

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

MICHELLE SEMELBAUER, PAULETTE BOSCH,  
DENISE VOS, CRISA BROWN, LATRECE  
BAKER, TAMMY SPEERS, LONDORA  
KITCHENS, and STASHIA COLLINS, individually  
and on behalf of all similarly situated persons,

Case No. 1:14-cv-01245

Plaintiffs,

Hon.

vs.

MUSKEGON COUNTY, a municipal corporation;  
DEAN ROESLER, in his official capacity as  
Muskegon County Sheriff; LT. MARK BURNS, in  
his official capacity as Jail Administrator;  
CORRECTIONAL OFFICERS IVAN MORRIS,  
GRIEVES, DEYOUNG, and DAVID GUTOWSKI,  
in their individual capacities; and UNKNOWN  
CORRECTIONAL OFFICERS, in their individual  
capacities,

Defendants.

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**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

By this motion and pursuant to Rule 65 of the Federal Rules of Civil Procedure, plaintiffs request a preliminary injunction against defendants' ongoing violation of their constitutional rights.

This is a class action lawsuit challenging the inhumane conditions of confinement at the Muskegon County Jail ("MCJ"). Plaintiff Stashia Collins is currently incarcerated at MCJ. She, and the classes of current and future inmates she seeks to represent,<sup>1</sup> are currently suffering ongoing violations of their constitutional rights as follows:

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<sup>1</sup> A motion for class certification is being filed contemporaneously with this motion.

1. Inmates throughout MCJ are forced to live in abysmally unsanitary and unsafe conditions due to the physical workings of the facility being in a constant state of disrepair. MCJ is plagued by broken and backed-up plumbing, crumbling infrastructure, and infestations of mold and vermin to such an extreme degree that inmates' health and safety is seriously jeopardized. This situation is exacerbated by severe overcrowding. This systemic failure to provide sanitary and safe living conditions violates plaintiffs' Eighth and Fourteenth Amendment rights.
2. Women who are inmates at MCJ are routinely forced to expose their naked bodies to male guards and male inmates when they are showering, using the toilet, getting dressed and undressed, and attending to their sanitary needs related to menstruation. This systemic lack of privacy violates plaintiffs' Fourth, Eighth and Fourteenth Amendment rights.
3. Women who are inmates at MCJ are also routinely denied reasonable access to feminine hygiene products, toilet paper, and clean undergarments, resulting in unsanitary and degrading conditions. This systemic denial of sanitary and civilized living conditions violates plaintiffs' Eighth and Fourteenth Amendment rights.
4. Women who are inmates at MCJ are continually deprived of the most minimal and basic out-of-cell exercise opportunities. As a matter of MCJ's policy and practice, women remain in their cells virtually 24 hours per day, seven days per week, with little or no opportunity for physical exercise for the entire duration of their detention, which is usually for months and sometimes over a year. This systemic denial of out-of-cell exercise violates plaintiffs' Eighth and Fourteenth Amendment rights.

Preliminary injunctive relief is warranted because (A) plaintiffs are likely to succeed on the merits of the constitutional claims listed above, (B) absent a preliminary injunction plaintiffs will continue to suffer irreparable harm, (C) no harm to others will result from entry of a preliminary injunction, and (D) preliminary injunctive relief is in the public interest.

Plaintiffs specifically request the following preliminary injunctive relief:

1. An order requiring defendants to take immediate measures to do the following:

- a. repair broken and backed-up plumbing and other failures of basic infrastructure, treat and exterminate infestations of mold and vermin, and implement a regular system of inspection, maintenance and repair to prevent these and related conditions from recurring at the existing jail, pending completion of the new jail;
  - b. provide women inmates with privacy from being routinely viewed by members of the opposite sex while showering, using the toilet, getting dressed and undressed, and attending to their sanitary needs related to menstruation;
  - c. provide women inmates with reasonable access to toilet paper, feminine hygiene products, and clean undergarments; and
  - d. provide women inmates with out-of-cell exercise opportunities at least one hour per day.
2. An order requiring defendants to submit to the Court, within 14 days, a detailed plan for implementing the relief requested above, with such implementation plan subject to review by plaintiffs and the Court, modification or approval by the Court, and monitoring and enforcement as necessary to ensure the preliminary injunction is properly implemented.
3. Any other order this Court deems appropriate to effectuate the preliminary injunctive relief requested by this motion.

In support of this motion, plaintiffs refer the Court to their accompanying brief and its exhibits.

As required by Local Rule 7.1, plaintiffs have sought concurrence from defendants in the relief sought. Specifically, plaintiffs' counsel attempted to reach Doug Hughes, counsel for defendants by both phone and by email, but was unsuccessful, thus necessitating the filing of this motion.

Respectfully submitted,

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Dated: December 4, 2014



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**ORAL ARGUMENT  
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**BRIEF IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

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## INTRODUCTION

Conditions of confinement at the Muskegon County Jail (“MCJ”) are inhumane and unconstitutional. As detailed in Plaintiffs’ Complaint (Dkt. 1), MCJ is severely overcrowded, seriously infested with vermin and mold, in a state of alarming disrepair, a breeding ground for contagious disease, and a serious hazard to inmates’ health and safety. Women who are inmates at MCJ are deprived of basic dignity and privacy regarding their bodies and bodily functions, and denied access to feminine hygiene products. Women are also denied any out-of-cell exercise time, forced to remain in their cells virtually 24 hours per day, seven days per week. Inmates who complain about these conditions are ignored or verbally abused.

One current inmate and seven former inmates bring this class action lawsuit to vindicate their constitutional rights and improve conditions at MCJ for themselves and those similarly situated.<sup>1</sup> Plaintiff Stashia Collins is currently incarcerated at MCJ and therefore has standing to bring the instant motion for a preliminary injunction on behalf of herself and of those similarly situated.

Plaintiffs identify four areas in which the violations of inmates’ constitutional rights are severe, ongoing, pose a serious and imminent threat to inmates’ health or welfare, and should be addressed immediately by this Court:

1. Inmates throughout MCJ are forced to live in abysmally unsanitary and unsafe conditions due to the physical workings of the facility being in a constant state of disrepair. The MCJ is plagued by broken and backed-up plumbing, crumbling infrastructure, and infestations of mold and vermin to such an extreme degree that inmates’ health and safety is seriously jeopardized. This situation is exacerbated by severe overcrowding. Defendants’ systemic failure to provide sanitary and safe living conditions violates Plaintiffs’ Eighth and Fourteenth Amendment rights.

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<sup>1</sup> A motion for class certification is being filed contemporaneously with this motion.

2. Women who are inmates at MCJ are routinely forced to expose their naked bodies to male guards and male inmates when they are showering, using the toilet, getting dressed and undressed, and attending to their sanitary needs related to menstruation. This systemic lack of privacy violates Plaintiffs' Fourth, Eighth and Fourteenth Amendment rights.
3. Women who are inmates at MCJ are routinely denied reasonable access to feminine hygiene products, toilet paper, and clean undergarments, resulting in unsanitary and degrading conditions. This systemic denial of sanitary and civilized living conditions violates Plaintiffs' Eighth and Fourteenth Amendment rights.
4. Women who are inmates at MCJ are continually deprived of the most minimal and basic out-of-cell exercise opportunities. As a matter of MCJ's policy and practice, women remain in their cells virtually 24 hours per day, seven days per week, with little or no opportunity for physical exercise for the entire duration of their detention, which is usually for months and sometimes over a year. This systemic denial of out-of-cell exercise violates Plaintiffs' Eighth and Fourteenth Amendment rights.

As argued below, preliminary injunctive relief is warranted because (A) Plaintiffs are likely to succeed on the merits of the constitutional claims listed above, (B) absent a preliminary injunction Plaintiffs will continue to suffer irreparable harm, (C) no harm to others will result from entry of a preliminary injunction, and (D) preliminary injunctive relief is in the public interest.

## **FACTS**

### **Severe Overcrowding**

MCJ has been severely overcrowded for years. MCJ has a rated design capacity of 370 inmates. County Jail Inspection Report 2012, Exh 12 at 1. But MCJ's inmate population routinely soars well past 400. MCJ Population Chart, Exh 10. Daily count data provided by MCJ in response to a Freedom of Information Act request shows that during the 3 ½ year period between January 1, 2011 and April 16, 2014 (not counting 2 months where data was not provided), there were only 15 days during which MCJ was at or below the rate design capacity.

*Id.* Overcrowding “states of emergency” are common. *See* Muskegon County Sheriff Memos, Exhs 13-15.

Due to overcrowding, MCJ crams inmates into cells beyond their rated capacity, stuffs bunk beds into common areas such as the “day room,” sleeps inmates on the floor, and keeps incoming inmates in holding cells for days while waiting for bed space to open up. *See, e.g.,* Collins Dec, Exh 8 at ¶ 6; Brown Dec, Exh 4 at ¶¶ 2-3, 8; Baker Dec, Exh 5 at ¶¶ 11-12; Vos Dec, Exh 3 at ¶ 8. One plaintiff, for example, was forced to spend a week in a dirty holding cell with up to 18 other women and no towel, blanket, mat, change of clothes, or access to a shower, even though she was vomiting and had diarrhea. Speers Dec, Exh 6 at ¶¶ 2-8.

It is well known in the corrections field that when facilities such as MCJ are persistently overcrowded, serious problems with sanitation, infrastructure, contagious disease, privacy, supplies, exercise, and out-of-cell time soon emerge. Wilson Report, Exh 9 at 11. That is what is happening at MCJ.

### **Unsanitary and Crumbling Facilities**

Under the strain of overcrowding and an aging facility, conditions at MCJ have become extremely unsanitary and pose a serious health risk to Plaintiffs. The plumbing at MCJ is in such a state of disrepair that human waste routinely backflows into cells, onto the floors, and into shower stalls, exposing Plaintiffs to the urine, feces, blood, and vomit of other inmates. *See, e.g.,* Speers Dec, Exh 6 at ¶¶ 15-16; Bosch Dec, Exh 2 at ¶ 10; Kitchens Dec, Exh 7 at ¶ 8. Showers in the cells stop working for days at a time. Bosch Dec, Exh 2 at ¶ 17. When the showers are functioning, they lack temperature control and spew scalding hot water, causing inmates to suffer burns, and forcing them to collect water in containers to cool before bathing. *See, e.g.,* Bosch Dec, Exh 2 at ¶¶ 16; Speers Dec, Exh 6 at ¶¶ 11-13; Brown Dec, Exh 4 at ¶¶ 14-15; Collins Dec,



Exh 8 at ¶ 13. Showers, floors, walls and other parts of the facility are covered in mold. *See, e.g.*, Collins Dec, Exh 8 at ¶ 12; Vos Dec, Exh 3 at ¶ 16; Kitchens Dec, Exh 7 at ¶ 5. Walls and ceilings are crumbling, with loose tiles falling to the ground. Vos Dec, Exh 3 at ¶ 17; Semelbauer Dec, Exh 1 at ¶16. The jail is infested with insects and vermin.. *See, e.g.*, Bosch Dec, Exh 2 at ¶ 10; Brown Dec, Exh 4 at ¶ 4; Collins Dec, Exh 8 at ¶ 12. Floors are covered in mouse droppings. Speers Dec, Exh 6 at ¶ 9.

