full compliance.**

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GEORGIA DEPARTMENT OF CORRECTIONS (DOC)

During this reporting period, there has been a small improvement in the pick up of inmates who have been sentenced to the Georgia Department of Corrections (DOC). However, the DOC continues to receive state sentenced inmates according to their protocols and there continues to be no real system of processing or receiving their inmates by which the Sheriff or the Chief Jailer can assess their effectiveness or timeliness in processing and receiving them. There was also no change in the pick ups by the DOC of some inmates who were sentenced to Prison Alternative Programs. The most recent review conducted by the Chief Jailer of this particular category of inmates indicates that approximately half of the inmates being sentenced into these programs are not being picked up by the DOC. Rather, they are being released by the sentencing Judge, because they remain beyond the time period that the Judges allowed for the DOC to receive them. Because the DOC received sharp decreases in its budget that caused program cuts, Fulton County Judges are forced to either release the inmates back into the community without benefit of treatment or back to prison. This results in the Fulton County Judges having to modify sentences. These inmates are highly likely to return to jail in quick order. **The Georgia Department of Corrections item has not reached compliance.**

COUNTY DEFENDANTS

It continues to be the opinion of the Monitor that the most successful parts of the Consent Decree result from the efforts made by the County Commissioners in the funding of the MEP projects, the outsourced facilities, staffing the Fulton County Jail, and providing funding to replace the existing cameras and taping system. Although the MEP projects are an integral part of the success of the Consent Decree, problems are being experienced with showers on housing units as well as with cell door locks that are being compromised by the inmates in the cells. Moreover, the County refuses to approve additional staff as long as the Fulton County Jail has vacancies. This creates problems because the vacancies are scheduled to be filled. The jail cannot wait until all vacancies are filled before it gets approval for additional staff.

INMATE IN-CUSTODY DEATH FOR THIS REPORTING PERIOD

During this reporting period, there was one inmate death under the custody of the Sheriff's office. This inmate death was promptly reported to the Monitor.

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CONCLUSION

In conclusion, the following list represents the sections, subsections, and items within the Consent Decree with which defendants are not in compliance:

- **Security Rounds** – (Section III, subsection A, item 15) responsibility Sheriff
- **Processing of Releases** – Delayed Inmate Releases (Section III, subsection C, items 22 and 23) responsibility Sheriff
- **Staffing and Security:** Main Jail Uniform Officers – 99% and Housing Supervisors – 95.7% compliance, Marietta and Bellwood Uniform Officers – 99% and Housing Supervisors – 100% compliance (Section IV, subsection A, items 25 and 27) responsibility Sheriff
- **Medical Care** – (Section IV, subsection J, item 80) responsibility Sheriff
- **Mentally Ill Inmates** – (Section IV, subsection L, items 91 and 92) responsibility Sheriff
- **Emergency Procedures and Preparedness** – (Section IV, subsection M, items 93) responsibility Sheriff

The compliance status of all Consent Decree items listed above is reported in the Chief Jailer's monthly reports and the Monitor's quarter reports. The Monitor provides the quarter report to the Federal Court, Sheriff, Chief Jailer, County Defendants, and Plaintiff's counsel for their review and response. This 10th quarter report is the first such report of the new Sheriff's administration. Although there remain some Consent Decree items that are not in compliance, the new administration is very aggressive in addressing these items. The Monitor anticipates that in future quarters significant successes will be achieved by the Sheriff in complying with all Consent Decree items.

Respectfully submitted,

Calvin A. Lightfoot
Court Monitor

April 28, 2009