

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

JIMMY (BILLY) McCLENDON, et al.,

Plaintiffs,

vs.

6:95-CV-00024 JB/KBM

CITY OF ALBUQUERQUE, et al.,

Defendants,

vs.

E.M., R.L., W.A., D.J., P.S., and
N.W. on behalf of themselves and
all others similarly situated,

Plaintiff-Intervenors.

**STIPULATED ORDER ADDRESSING THE STAFFING ISSUES AT THE
METROPOLITAN DETENTION CENTER**

The Parties to this class action litigation, through undersigned counsel, have negotiated a resolution to the ongoing staffing crisis presented to the Court in Plaintiffs' and Plaintiff-Intervenors' Joint Motion for Enforcement of Check-Out Audit Agreement No. 3 and for Further Remedial Relief (Dkt. 1485), and Defendant Bernalillo County Board of Commissioners' Response (Dkt. 1537). The Court, being otherwise fully informed and noting the agreement of the Parties, finds the relief presented in this Stipulated Order to be well taken and in the best interest of the Parties. In addition, the Court specifically finds that this Stipulated Order, which is entered to enforce the terms of the Parties' original Settlement Agreement (Dkt. 1222-1), is narrowly drawn; extends no further than necessary to correct violations of the federal rights of class members; is the least intrusive means necessary to correct violations of the federal rights of

class members; and will have no adverse impact on public safety or the operations of the criminal justice system. Accordingly,

IT IS HEREBY ORDERED:

1. Security Staffing Levels

The Metropolitan Detention Center (hereinafter “MDC”) will increase the security staffing levels at the facility so that it employs 381 full-time security officers within two years. It will accomplish this by adding at least an additional one-hundred and eleven (111) full-time corrections officers to the current number of full-time corrections officers (which is 270), during the two years immediately following the date of the entry of this Stipulated Order under the following schedule or sooner:

- A. First six months: at least an additional thirteen (13) full-time security officers;
- B. Second six months: at least an additional twenty-six (26) full-time security officers;
- C. Third six months: at least an additional twenty-six (26) full-time security officers;
- D. Fourth six months: at least an additional forty-six (46) full-time security officers.

Defendant County of Bernalillo (“Defendant”)¹ will have complied with this provision when the MDC has added a net gain of at least one-hundred and four (111) full-time security officers from the current staffing level of 270 security officers, no later than two years from the filing date of this order.

¹ While the City of Albuquerque continues to be a Defendant in this case, this Stipulated Order addresses matters only under the County of Bernalillo’s control. Therefore, the use of the word “Defendant” in this Stipulated Order refers to only the County of Bernalillo, including the Bernalillo County’s Board of Commissioners.

2. Tracking General Population Out-of-Cell Time

The MDC must track out-of-cell time for inmates housed in general population housing units where inmates are housed inside cells. Upon the filing of this Stipulated Order, for each shift, MDC's security officers must document the amount of out-of-cell time inmates receive in the pod log for each general population pod where inmates are housed in cells.

The MDC must conduct audits for out-of-cell-time data monthly. These audits will be performed contemporaneously with the data collected and analyzed by the MDC for inmate safety/welfare checks. There are currently sixteen (16) general population pods in the facility where inmates are housed in two-person cells, instead of open-air dormitory style bunks, that are subject to the out-of-cell-time monitoring requirement. Of those sixteen (16) general population pods, eight (8) pods will be selected each month for out-of-cell-time audits. The MDC will randomly select four (4) of those pods for this audit and the Plaintiffs and Plaintiff-Intervenors (hereinafter "Plaintiffs") will select the other four (4) pods for the audit of randomly selected dates each month. The MDC must provide Plaintiffs with the underlying data used to conduct the monthly audits upon Plaintiffs' request.

Additionally, upon Plaintiffs' request, MDC must disclose the pod logs for any seven (7) consecutive days (for all three shifts per day) of each month for any four (4) pods selected by Plaintiffs. Plaintiffs are entitled to this data to independently monitor the out-of-cell time for uniformity across all general population pods using cells to house inmates.