Defendants have known about these serious problems for years. The Michigan Department of Corrections has documented these problems in inspection reports, and advised Defendants to undertake repairs immediately. MCJ Inspection Report 2012, Exh 12. The same advice was given by corrections expert Peter Wilson, who inspected the jail and documented serious problems with the facility. Wilson Expert Report, Exh 9. Disturbing news reports document mold, crumbling ceilings, and even something called “jail ooze” seeping through the walls.<sup>2</sup> Yet these problems continue to fester, jeopardizing the health and safety of hundreds of inmates.

### **Privacy and Cross-Gender Viewing**

Although the generally abysmal and unsanitary conditions at MCJ are being suffered by all inmates at the facility, additional serious problems are being experienced uniquely by women inmates. Women at MCJ are being deprived of the most basic privacy protections as they shower, use the toilet, get dressed and undressed, and attend to sanitary needs related to

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<sup>2</sup> *See* Heather Lynn Peters, *Overcrowding a Daily Challenge for New County Jail Population* Coordinator Scott Laminan, Muskegon Chronicle, July 8, 2009, Exh 16; Eric Gaertner, *Muskegon County Jail’s Poor Condition Forces More Talk of New Facility*, Muskegon Chronicle, February 20, 2011, Exh 17; Eric Gaertner, *The Jail Dilemma: Overcrowding, Ongoing Maintenance Issues Create Muskegon County Headache*, Muskegon Chronicle, Oct. 17, 2012, Exh 18.

menstruation. *See, e.g.*, Semelbauer Dec, Exh 1 at ¶¶ 5, 12-14; Bosch Dec, Exh 2 at ¶¶ 12-13; Kitchens Dec, Exh 7 at ¶¶ 10-11; Collins Dec, Exh 8 at ¶ 5, 10-11. When they are engaged in these activities, they are forced to expose their naked bodies to the view of male guards and male inmates. *See, e.g.*, Bosch Dec, Exh 2 at ¶ 12-14; Vos Dec, Exh 3 ¶¶ 12-14; Speers Dec, Exh 6 at ¶ 7. No provisions are made to protect women from cross-gender viewing, and when women attempt engage in self-help measures for personal privacy they are stopped or punished. *See e.g.*, Speers Dec, Exh 6 at ¶ 26; Bosch Dec, Exh 2 at ¶14; Collins Dec, Exh 8 at ¶ 10.

When female inmates first arrive at MCJ, they are typically placed in a very small cell known as the holding tank. This cell has one toilet that is partially covered by a waist-high wall. Male guards and male inmate trustees are able to see women using the toilet. *See, e.g.*, Kitchens Dec, Exh 7 at ¶ 5; Brown Dec, Exh 4 at ¶ 5.

Female inmates are then housed in a few different types of cells. Some are housed in six or twelve-person cells, commonly referred to as the cell blocks. Vos Dec, Exh 3 at ¶ 7; *see also* Brown Dec, Exh 4 (drawing of the cell blocks). One wall of the 12-person cell blocks is made of bars. Guards walk up and down a hallway commonly referred to as the “catwalk.” From the catwalk, guards can see through the metal bars into the 12-person cell blocks. Both the 12-person cell blocks and smaller cells also have a door with a window. Inmates are given their meals through this door. Male guards and male inmates can also see into the women’s cell through these windows. The cell blocks contain one shower and one toilet per cell. The shower is surrounded by a small plastic curtain, and the toilet is out in the open. *See, e.g.*, Kitchens Dec, Exh 7 at ¶ 6; Baker Dec, Exh 5 at ¶ 10; Collins Dec, Exh 8 at ¶ 11. When male guards or inmates walk down the catwalk or past the windows they can see female inmates using the toilet, using feminine hygiene products, changing, and getting in or out of the shower (or washing themselves

with the water they have collected in containers to cool down). *See, e.g.*, Speers Dec, Exh 6 at ¶ 26; Semelbauer Dec, Exh 1 at ¶¶ 12-14; Vos Dec, Exh 3 at ¶¶ 11-12.

Female inmates sometimes try to put up sheets, blankets, or pieces of paper to temporarily shield their privacy while showering, using the toilet, changing, or using feminine hygiene products. MCJ guards rip these coverings down, verbally chastise the inmates for trying to protect their privacy, and sometimes punish inmates by confiscating items or placing them on lockdown. *See, e.g.*, Bosch Dec, Exh 2 at ¶ 14; Vos Dec, Exh 3 at ¶¶ 13-14; Collins Dec, Exh 8 at ¶ 10.

Women are also housed in an area called the “day room.” The day room is a common space with tables and a shower. It is surrounded by a number of two-person cells. The doors of the two-person cells have windows, and they open into the common space. *See, e.g.*, Semelbauer Dec, Exh 1 at ¶ 11-14; Brown Dec, Exh 4 (drawing of the cell blocks). Each of the two-person cells contains a toilet. *Id.* Male guards are able to see women using the toilets in the two-person cells through the windows. When female inmates attempt to cover the window while they are using the restroom, the guards open the door and rip the privacy shields down. *See, e.g.*, Vos Dec, Exh 3 at ¶¶ 12-13; Semelbauer Dec, Exh 1 at ¶ 14. There is a guard station at one end of the day room. The guard station is next to the shower. Women using the dayroom shower must undress and expose their naked bodies to guards in the guard station before entering the shower. *See, e.g.*, Brown Dec, Exh 4 at ¶ 9.

The lack of privacy and cross-gender viewing detailed above is experienced by Plaintiff Collins, a current inmate. Collins Dec, Exh 8 at ¶¶ 5, 10-11. Other women who were recently inmates at MCJ had the same experiences. *See, e.g.*, Kitchens Dec, Exh 7 at ¶¶ 5-7; Brown Dec, Exh 4 at ¶¶ 5, 9, 11. Additionally, corrections expert Peter Wilson inspected MCJ and confirmed

in a written report that male staff directly supervise women inmates in inmate housing areas, and that women inmates lack bodily privacy when using the toilet and shower. Wilson Expert Report, Exh 9 at 13.

### **Access to Sanitary Products and Underwear**

In addition to being deprived of basic privacy, women at MCJ are denied reasonable and timely access to feminine hygiene products and toilet paper, and they are not given clean underwear. Guards regularly ignore verbal and written requests for pads, toilet paper, and clean clothes. Plaintiff Brown was forced to wait approximately eight hours to receive feminine hygiene products after requesting them. She wrote a number of grievances alerting jail officials that guards were ignoring requests for toiletries, but never received as response. Brown Dec, Exh 4 at ¶¶ 20-21. Sometimes, inmates were deprived of feminine hygiene products for so long that they bled into their uniforms. These women were often not provided a clean uniform until the next laundry day. Speers Dec, Exh 6 at ¶¶ 22 - 24; Vos Dec, Exh 3 at ¶ 20; Collins Dec, Exh 8 at ¶ 14. On one occasion, Plaintiff Kitchens requested sanitary napkins and was told by a male guard that she was “shit out of luck” and that she better not “bleed on the floor.” Kitchens Dec, Exh at ¶ 19. Other female inmates have been denied toilet paper and clean underwear. Baker Dec, Exh 5 at ¶¶ 18, 20; Speers Dec, Exh 6 at ¶¶ 23-24.

As with the lack of privacy and cross-gender viewing, this lack of access to sanitary products and undergarments is a systemic problem that is routinely and repeatedly experienced by female inmates. *See, e.g.*, Bosch Dec, Exh 2 at ¶¶28-29; Vos Dec, Exh 3 at ¶¶ 19-20; Brown Dec, Exh 4 at ¶ 20. Additionally, corrections expert Peter Wilson has confirmed in a written report that feminine hygiene products and clean undergarments are not provided on a timely basis. Wilson Expert Report, Exh 9 at 13.

### **Out-of-Cell Exercise**

Women who are inmates at MCJ are rarely if ever given out-of-cell exercise time. The jail has a large open area in its basement that is called the gym. The gym contains several pieces of exercise equipment which are kept locked in a cage. Brown Dec, Exh 4 at ¶ 26. Female inmates are rarely brought to the gym, and some inmates who have served long sentences are never brought to the gym. When women are brought to the gym, it is typically only for short periods of time while their cells are searched. *See, e.g.*, Speers Dec, Exh 6, at ¶ 18, 19; Vos Dec, Exh 3 at ¶ 18. Guards do not allow women to access the locked exercise equipment during these short periods. Brown Dec, Exh 4 at ¶ 26; Collins Dec, Exh 8 at ¶ 15. Plaintiff Kitchens, who has a family history of diabetes, was only taken to the gym four times in six months. In an effort to maintain her health, she attempted to calculate how many laps around her cell equaled a mile and walk that many laps when possible. However, walking approximately 200 laps around a cell filled with bunks and 11 other women turned out to be near impossible. Kitchens Dec, Exh 7 at ¶¶ 12-14. The female inmates experience health problems due to lack of exercise, including, among other things, bed sores, increased body fat, and muscle atrophy. *See, e.g.*, Brown Dec, Exh 4 at ¶ 26; Speers Dec, Exh 6 at ¶ 20; Collins Dec, Exh 8 at ¶ 16. Plaintiff Semelbauer's family began to cry when they how sickly she looked upon leaving MCJ. Semelbauer Dec, Exh 1 at ¶ 20.

As with the other problems detailed above, the record evidence shows that women at MCJ are systematically and continually denied out-of-cell exercise time. *See, e.g.*, Vos Dec, Exh 3 at ¶ 18; Bosch Dec, Exh 2 at ¶¶ 21-23. Additionally, Peter Wilson's expert report found that regular recreation opportunities for inmates were not being provided. Wilson Expert Report, Exh 9 at 13-14.

### **Grievances and Pre-Litigation Activity**

The egregious conditions described above cannot be redressed through administrative remedies because Defendants refuse to respond to inmates' written grievances. *See, e.g.*, Kitchens Dec, Exh 7 at ¶ 24; Bosch Dec, Exh 2 at ¶ 31; Collins Dec, Exh 8 at ¶ 19. Plaintiffs have written many grievances and most have received no responses. Sometimes, guards have informed inmates that their written grievances are torn up, and some plaintiffs have literally watched jail officials throw their grievances in the trash. *See* Brown Dec, Exh 4 at ¶ 24. In other circumstances, MCJ guards have at times refused to provide inmates with grievance forms, and have refused to accept grievances written on plain paper because they are not submitted on the proper form. *See, e.g.*, Speers Dec, Exh 6 at ¶¶ 27-30; Kitchens Dec, Exh 7 at ¶ 24; Baker Dec, Exh 5 ¶ 24-26. Most disturbingly, MCJ guards have retaliated against women who file grievances by stripping them down and forcing them to wear suicide prevention suits, and then locking them up alone, or in the holding tank with other inmates. *See* Brown Dec, Exh 4 at ¶¶ 22-24; Speers Dec, Exh 6 at ¶¶ 28, 29.

Plaintiffs' counsel have also been unsuccessful in their attempts to work with Defendants outside of litigation. Plaintiffs' counsel hired an expert, Peter Wilson, to visit MCJ and provide an assessment and recommendations. Wilson Expert Report, Exh 9. Plaintiffs' counsel shared Mr. Wilson's report with Defendants, but Defendants have refused to implement the reforms Mr. Wilson recommended and abysmal conditions at MCJ persist. Letter to Williams Hughes, Exh 20; Letter from Douglas Hughes to Kevin Carlson, Exh 21.

### **Construction of New Jail**

Plaintiffs acknowledge that after many years of neglecting a severe overcrowding problem and the physical deterioration of an aging building, Defendants are now in the process

of building a new jail facility, which, according to news reports, might be completed in June 2015<sup>3</sup>. Plaintiffs anticipate that Defendants will oppose injunctive relief based on the fact that they are building a new jail. In fact, injunctive relief is particularly appropriate under these circumstances.

First, while it is possible that the new jail, once opened, might alleviate some of the problems associated with the abysmal conditions and severe overcrowding in the current jail, construction of a new jail will not, on its own, remedy the problems of cross-gender viewing, lack of access to feminine hygiene products or undergarments, or the denial of out-of-cell exercise. This is a critical time to ensure that, as the MCJ transitions to a new facility, these systemic problems are addressed through appropriate facility design, staffing plans, and training. For example, news reports indicate that the jail expects to reduce staff.<sup>4</sup> Yet, inmates are being deprived of out-of-cell exercise, allegedly because the MCJ lacks staff to take them to the gym. Vos Dec, Exh 3 at ¶ 18.

Second, the severe overcrowding and horrendous conditions at MCJ demand immediate attention. The fact that a new jail may be completed some seven months from now (assuming no further delays) cannot alleviate the suffering of inmates who are currently being held for days in the holding tank without access to a bed or shower because the jail is overcrowded, or who are currently forced to live in vermin-infested cells with backed-up sewage. Nor can the future jail save current inmates from infection or disease because they are exposed to such conditions in the existing jail. While the future jail may—in the future—address these problems, interim

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<sup>3</sup> Ken Stevens, *Muskegon County Jail Construction Timeline*, MLive, October 3, 2014, at [http://photos.mlive.com/muskegonchronicle/2014/10/muskegon\\_county\\_jail\\_construct\\_50.html](http://photos.mlive.com/muskegonchronicle/2014/10/muskegon_county_jail_construct_50.html).

injunctive relief is necessary now to remedy the current problems associated with severe overcrowding and other abysmal and unsanitary conditions.

### ARGUMENT

**PLAINTIFFS ARE ENTITLED TO A PRELIMINARY INJUNCTION AGAINST DEFENDANTS' CONTINUING VIOLATIONS OF THEIR CONSTITUTIONAL RIGHTS TO (1) SANITARY AND SAFE FACILITIES, (2) PRIVACY FROM CROSS-GENDER VIEWING, (3) ACCESS TO SANITARY PRODUCTS AND CLEAN UNDERWEAR, AND (4) OUT-OF-CELL EXERCISE TIME.**

A preliminary injunction is necessary to prevent Defendants from continuing to violate Plaintiffs' constitutional rights at MCJ. The Court is required to consider and balance the following four factors in evaluating Plaintiffs' motion:

- A. the likelihood that Plaintiffs will succeed on the merits of their claims;
- B. whether Plaintiffs would suffer irreparable injury without the injunction;
- C. whether issuance of the injunction would cause substantial harm to others; and
- D. whether the public interest would be served by issuance of the injunction.

*City of Pontiac Retired Employees Ass'n v. Schimmel*, 751 F.3d 427, 430 (6th Cir. 2014) (en banc). "When a party seeks a preliminary injunction on the basis of a potential constitutional violation, the likelihood of success on the merits often will be the determinative factor." *Obama for America v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012). As explained below, in this case all four factors weigh in Plaintiffs' favor.



**A. Plaintiffs are likely to succeed on the merits of their claims challenging the unconstitutional conditions of confinement at the Muskegon County Jail.**

Plaintiffs are likely to succeed on the merits of the following claims: (1) unsanitary and dangerous conditions of the jail facility, including plumbing, infrastructure, mold and vermin; (2) cross-gender viewing privacy; (3) access to sanitary products and underwear; and (4) out-of-cell exercise time.

**1. Plaintiffs are likely to succeed on Eighth and Fourteenth Amendment claims regarding the MCJ's broken and backed-up plumbing, crumbling infrastructure, and infestations of mold and vermin.**

“The Constitution does not mandate comfortable prisons, but neither does it permit inhumane ones, and it is now settled that the treatment a prisoner receives in prison and the conditions under which he is confined are subject to scrutiny under the Eighth Amendment.” *Farmer v. Brennan*, 511 U.S. 825, 832 (1994).<sup>5</sup> The Eighth Amendment requires that inmates be provided with “basic human needs—*e.g.*, food, clothing, shelter, medical care, and reasonable safety.” *Helling v. McKinney*, 509 U.S. 25, 32 (1993). Inmates are entitled to “the minimal civilized measure of life’s necessities.” *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981). Jail officials may not ignore conditions of confinement that pose a substantial risk of serious harm to the health and safety of inmates. *Farmer*, 511 U.S. at 834.

Sanitation is a basic human need because unsanitary living conditions, particularly when coupled with overcrowding, create an intolerable risk of illness and disease. *See Brown v. Plata*, 131 S. Ct. 1910, 1933 (2011) (describing the risks of incarcerating large numbers of people in

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<sup>5</sup> “Pretrial detainee claims, though they sound in the Due Process Clause of the Fourteenth Amendment rather than the Eighth Amendment, are analyzed under the same rubric as Eighth Amendment claims brought by prisoners.” *Villegas v. Metro. Gov’t of Nashville*, 709 F.3d 563, 568 (6th Cir. 2013). In this case, an Eighth Amendment “conditions of confinement” analysis will be used, although technically pretrial detainees at MCJ derive their analogous constitutional protections from the Fourteenth Amendment.

unsanitary conditions). “Inoperable plumbing systems contribute to both the risk of conveying waterborne disease and vermin infestation, and thus implicate constitutional violations.” *Carty v. Farrelly*, 957 F. Supp. 727, 736 (D. V.I. 1997). A cell flooded with sewage and foul water is a “clear violation of the Eighth Amendment.” *McCord v. Maggio*, 927 F.2d 844, 847 (5th Cir. 1991). Infestation by vermin may also violate the Eighth Amendment. *Gates v. Cook*, 376 F.3d 323, 340 (5th Cir. 2004); *see also Carty*, 957 F. Supp. 2d at 736 (“Conditions that generate infestation of vermin also do not comport with minimal civilized measures concerning a person’s basic welfare.”)

In this case, the evidence demonstrates that critical parts of the MCJ facility are in such a state of disrepair, and the facility is so overcrowded, that the health and safety of inmates are seriously endangered. As a result of plumbing problems, toilets overflow and human waste is spewed into the cells; Plaintiffs are forced to shower in standing water used by other inmates; and showers are either non-functional for days at a time or spray inmates with scalding hot water. *See, e.g.*, Bosch Dec, Exh 2 at ¶¶ 15-17; Vos Dec, Exh 3 at ¶ 15; Speers Dec, Exh 6 at ¶¶ 11-14; Brown Dec, Exh 4 at ¶¶ 13-15; Collins Dec, Exh 8 at ¶¶ 12-13. MCJ is also overrun with mold and infested with insects and mice. *See, e.g.*, Semelbauer Dec, Exh 1 at ¶ 6; Speers Dec, Exh 6 at ¶¶ 5, 9, 16. Walls and ceilings are crumbling, with loose tiles falling to the floor. *See Semelbauer Dec*, Exh 1 at ¶ 16; Vos Dec, Exh 3 at ¶ 17. Overcrowding exacerbates these problems, which have persisted despite Defendants having been made aware of them on numerous occasions. *See Wilson Expert Report*, Exh 10; MCJ Inspection Report 2012, Exh 12; Muskegon Chronicle articles, *supra* n.2, Exhs 16-18. Because basic human needs are being ignored, Plaintiffs have a high likelihood of success on this claim.

**2. Plaintiffs are likely to succeed on Fourth, Eighth and Fourteenth Amendment claims regarding privacy from cross-gender viewing.**

Although inmates do not retain all of their constitutional rights to liberty and privacy when they are incarcerated, “prison walls do not form a barrier separating prison inmates from the protections of the Constitution.” *Turner v. Safley*, 482 U.S. 78, 84 (1987). The Supreme Court has “insisted that prisoners be accorded those rights not fundamentally inconsistent with imprisonment itself or incompatible with the objectives of incarceration.” *Hudson v. Palmer*, 468 U.S. 517, 523 (1984).

The Sixth Circuit has specifically held that the “privacy rights of Michigan’s female inmates” protect them from being unnecessarily viewed while naked by male prison guards:

Our court has recognized that a convicted prisoner maintains some reasonable expectations of privacy while in prison, particularly where those claims are related to forced exposure to strangers of the opposite sex, even though those privacy rights may be less than those enjoyed by non-prisoners. . . . [M]ost people have a special sense of privacy in their genitals, and involuntary exposure of them in the presence of people of the other sex may be especially demeaning and humiliating. When not reasonably necessary, that sort of degradation is not to be visited upon those confined in our prisons.