Any questions Plaintiffs may have about how out-of-cell time is being memorialized or calculated by the MDC will be timely answered by the MDC's staff.

3. Improvements to Call Buttons

The call button system currently in use to alert the MDC staff to emergency situations inside the facility will be replaced with an entirely new, modern system that will, at a minimum, notify MDC staff as to where each call is originating from, and store and track the data associated with each call for a reasonable amount of time, but no less than thirty (30) days. The new call button system must be fully functional and operational within fifteen (15) months after this Stipulated Order is filed.

4. Quality Assurance of the Current Call Button System

MDC staff assigned to master control must track all incoming call-button phone calls in a logbook inside the master control room that is dedicated to answering the inmates' calls from the call buttons and memorializing the nature of each call. This manual logbook must be retained for three years. The MDC must perform monthly quality assurance reviews of the current call button system in use at the facility. The monthly quality assurance review will, at a minimum, consist of (1) photographs of each call made to and memorialized on the phone located in the master control station at the time of the review, and (2) a comparison of those calls to the manual logbook used by the staff in master control to document every call made from the call buttons. The MDC will provide the call-button-quality-assurance review to Plaintiffs monthly along with the out-of-cell-time audits. MDC will require corrections officers working in housing pods to document that they have locked out the pod's control panel so that pod's call buttons are answered by master control when the corrections officer leaves a pod without direct supervision by an officer.

5. *Maintenance of the Current Call Button System*

The MDC must check all call buttons once every three months to ensure each call button is operational and can effectively convey inmate concerns to MDC staff. This review will include whether the call buttons are functioning in the inmate cells and housing units, and whether the calls are audible in Master Control. During any of these quarterly audits, which must be disclosed to Plaintiffs when they are completed, if a call button is determined to be damaged or otherwise non-functional, a work order for that call button will be promptly forwarded to maintenance for a timely repair.

6. *Video Camera Review By Plaintiffs*

Plaintiffs may request and the County must provide video footage taken inside the MDC to monitor staffing levels and demonstrate how MDC is managing the supervision of inmates. Counsel for the class and subclass may each bill up to \$3,000 per month for reviewing video camera footage associated with such requests. Counsel for the class and subclass may transfer these dollar amounts to each other as long as the billing total for such video review does not exceed \$6,000 each month in the aggregate. This billing amount does not imply any limit to the amount of video MDC will produce to Plaintiffs upon request.

The video footage discussed in the preceding paragraph is in addition to the video footage Plaintiffs request for other monitoring purposes, including, but not limited to, use of force incidents, complaints of sexual misconduct and/or PREA incidents, inmate deaths, incidents of violence or abnormal activity inside the facility.

7. *Remedy for Failure to Abide by this Stipulated Order*

If the MDC fails to comply with any provision of paragraphs 1 and 3 of this Stipulated Order, that failure will constitute a violation of the Stipulated Order and the Settlement Agreement. Any dispute regarding a violation of those paragraphs' provisions shall not be subject to mediation and shall be limited to determining whether MDC violated either paragraph, and if so, fashioning an appropriate remedy which may include, but is not limited to, monetary sanctions. The remaining provisions are enforceable and will be treated as monitoring provisions. Compliance with paragraphs 2 and 6 of this Stipulated Order will be required until the parties agree or the Court finds that the inmates at MDC are provided with sufficient out of cell time as required by Check Out Agreement No. 3. The obligations under paragraphs 4 and 5 will cease after two years from the entry of this order.

8. This Order Not Limited by Other Orders

The provisions in this order are in addition to and not limited by the requirements set forth under the Interim Access Order (Dkt. 754) or any other order governing access to the MDC or disclosures required by Defendants.

9. Prison Reform Litigation Act Motions

Under 18 U.S.C. § 3626(b)(1) no Prison Reform Litigation Act motion to terminate the prospective relief of the Settlement Agreement (Dkt. 1222-1) or this Stipulated Order can be filed for two years following the date the Court files this Stipulated Order.

JAMES O. BROWNING
United States District Court Judge


APPROVED BY:

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