*Everson v. Mich. Dep’t of Corrs.*, 391 F.3d 737, 756-57 (6th Cir. 2004) (quotation marks and citations omitted).<sup>6</sup> Therefore, “minimal standards of privacy and decency include the right . . . to use the toilet without being observed by members of the opposite sex, and to shower without being viewed by members of the opposite sex.” *Galvan v. Carothers*, 855 F. Supp. 285, 291 (D. Alaska 1994). Accordingly, in *Kent v. Johnson*, 821 F.2d 1220 (6th Cir. 1987), the Sixth Circuit recognized a male inmate’s right to privacy from cross-gender viewing by female guards who

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<sup>6</sup> The Sixth Circuit “has found the ‘privacy’ right against the forced exposure of one’s body to strangers of the opposite sex to be located in the Fourth Amendment. Other courts have described this right as a liberty interest guaranteed by the Due Process Clause of the Fourteenth Amendment.” *Everson*, 391 F.3d at 757.

had an unrestricted view of his toileting functions and the male inmates' shower facilities. The court observed that

an abundance of common experience . . . leads inexorably to the conclusion that there must be a fundamental constitutional right to be free from forced exposure of one's person to strangers of the opposite sex when not reasonably necessary for some legitimate, overriding reason, for the obverse would be repugnant to notions of human decency and personal integrity.

*Id.* at 1226.

In this case, women inmates at MCJ experience routine privacy violations involving the involuntary exposure of their naked bodies to male guards and male inmate trustees. *See, e.g.*, Bosch Dec, Exh 2 at ¶ 12-14; Vos Dec, Exh 3 at ¶¶ 12-14; Speers Dec, Exh 6 at ¶ 7; Collins Dec, Exh 8 at ¶ 5, 10-11. Women are exposed when showering, when dressing and undressing, when using the toilet, and when attending to their menstrual needs. *See, e.g.*, Speers Dec, Exh 6 at ¶ 25; Semelbauer Dec, Exh 1 at ¶¶ 12-14; Vos Dec, Exh 3 at ¶ 12; Kitchens Dec Exh 7 at ¶¶ 6-11. No provisions are made to protect women from cross-gender viewing, and when women attempt to engage in self-help measures for personal privacy they are stopped or punished. *See, e.g.*, Speers Dec, Exh 6 at ¶ 26; Bosch Dec, Exh 2 at ¶ 14; Collins Dec, Exh 8 at ¶ 10.

Defendants are well aware of these conditions but have made no effort to ameliorate them. *See* Wilson Expert Report, Exh 9; *see also*; Bosch Dec, Exh 2 at ¶ 31. Given these facts, Plaintiffs are likely to succeed on the merits of this claim.

**3. Plaintiffs are likely to succeed on Eighth and Fourteenth Amendment claims regarding access to sanitary products and clean underwear.**

The next claim involves Plaintiffs' lack of access to sanitary products and underwear. In contrast to the claim involving sanitation of the facility, this claim involves sanitation related to personal hygiene. The Sixth Circuit has recognized that "[t]he Eighth Amendment prohibits deliberate indifference to needs of prisoners, including the basic elements of hygiene." *Carver v.*

*Bunch*, 946 F.2d 451, 452 (6th Cir. 1991). Specifically, jails are required to provide inmates with reasonable access to sanitary products such as toilet paper, feminine hygiene products, and underwear. “The failure to regularly provide prisoners with . . . toilet articles including soap, razors, combs, toothpaste, toilet paper, access to a mirror and sanitary napkins for female prisoners constitutes a denial of personal hygiene and sanitary living conditions.” *Atkins v. Orange County*, 372 F. Supp. 2d 377, 406 (S.D.N.Y. 2005). The denial of such products presents a clear risk to inmates’ health, it denies them “the minimal civilized measure of life’s necessities,” *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981), and it assaults “essence of human dignity inherent in all persons,” *Brown v. Plata*, 131 S. Ct. 1910, 1928 (2011).

In this case, the evidence shows that staff at MCJ routinely fail to provide women with adequate supplies of toilet paper and feminine hygiene products. *See, e.g.*, Bosch Dec, Exh 2 at ¶¶ 28-29; Vos Dec, Exh 3 at ¶¶ 19-20; Brown Dec, Exh 4 at ¶ 20; Collins Exh 8, at ¶ 14. Lacking access to feminine hygiene products, women bleed through their clothing. *See* Speers Dec, Exh 6 at ¶ 22; Bosch Dec, Exh 2 at ¶ 28. When this occurs, women inmates are not provided with clean clothing until the next laundry day, which may be a week or longer. *See* Speers Dec, Exh 6 at ¶ 23; Bosch Dec, Exh 2 at ¶ 28. Inmates have filed dozens of grievances regarding the lack of feminine hygiene supplies, but these grievances have been ignored, and women inmates’ access to sanitary products and clean underwear persists. *See, e.g.*, Brown Dec, Exh 4 at ¶¶ 20, 21; Kitchens Dec, Exh 7 at ¶ 24; Collins Dec, Exh 8 at ¶ 19. Based on the above, Plaintiffs have demonstrated a likelihood of success on this claim.

**4. Plaintiffs are likely to succeed on Eighth and Fourteenth Amendment claims regarding out-of-cell exercise time.**

The Sixth Circuit has held that out-of-cell exercise is a constitutional requirement:

It is generally recognized that a total or near-total deprivation of exercise or recreational opportunity, without penological

justification, violates Eighth Amendment guarantees. Inmates require regular exercise to maintain reasonably good physical and psychological health.

*Patterson v. Mintzes*, 717 F.2d 284, 289 (6th Cir. 1983). Following *Patterson*, district courts in this circuit have recognized that adequate out-of-cell exercise must be provided by jails and prisons. *See, e.g., Pressley v. Brown*, 754 F. Supp. 112 (W.D. Mich. 1990); *Gilland v. Owens*, 718 F. Supp. 665, 685 (W.D. Tenn. 1989); *Mawby v. Ambroyer*, 568 F. Supp. 245, 252 (E.D. Mich. 1983). Outside the Sixth Circuit, too, there is a widespread consensus that inmates in jails and prisons have a constitutional right to out-of-cell exercise. *See Pierce v. Orange County*, 526 F.3d 1190, 1211-12 (9th Cir. 2008); *Perkins v. Kansas Dep't of Corrs.*, 165 F.3d 803, 810 (10th Cir. 1999); *Williams v. Greifinger*, 97 F.3d 699, 704-05 (2d Cir. 1996); *Mitchell v. Rice*, 954 F.2d 187, 192 (4th Cir. 1992).

At MCJ, women inmates are forced to endure a “total or near-total deprivation of exercise or recreational opportunity.” *Patterson*, 717 F.2d at 289. The evidence shows that Plaintiffs, like all other women inmates, have no regular opportunity for out-of-cell exercise. Although MCJ has a gym, women at MCJ are permitted to use it either very infrequently or not at all. *See, e.g., Speers Dec*, Exh 6, at ¶¶ 18, 19; *Vos Dec*, Exh 3 at ¶ 18; *Collins Dec*, Exh 8 at ¶¶ 15-16. This is true of inmates who are detained at MCJ for many months. *See Brown Dec*, Exh 4 at ¶ 26. This lack of any out-of-cell exercise for women is the norm at MCJ, not a narrow or exceptional condition. *See, e.g., Semelbauer Dec*, Exh at ¶ 19; *Bosch Dec*, Exh 2 at ¶ 21.

Additionally, the cells themselves do not provide adequate space for inmate exercise. They house up to 12 inmates or more, some of whom sleep on the floor, further limiting the space available for movement. *See Vos Dec*, Exh 3 at ¶ 8; *MCJ Floor Plan*, Exh 11; *Kitchens Dec*, Exh 7 at ¶ 14. Most inmates have no regular opportunities to leave their cells and move around within the facility; inmates spend virtually *all* their time in the same cell where they eat,

shower, and sleep. Vos Dec, Exh 3 at ¶ 18; Collins Dec, Exh 8 at ¶ 16; Kitchens Dec, Exh 7 at ¶ 21. As a result, inmates may spend many weeks or months with only rare opportunities to leave their cells. *See, e.g.*, Speers Dec, Exh 6, at ¶ 18, 19; Vos Dec, Exh 3 at ¶ 18. “Inmates require regular exercise to maintain reasonably good physical and psychological health.” *Patterson*, 717 F.2d at 289. Current conditions at MCJ clearly place inmates’ physical and psychological health at substantial risk.

As with the other claims, Defendants are well aware that woman at MCJ are not being provided adequate opportunities for out-of-cell exercise, yet the problem persists. Wilson Expert Report, Exh 9. Plaintiffs are likely to succeed on this claim.

**B. Absent a preliminary injunction, Plaintiffs will suffer irreparable injury.**

The likelihood of Plaintiffs’ success on the merits of their constitutional claims largely resolves the remaining three preliminary-injunction factors. With regard to the irreparable-harm inquiry, the Sixth Circuit has held that “when reviewing a motion for a preliminary injunction, if it is found that a constitutional right is being threatened or impaired, a finding of irreparable injury is mandated.” *ACLU of Kentucky v. McCreary County*, 354 F.3d 438, 445 (6th Cir. 2003). Courts in this district routinely grant preliminary injunctions based on this rule. *See also Hadix v. Caruso*, 461 F. Supp. 2d 574, 598 (W.D. Mich. 2006) (granting preliminary injunction because “regular Eighth Amendment violations cause irreparable harm”); *Ramirez v. Webb*, 599 F. Supp. 1278, 1289 (W.D. Mich. 1984) (granting preliminary injunction based on a showing of ongoing law enforcement misconduct because “[t]here is no debate that a continuing injury to the constitutional rights of an individual is irreparable harm”).

In the present case, Defendants’ practices, policies or customs at MCJ have violated and continue to violate Plaintiffs’ constitutional rights and so warrant a preliminary injunction to

prevent further irreparable harm. Plaintiffs face irreparable injuries stemming from the violation of their rights to minimally safe and sanitary facilities, privacy from cross-gender viewing, reasonable access to sanitary products and underwear, and out-of-cell exercise time. Without a preliminary injunction, these irreparable injuries will continue.

**C. Issuance of a preliminary injunction will not cause substantial harm to others.**

The Sixth Circuit has held that “if the plaintiff shows a substantial likelihood that the challenged law is unconstitutional, no substantial harm to others can be said to inhere in its enjoinder.” *Deja Vu of Nashville, Inc. v. Metro. Gov’t of Nashville & Davidson County*, 274 F.3d 377, 400 (6th Cir. 2001). The same reasoning inexorably follows with respect to unconstitutional conditions of confinement; as a matter of law, requiring compliance with the Fourth, Eighth and Fourteenth Amendments does not cause substantial harm to anyone. *See also Tyson Foods v. McReynolds*, 865 F.2d 99, 103 (6th Cir. 1989) (“[Defendant] has suffered no injury as a result of the preliminary injunction [because it] has no right to the unconstitutional application of state laws.”).

Here, Plaintiffs are presently suffering unconstitutional conditions of confinement at MCJ, and they will continue to be irreparably harmed absent court intervention. As relief, they seek a preliminary injunction specifically tailored to remedy the unconstitutional conditions identified. No substantial harm to others will result from an injunction that requires MCJ to comply with the Constitution.

**D. Issuing a preliminary injunction would serve the public interest.**

Just as the likelihood of a constitutional violation mandates a finding of irreparable harm, the public-interest factor is also automatically satisfied when a constitutional violation is likely,



as the Sixth Circuit has held that “it is always in the public interest to prevent violation of a party’s constitutional rights.” *Deja Vu of Nashville*, 274 F.3d at 400; *accord Bays v. City of Fairborn*, 668 F.3d 814, 825 (6th Cir. 2012). Here, based on the likelihood that conditions of confinement at MCJ are unconstitutional, it is in the public interest to order Defendants to ameliorate those conditions and end the ongoing constitutional violations.

### CONCLUSION

For the reasons set forth above, Plaintiffs request a preliminary injunction as follows:

1. An order requiring Defendants to take immediate measures to do the following:
  - a. repair broken and backed-up plumbing and other failures of basic infrastructure, treat and exterminate infestations of mold and vermin, and implement a regular system of inspection, maintenance and repair to prevent these and related conditions from recurring at the existing jail, pending completion of the new jail;
  - b. provide women inmates with privacy from being routinely viewed by members of the opposite sex while showering, using the toilet, getting dressed and undressed, and attending to their sanitary needs related to menstruation;
  - c. provide women inmates with reasonable access to toilet paper, feminine hygiene products, and clean undergarments; and
  - d. provide women inmates with out-of-cell exercise opportunities at least one hour per day.
2. An order requiring Defendants to submit to the Court, within 14 days, a detailed plan for implementing the relief requested above, with such implementation plan subject to review by Plaintiffs and the Court, modification or approval by the Court, and monitoring and enforcement as necessary to ensure the preliminary injunction is properly implemented.
3. Any other order this Court deems appropriate to effectuate the preliminary injunctive relief requested by this motion.

Respectfully submitted,

By: /s/ Miriam J. Aukerman

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Attorneys for Plaintiffs

Dated: December 4, 2014

**Semelbauer et al v. Muskegon County et al**

**Exhibit List**

1. Semelbauer Declaration
2. Bosch Declaration
3. Vos Declaration
4. Brown Declaration
5. Baker Declaration
6. Speers Declaration
7. Kitchens Declaration
8. Collins Declaration
9. Wilson Expert Report and Declaration
10. MCJ Population Chart and Declaration of Katherine Hopkins
11. MCJ Floor Plan
12. MCJ Inspection Report 2012
13. Muskegon County Sheriff Memo, Aug. 17, 2011
14. Muskegon County Sheriff Memo, Aug. 22, 2012
15. Muskegon County Sheriff Memo, Aug. 29, 2012
16. Muskegon Chronicle Article (Peters), July 8, 2009
17. Muskegon Chronicle Article (Gaertner), Feb. 20, 2011
18. Muskegon Chronicle Article (Gaertner), Oct. 17, 2012
19. Muskegon Chronicle Article, Oct. 4, 2014
20. Letter to Williams Hughes, Aug. 8, 2013
21. Letter from Douglas Hughes to Kevin Carlson, March 11, 2014
22. MCJ Rules and Regulations for Inmates

**EXHIBIT 1**

Semelbauer Declaration

### **DECLARATION OF MICHELLE SEMELBAUER**

I, Michelle Semelbauer, declare as follows:

1. I was incarcerated in the Muskegon County Jail from October 9, 2012, until November 7, 2012.
2. I was in jail serving a “pay or stay” sentence based on an outstanding fine for driving while license suspended. Because I was unable to pay the fine , I was put in jail. Because I was booked on a “pay or stay” sentence, I was supposed to be released as soon as my fines were paid.
3. I paid my outstanding fines in full within days of entering the jail. I should have been released as soon as my fines were paid. However, I was incarcerated for an additional 28 days because the jail staff refused to believe me when I repeatedly informed them that my fines were paid and I should be released. The jail staff also failed to conduct an adequate investigation that would have shown they were holding me illegally.
4. After I was booked, I spent three or four days in the jail’s holding tank. The holding tank is a small cell, not much bigger than a closet, with a stainless steel toilet and cement benches. There were several other women in the holding tank with me.
5. There are no beds in the holding tank and there is no privacy from male guards, who are able to see women using the toilet. The holding tank also does not have a shower. I was forced to wear the same clothes and was unable to bathe for three or four days. Other women with even longer stays in the holding tank had to do the same.
6. The floor of the holding tank was filthy. It was covered in urine and vomit. While I was in the holding tank, a woman was bleeding and her blood got all over the cell. The cell was also infested with ants and other insects.
7. Women who spend extended time in the holding cell, including me, are forced to try to sleep on the dirty floor, with vermin and insects, and without blankets or mats of any kind.
8. One of the women who was in the holding tank with me seemed to have severe psychological or emotional problems. She began to physically attack me out of the blue. I was on the floor and she shoved her genitals in my face then punched me in my eye. Guards took me out the cell momentarily, but later put me back.

9. I requested a form to document the attack, but jail staff refused to provide one for me.
10. I also asked for treatment for my eye, but the staff refused to even provide an ice pack. I had a black eye for days after the attack.
11. After my stay in the holding tank, I was moved into a two-person cell off the day room. The day room has a central room with a guard station and a shower. It is surrounded by small two-person cells. The jail staff set up cots in the day room when there are no more beds available in the cells.
12. All of the women in the day room and in the two person cells have to use a shower that is right next to a guard station. Male guards at the station can see women undress as they enter the shower, and can often also see the women while they are showering, depending on the condition of the shower curtain.
13. Male guards are also able to see the women on cots in the common area dress and undress. In fact, the women on the cots have absolutely no privacy whatsoever. I wore a one-piece jumpsuit while incarcerated, and I did not have any undergarments to wear underneath it. Every time I used the toilet, I had to take the entire suit off and expose my naked body to male guards.
14. Male guards are also able to see into the two person cells, which have toilets. Women try to get a few moment of privacy while they are using the toilet by putting a sheet or a piece of paper over the cell's window. However, I witnessed guards rip these coverings down and discipline the female inmates for trying to gain this small amount of privacy. Guards would mock and chastise women verbally, or confiscate the items they used to try to protect themselves.
15. All of the plumbing in the jail was leaky and often broken. The toilets in the cells backed up regularly and spilled human excrement and urine all over the jail floors.
16. Portions of the ceiling in the day room fell down while I was there. Pieces of insulation hung from the ceiling.
17. The showers were covered in mold. They sprayed scalding hot water. I and other women had to collect the water in containers and let it cool before bathing.
18. The jail was infested with insects and vermin. Mouse droppings were visible throughout the jail.
19. During my entire incarceration, I was never brought to a gym or given any other opportunity

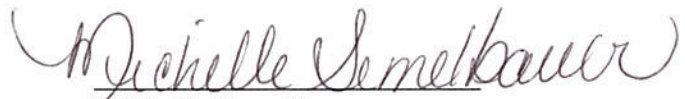


to exercise. The only way I could move around was to walk around the day room.

20. I lost a significant amount of muscle mass during my incarceration due to the poor food and lack of exercise. When I left the jail, my family was shocked at my appearance. My mother and daughter started crying when they saw how sickly I looked.
21. When I asked, jail staff did not respond to requests for necessities like toilet paper or pads. Guards also did not respond to any grievance I filed about the above problems.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under penalty of perjury that the foregoing is true and correct.

Dated: 11-21-2004

  
Michelle Semelbauer

**EXHIBIT 2**

Bosch Declaration



### **DECLARATION OF PAULETTE BOSCH**

I, Paulette Bosch, declare as follows:

1. I was incarcerated in the Muskegon County Jail from November of 2012 until April of 2013. I have married since that time. When I was incarcerated, my name was Paulette Gauthier.
2. I had given birth via a Cesarean section to my son three months before my incarceration.
3. When I arrived at the jail, I was placed in the jail's holding tank and left there for approximately 7 days. The holding tank was a tiny cell, no bigger than a walk-in closet. It contained a toilet and a couple of benches. There was no shower and there were no beds.
4. There were as many as 18 other women in the holding tank with me at once. At times there was no room to sit, much less lie down.
5. Because the holding cell was so packed, it was almost impossible to sleep. At times when there were less inmates in the holding cell, women tried to sleep on the floor. But the floor was covered in urine, saliva, and other bodily fluids, and was also full of ants and other insects. Neither I nor other women in the holding tank given blankets or mats to sleep on.
6. The toilet in the holding tank is partially covered. Male guards can and did watch female inmates, including me, using the toilet.
7. During the entire time I was in the holding tank, I was not allowed to shower.
8. During my stay in the holding tank, I noticed that my Cesarean section wound had become infected. The wound remained infected for months. I was told by jail medical staff the infection was Methicillin-resistant Staphylococcus aureus (MRSA).
9. After spending about a week in the holding tank, I was moved into a cell with 11 other woman. The cell had one toilet and one shower in it.
10. That cell was infested with mice and insects. The shower in the cell was covered in dark mold and the toilet leaked and backed up regularly, spilling raw sewage, urine, and menstrual blood into our cell.
11. When I was moved out of the holding tank, MCJ staff confiscated my bra and underwear. I was not provided a replacement bra. I had to wait over a week until my family deposited money in my commissary account so I could purchase one.
12. During my incarceration I was required to wear a one-piece jumpsuit. I had to pull down the

jumpsuit in order to use the toilet, which meant that I was forced to expose my entire body, including my breasts.

13. Male guards and male inmate trustees were able to see into my and other women's cells when they walked by. They had unobstructed views of my cellmates and I while we were mostly naked using the toilet and while we were undressing to take a shower.
14. I tried to put up a sheet to protect my privacy while using the toilet, but guards ripped the sheet down and reprimanded me for putting it up. Guards put us on lockdown or took away our blankets if we tried to protect our privacy.
15. The plumbing in the jail was constantly broken. Showers would spray extremely hot water that would burn inmates. The hot water caused an incredible amount of pain when it hit my infected C-section wound, and caused the wound to become even more irritated.
16. Because the water was burning hot, I and other women had to collect the hot water in makeshift containers and let it cool down before washing. One time when I was collecting the hot water in a tote bag, the tote bag ripped, spilling scalding hot water all over my body, including on my infected wound. I begged the guards to take me to the medical unit, but the guards refused.
17. Another time, the showers in my cell stopped working for three days in a row, and none of the women were able to bathe.
18. Jail staff forced me to clean and irrigate my infected wound myself. This involved holding open the infected wound, spraying it with what I believe was saline solution, and packing gauze into the wound. Because the cells were so filthy, I did not have any clean, much less sterile place where I could dress my wound.
19. The jail did not provide me enough medical supplies to regularly clean and treat my wound, nor did they follow my doctor's instructions. I would plead for more supplies and more treatment through verbal requests, as well as written kites and grievances, but the staff just kept telling me they did not have the resources and would not help me.
20. The infection was incredibly painful. I would often ask to see medical staff because of the pain, but guards ignored my requests. The wound did not heal properly and has caused serious medical complications and left me with a large scar.
21. During my six month incarceration, I was allowed to go to the gym in the jail twice. The gym was a large space on the first floor. The jail kept exercise equipment locked up in this




- space, but never allowed me or the women I was with to use the equipment.
22. I did not have any other opportunities to exercise. The only way I could move was to walk around my cell.
  23. When I left the jail, I was in terrible physical shape. I was unable to fully rehabilitate from giving birth because I was not allowed to exercise and my Cesarean wound was severely infected.
  24. Guards would constantly make demeaning comments to me and other women. They guards called me "the MRSA girl." Guards would use racial slurs and refer to the female inmates as "you bitches." They would also mock women who received food stamps.
  25. Staff did not give us adequate cleaning supplies. The women in the jail knew I had an infection, and I would try my best to clean and disinfect the shower after I used it, but the staff would either refuse to provide cleaning supplies or provide watered down cleaning solutions.
  26. When the guards brought food to the cells, they would take away our meals if we did not come retrieve the food immediately, leaving women without food for long stretches of time.
  27. The drinking fountains in the cells were often broken. This meant that women only received drinking water with their meals. Women would often beg for additional water, but they were ignored.
  28. Guards did not respond to request for menstrual pads. On one occasion, I continually asked for pads for several hours, but I was not provided with any. I bleed into my uniform. The guards refused to provide me with a change of clothes, so I had to wash my uniform the best I could in the sink, wear the wet, stained uniform, and then wait a week, until the next laundry day, for a new uniform.
  29. Guards also ignored my requests for toilet paper.
  30. Some women, including myself, were prescribed two mattresses by the medical staff. This was meant to help women with wounds, stitches, or pins in their bones. Guards either refused to provide us with extra mats, or confiscated them when they were angry with us. I never received the two mattresses I was prescribed.
  31. I wrote approximately 20 grievances about the terrible conditions inside the jail and the treatment of the female inmates. I did not receive responses to any of my grievances. I began mailing the grievances to the jail through the US Postal Service, in the hope that

somebody would actually read them.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under penalty of perjury that the foregoing is true and correct.

Dated: 11-21-14

  
Paulette Bosch

**EXHIBIT 3**

Vos Declaration

### **DECLARATION OF DENISE VOS**

I, Denise Vos, declare as follows:

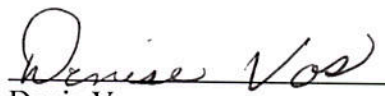
1. I was an inmate in the Muskegon County Jail from June of 2011 until February of 2012, as well as on prior occasions.
2. I spent several hours in the holding tank when I arrived. The holding tank is where inmates are held while they are being processed into the jail. It has benches and a toilet, but no bed or shower.
3. The jail contains a few holding tanks, but in my experience, the guards always use a very small cell to hold the women. I would estimate that the holding tank was no larger than ten feet by twelve feet.
4. The holding tank was full of trash and bugs, and it was overcrowded with other inmates.
5. The toilet in the holding tank was partially covered by a half-sized wall. Male guards watched women, including me, using that toilet.
6. The water fountain in the holding tank was not working. I and other women were only provided drinking water with their meals.
7. I spent part of my incarceration in the 12-woman cell, part in a 6-woman cell, and another part in the day room surrounded by two-person cells.
8. The 12-woman cell contained a shower and a toilet. At times the cell actually contained 14 women due to overcrowding. The extra women were forced to sleep on the ground.
9. During the winter the cells became incredibly cold, especially at night. Women, including me, had to sleep on small mats on the freezing cold floor. Sometimes guards confiscated my and other women's blankets as punishment.
10. The day room was a central area surrounded by small cells. Each of the small cells contained a toilet. There was a shower area next to a guard station on one side of the day room.
11. Male guards in the day room could see me using the toilet, showering, dressing, and undressing.
12. When I used the toilet, I had to take off my one piece uniform and expose my entire naked body. When I tried to protect my privacy by placing a small piece of toilet paper over the window of the cell, male guards would open the cell door, rip the toilet paper off the window,



- and slam the door behind them. This happened repeatedly.
13. Once, when I was using the toilet, a guard named David Gutowski began passing out things to inmates while I was sitting on the toilet, naked, in front of him.
  14. Male guard and male inmate trustees would routinely walk by the cells and look in to see women, including me, using the bathroom, undressing, or showering.
  15. In all of the different cells I was in, the plumbing was constantly broken. The shower in the day room leaked and left pools of water on the floor. I often had to step into an ankle deep pool of standing water in order to take a shower.
  16. Every single shower in the jail that I ever used was covered in dark mold.
  17. During my incarceration, I saw part of the ceiling in the day room crumbing and falling on inmates.
  18. We were almost always locked in our cells for twenty-four hours a day, seven days a week, with no chance to exercise. I was only taken to the gym two or three times during the entire eight-nine months of my incarceration, and then only when my cell was being shaken down. When I asked to go to the gym, guards told that they did not have the time or staff, or that the men were already using the gym.
  19. When women, including myself, asked for toilet paper, we were often ignored for hours or days.
  20. Guards also ignored women's requests for feminine hygiene products. I observed women who were menstruating bled on their clothes, and they were not provided clean clothes until the next laundry day.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under penalty of perjury that the foregoing is true and correct.

Dated: 11-25-14

  
Denise Vos

**EXHIBIT 4**

Brown Declaration



### **DECLARATION OF CRISA BROWN**

I, Crisa Brown, declare as follows:

1. I was an inmate in the Muskegon County Jail from February 10, 2014, to May 17, 2014.
2. When I first arrived at the jail, the staff placed me in the holding tank for approximately 48 hours. The holding tank is a small cell, no bigger than a small storage closet, with benches.
3. There were as many as 12 other women in that tiny space with me at any one time. With that many women, it is almost impossible to sit, much less lie down.
4. Like other women kept in the holding cell for long stretches, I was forced to try to sleep on the concrete floor without mats or blankets. It was hard to find space on the floor because of the overcrowding. The floor was filthy, covered in vomit, urine, spit, and other bodily fluids. There were insects and mice.
5. There is a toilet in the holding cell that is partially covered by a half-sized wall. When I and other inmates used it, male guards were able to see us. There is no shower in the holding cell. Woman who spend days there are forced to go without bathing. I was not allowed to bathe for the entire time I was in the holding cell.
6. While I was in the holding tank, the only source of drinking water was broken. Women were only given liquid to drink during their meals. I was not given enough to drink.
7. After spending approximately two days in the holding tank, I was moved to the day room. The day room is a common space surrounded by two-person cells. There is a shower in the common space.
8. When the jail is crowded, woman sleep on cots in the common space, even though it is intended to be living space for the inmates in the two-person cells. During my incarceration, six women slept on cots in this common space.
9. The shower and the cots in the common space are in view of male guards at all times. Women are forced to change in front of male guards. They must also dress and undress in front of male guards before and after using the shower.
10. After spending approximately four weeks in the day room, I was moved to the cell blocks. The cell blocks are multi-person cells that hold approximately a dozen women. There is a toilet and a shower in each of the cells. I have attached a drawing of the cell blocks.

11. Male guard and male inmate trustees regularly walked by the women's cell blocks. They routinely looked into the cells while women, including me, were using the toilet or changing.
12. When we tried to put up sheets, magazine pages, or other items in order to provide a small amount of privacy, guards would rip them down.
13. The showers in both the dayroom and the cellblocks where I was held were covered in dark mold. Both showers also sprayed scalding hot water. Women had to collect the water in containers to cool it down before bathing. The guards laughed about this and mocked us.
14. On April 12, 2014, the shower and drinking fountain in my cell would only produce scalding hot water for 48 hours straight.
15. On April 14, 2014, I burned myself badly because of the extremely hot water.
16. I filed a grievance, which was never answered.
17. During winter, the cells became unbearably cold at night. Women, including myself, attempted to keep warm by collecting hot water in containers and keeping the containers in our beds.
18. I filled out a formal grievance on April 14, 2014, informing staff of the problem. No one ever responded to the grievance.
19. On March 14, 2014, I passed out due to high blood pressure. When I passed out, I struck my head hard and vomited on myself. I repeatedly asked for help and for a change of clothes. Instead, guards took me to the holding tank and left me there for 24 hours without any medical treatment in my vomit-covered clothes. I filed a grievance about my treatment and did not receive a response.
20. Guards constantly ignored requests for toilet paper, pads, and cleaning supplies. I repeatedly filled out grievances and kites requesting supplies—specifically on April 9, 12, and 14, of 2014. Those requests were ignored. One time I had to wait eight or nine hours to get a single pad. Begging for these basic toiletries was humiliating and degrading.
21. On April 9, 2014, I filed a grievance because the entire day room was left without any toilet paper. Nobody responded to the grievance.
22. The guards regularly mock inmates and punish them for filing grievances by putting them in a suicide prevention suit.
23. On approximately March 24, 2014, I repeatedly asked for help because my cellmates were threatening me. The guards became angry with me and put in the suicide prevention suit as

punishment. The suicide prevention suit is a heavy smock. Inmates who wear it are forced to take off their other clothing and stand, partially naked, in the cell with other inmates. The guards use the suicide suit to humiliate inmates who complain too much. They laughed and mocked me.

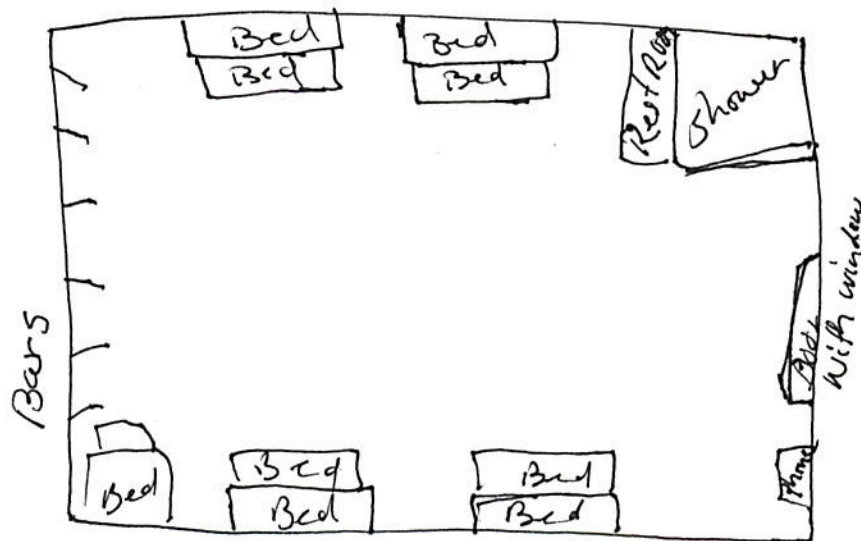
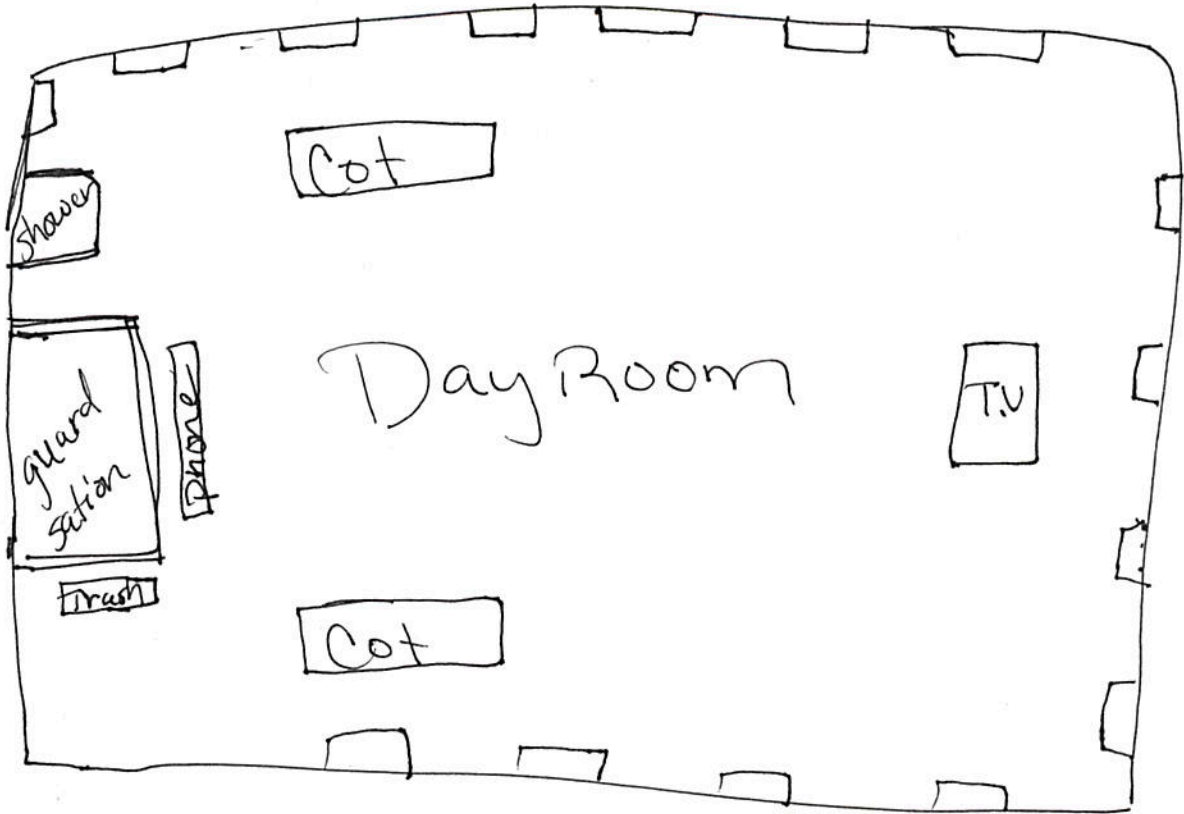
24. I filed a grievance about this treatment, and the guards ripped it up in front of my face.
25. We were locked down in our cells for long periods of time without opportunities for out-of-cell exercise.
26. The jail has a large open space in its basement that it uses as a gym. The gym has some exercise equipment locked up in a cage. During the entire time I was incarcerated, I was taken to the gym only twice for about thirty minutes while my cell was searched. The guards did not allow us to use any of the locked up exercise equipment. As a result of the lack of exercise I lost a significant amount of muscle mass and developed bed sores. I left the jail in terrible physical condition.
27. When I was finally released, the jail staff threw me out on the street at 2:00 AM. I was unable to contact any friends or family at that hour, so I was forced to walk home.
28. Guards would regularly call the female inmates bitches and use racial slurs.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under penalty of perjury that the foregoing is true and correct.

Dated: 12-2-14

  
Crisa Brown





Cris Brown  
12/2/14

**EXHIBIT 5**

Baker Declaration

### **DECLARATION OF LATRECE BAKER**

I, Latrece Baker, declare as follows:

1. I have been incarcerated multiple times at the Muskegon County Jail in the last three years.  
In total I have served approximately seven months in the jail since October of 2011.
2. Most recently, I was booked into the jail on March 12, 2014 and again on November 1, 2014.
3. When I arrived at the jail in March I spent a few hours in the holding tank. When I was booked in November I spent three days in the holding tank. As a result of sleeping on the floor of the holding tank without a map my hip now hurts. I have an upcoming appointment with my doctor to address the pain in my hip.
4. The holding tank is a small cell, about the size of large bathroom. However, at times, I have seen as many as 17 women held in there at once.
5. There are no beds in the holding tank, and there is no shower.
6. There is a toilet and a sink in the holding tank that is partially covered by a waist-high wall. However, when women, including me, use the toilet male guards can still see us.
7. In my experience, the sink in the holding tank is often broken. The last two times I was incarcerated the sink in the holding tank was broken. This meant we could not wash our hands.
8. After a few hours in the holding tank during my March incarceration, I was moved to a cell in the cell block. The cells in the cell block house 12 women.
9. The cell blocks are off the "cat walk", which is a hallway used by guards and trustees. There are bars that separate the cells from the catwalk, and a person in the catwalk can see everything in the cells. From the cat walk, male guards and trustees can see women changing, showering, and using the toilet in their cells. I was viewed in various stages of undress by male guards.

10. The shower in the cell block cell had a curtain around it, but it is moldy and in disrepair. The toilet has no curtain or wall for privacy. The women in my cell hung up a sheet for privacy, but sometimes guards took it down.
11. In November after leaving the holding tank I was moved to a cell off the day room. The day room is a central room with a guard station and a shower. It is surrounded by small two-person cells. The jail staff set up cots in the day room when there are no more beds available in the cells, even though the day room is intended as a living space for women housed in the small two-person cells.
12. Originally I was given a cell off the day room, but then due to overcrowding I was moved to a cot in the day room. During my stay in the day room the heat was not working properly and it became very cold. I would estimate that it was about 42 degrees in the day room where I was expected to sleep. It took them four days to fix the heat. We asked for extra blankets to keep warm, but never received any.
13. Once they fixed the heat it became incredibly hot in the day room. I would estimate it was over 90 degrees in the day room. It was very difficult to sleep in such a hot space. It remained hot until I was released later in November.
14. The showers in the jail are disgusting and broken. There is mold in the corner of the showers and in the vent above the shower. The water that comes from the shower is scorching hot and there is very little water pressure.
15. The toilets and sinks in the jail are also broken. Both drip and run constantly. This results in flooding. When the toilets overflow sewage spills onto the floor.
16. The jail is infested with ants and mice.
17. The whole facility is dirty. I, and the other inmates, feared contracting MRSA because there were other inmates with open MRSA wounds.
18. The jail does not provide underwear. The only way to get underwear is to purchase it.



19. In my experience, the jail does not provide enough feminine hygiene products. When inmates ask for pads, the staff often takes hours or even days to respond to their requests.
20. Guards also do not provide enough toilet paper, or respond to requests for toilet paper in a timely manner. I have been forced to wait hours in order to get toilet paper.
21. During my March till April incarceration, I ate, slept, and spent 24 hours a day in my cell, without ever getting to leave. The only time I was allowed out of my cell was for court dates, visits, and to attend a class called Thinking Matters. This meant that the majority of days I was confined to my cell.
22. I was not given access to the gym, either during my March/April 2014 incarceration or my November 2014 incarceration.
23. As a result of being denied opportunities to exercise, my health has suffered. My fitness has declined.
24. On various occasions I have kited (made a written request) guards for Motrin and never received a response. Other times it has taken them days to get me Motrin.
25. In fact, I have witnessed guards ball up kites and throw them in the garbage.
26. It is common knowledge among inmates that if you file a grievance against a particular guard that guard will make sure it never gets filed.
27. Unfortunately, I have been incarcerated sporadically at the Muskegon County Jail over the last three years. It is my opinion that conditions have worsened in the jail. The jail is more broken down and filthier than it used to be. This is unsafe. The mattresses no longer get cleaned and they are disgusting.
28. I am African American. I have overheard guards using racial slurs and saying various racist things in reference to African American female inmates. For example, I have heard Officer

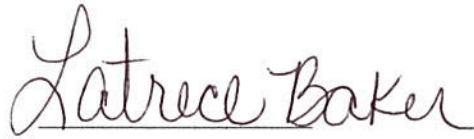


Ivan Morris call inmates “stupid motherfuckers” and he tells African American female inmates that he “doesn’t trick with their kind” because he prefers white women. On another occasion I heard Officer Anderson call another African American inmate a “guerilla” and a “monkey.”

29. I have also heard Officer Ivan Morris express that he wishes he could make inmates get on their knees so he could shoot them in the head execution style to take them out of their misery.

30. I Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under the laws of the United States that the above statements are true and correct to the best of my knowledge, information, and belief.

Dated: 11/21/14

A handwritten signature in cursive script that reads "Latrece Baker". The signature is written in dark ink and is positioned above the printed name.

Latrece Baker

**EXHIBIT 6**

Speers Declaration

### DECLARATION OF TAMMY SPEERS

I, Tammy Speers, declare as follows:

1. I was an inmate in the Muskegon Country Jail from approximately March 20, 2014, to August 28, 2014.
2. When I arrived at the jail, I was experiencing opiate withdrawal. Jail staff placed me in a small holding cell, roughly the size of a large closet, for about seven days.
3. As many as 18 other women were placed in the cell with me. There was often no room to sit or lie down.
4. I vomited and had diarrhea while I was detoxing in the holding cell. However, I was left in my street clothes, without access to a shower, soap, a towel, a blanket, or a tooth brush for seven days. I had dried vomit in my hair and diarrhea on my clothes. I was not allowed to shower or change.
5. When there was room, I tried to sleep on the floor of the holding cell at night without any mattress or padding. The floor of the holding cell was covered in vomit, spit, urine, and insects.
6. I had several cuts and scrapes that became seriously infected while I was in the holding tank. The wounds remained opened for months. The medical staff told me that the infection was Methicillin-resistant Staphylococcus aureus (MRSA).
7. The toilet in the holding cell is in full view of guards. Male guards were able to see me and all other female inmates using the toilet.
8. After a week in the holding tank, I was moved into a two-person cell the day room. The day room is a central living space with a shower and a guard station. It is surrounded by small two-person cells.
9. I was provided a uniform, but no shoes. Jail staff told me that they were out of shoes. I requested a pair of shoes every day for 2 months. In the meantime, I was forced to walk barefoot on the filthy, cold floor, which often had backed up toilet water or mouse feces on it. After two months the staff gave me a pair of men's size 14 shoes. I am a women's size 6.5.
10. I wore these shoes into the shower, because the floor around the shower was covered in mold and standing water. The oversized shoes caused me to lose my balance and fall. I hit my

face against the ground and chipped a tooth.

11. During my incarceration the showers often shot out scalding hot water. One time, I was badly burnt on my scalp and thigh by extremely hot water.
12. The hot water also burned my open MRSA sores, that I had become infected while I was in the holding cell. I told the jail staff that I could not use the shower because it was further inflaming my wounds. Instead of addressing the plumbing, guards gave me empty soda bottles to collect water in order to bathe.
13. Women in the jail have to collect the water in any containers they can find and let it cool before bathing. Guards mocked us and told us that we were taking "bird baths."
14. The shower and toilets often leaked and left standing water in the cells. The plumbing in the cell blocks leaked hot water constantly for days on end. Many of the drinking fountains do not work. Women, including me, were locked down for hours at a time without any drinking water. We became very thirsty.
15. Toilets were backed up and left the cells smelling of urine and human feces.
16. The jail did not provide inmates with adequate cleaning supplies to deal with overflowing toilets, mold, and mouse feces. Women had to beg for a small cart of cleaning supplies. The cleaning agents were watered down and ineffective.
17. During winter, the cells became extremely cold at night. I have arthritis and it became very painful because the cells were so cold.
18. None of the women I met were given regular opportunities to exercise. During my six month incarceration, I was taken to the jail's gym three times, and then just for short periods while my cell was searched. The only chance that I or other women had to move is by walking around the cells or the day room.
19. The jail has large open space in its basement. This space is commonly referred to as the gym. There are several pieces of workout equipment locked up in the gym. Guards never made this equipment available to me or any of the female inmates I was with while I was incarcerated
20. As a result of lack of exercise, I left the jail with sores and gained about 30 pounds of body fat. When I left the jail, I was in the worst physical shape I have ever been in.
21. Jail staff did not respond to requests by me or by other women for toilet paper, cleaning supplies, or feminine hygiene products.




22. On one occasion, staff ignored my request for pads for 2 days, and I was left to bleed through my uniform.
23. After this incident, the jail also did not provide me clean underwear. I was forced to wash my own, and go without any while it dried.
24. Women, including me, regularly had to go without toilet paper or pads for long periods of time.
25. I was required to wear a one-piece uniform, which meant that when I needed to use the bathroom, I had to take the entire uniform almost completely off, leaving me mostly naked in front of the male guards and trustees.
26. Female inmates, including me, would sometimes try to put up a sheet or a piece of plastic to gain some privacy while changing or using the bathroom. Guards would immediately tear them down. I observed that the guards disciplined women for trying to protect their privacy by moving them into lockdown or taking privileges away.
27. I filled out grievance forms and kites about the terrible conditions in the jail, but never received a response. None of these problems were addressed while I was incarcerated. Jail staff only responded to one grievance.
28. In fact, guards retaliated against me for filing grievances. Once, guards put me in a suicide prevention suit and placed me back in the holding cell for 72 hours to punish me for filing grievances. The suicide suit, which guards called a "Bam Bam" suit, is a heavy smock. When they placed me in it, I had to remove all of my other clothes.
29. One guard told me that I'd "make my life so much easier if I stopped filing these grievances."
30. Guards also refused to provide me grievance forms, or told me to stop complaining and that I just had a "snotty Grand Haven attitude."
31. A number of the guards regularly use racial slurs and refer to female inmates as "bitches."
32. For example, a guard told me, "You're exactly my type, it's a shame you're such a bitch."
33. I heard white guards refer to black female inmates as "niggers" and say things like, "I don't date your kind."

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under penalty of perjury that the foregoing is true and correct.

Dated:

11/20/14

  
Tammy Speers

**EXHIBIT 7**

Kitchens Declaration

### **DECLARATION OF LONDORA KITCHENS**

I, Londora Kitchens, declare as follows:

1. I was incarcerated at the Muskegon County Jail from approximately January 23, 2014 until September 2014.
2. When I entered the jail, I spent the first approximately 72 hours of my sentence in a holding tank with approximately 11 other women. The holding tank is a small cell, about the size of a large closet, with benches.
3. While in the holding tank, I slept on the cement floor without even a mat. It was hard to find space on the floor, because there were so many women. I was not given an opportunity to shower during the days I was in the holding tank.
4. Some of the women in the holding tank were detoxing or were ill, and the tank was disgusting. There was one sink in the holding tank, but it was broken. During the three days I was held in the holding tank I was unable even to wash my hands. I also could not get drinking water between meals.
5. In the holding tank there was only one toilet. The toilet was in full view of the guard station. During the 3 days I was held in the holding tank, male guards watched me using the toilet.
6. After spending approximately three days in the holding tank I was moved to the cell blocks. During my incarceration, I was housed in both cells 36 and 37, each time with 11 other women. In these cells male guards could see us showering, changing, and using the toilet from the "cat walk." The cat walk is a walkway that goes past a wall of bars looking into the cells.
7. We hung up a bed sheet by the toilet and shower in an attempt to have some privacy. However, guards told us we were not allowed to have a sheet, and there we did not get any privacy when using the shower.
8. In both cells 36 and 37 the toilets routinely overflowed, flooding our cells with sewage water and urine.
9. On July 13, 2014, I was moved from the cell blocks to the day room. The day room has a common area, designed as living space, surrounded by tiny two-person cells.
10. In the day room the male guards could see me using the toilet through the window in my cell.



One guard told us we were not allowed to put anything on the windows that might give us privacy while using the toilet.

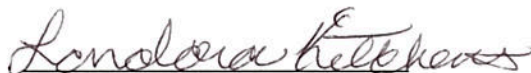
11. Being viewed by others while showering, changing, menstruating, and toileting is humiliating and degrading.
12. My family has a history of diabetes. I am very concerned about my physical fitness and overall health. In particular, I am concerned with developing diabetes. Prior to being incarcerated I had a family membership at the local YMCA. At the YMCA I walked on the treadmill and lifted weights. I also walked in the neighborhood to maintain my health and weight.
13. During my incarceration I gained a significant amount of body fat. I asked at least eight different times to be taken to the jail's gym. In the six months I was incarcerated, I was taken to the gym only four times. On those four occasions the only reason we were taken to the gym was because our cells were being searched.
14. I did everything I could within my tiny cell to maintain my health. I calculated that 212 laps around my cell was roughly 1 mile. I tried to do 212 laps around my cell, but it was very difficult and often impossible because my cell was full of other inmates.
15. The facilities at the jail are disgusting and unsanitary. There is mold in the shower. Since being in the jail my toenails have turned dark. The shower curtain in the day room, which is our only source of privacy while we showered, is falling down. Several other inmates had visible infections that we have been told were Methicillin-resistant *Staphylococcus aureus* (MRSA). These women lived in the day room and the cell blocks with us and used the same shower., even though MRSA is highly contagious
16. I worked as a trustee in the jail, which means I did a lot of the cleaning. The cleaning solution provided to us appeared to be watered down and did not smell like cleaner. In my experience the cleaner was ineffective. When cleaning, I felt like I am just moving around dirty water and not really getting anything clean.
17. The jail was infested with insects. There were black "sewer bugs" in the shower area and in the basement where I attended classes. I was bitten on multiple occasions by these bugs. The bites hurt, and the areas of the bites swelled and itched.
18. I also contacted a toenail fungus in the jail that turned my toenails black.
19. I requested toilet tissue and sanitary napkins from jail officials on several occasions but my

requests were ignored. For example on July 13, 2014, I was menstruating and was out of sanitary napkins. I filled out a kite requesting more sanitary napkins and did not receive any for over four hours. During this period, Officer Grieves told me that I was "shit out of luck," and I better not "bleed on the floor."

20. The day room was over-crowded. Six women were housed, not in cells, but on cots in the day room itself. Inmates housed in cells had to leave their cell doors unlocked so the women who are housed in the day room have access to the toilets in the cells.
21. We were on lockdown, not able to leave our tiny cells for approximately 17 hours a day.
22. On August 11, 2014, I was moved out of a cell in the day room to a bunk in the day room. This meant I had even less privacy than before, but it also meant I was no longer on lockdown the majority of the day.
23. I am African-American. Ivan Morris, a guard at the jail, refers to African-American inmates as "your kind." I have heard him say, "you're in a cage like animals in a zoo."
24. I have filed several grievances about the above issues, but I have not received a response. Guards often refused to provide grievance forms.
25. I understand that I made a mistake in breaking the law. However, nobody deserves to be forced to live like an animal and to be treated like one. We are women deserving of basic respect, sanitary conditions, bodily privacy, and simply to be treated like the women we are. Most inmates here have already been through so much. Being treated so inhumanely makes rehabilitation more difficult.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under penalty of perjury that the foregoing is true and correct.

Dated: 11-21-14

  
Londora Kitchens

**EXHIBIT 8**

Collins Declaration

### **DECLARATION OF STASHIA COLLINS**

I, Stashia Collins, declare as follows:

1. I am currently an inmate at the Muskegon County Jail serving a 8 month sentence for fraud.
2. I was booked into the jail on August 5, 2014.
3. When I arrived at the jail I spent about four or five days in the holding tank.
4. The holding tank is a tiny cell, about ten feet by fifteen feet. It has concrete benches, a toilet, which is partially covered by a waist-high wall, and a sink.
5. The waist-high wall does not provide sufficient privacy, and male guards and male inmates were able to see me and all other women in the holding tank using the toilet.
6. At times, as many as eighteen other women were placed in the holding tank with me. We were often not able to sit or lay down because there was not enough room.
7. The holding tank does not have beds or mats to sleep on. I had to sleep on a bench or the cold, dirty floor. The floor was covered in dirt and there were insects everywhere.
8. The sink attached the toilet did not work while I was in the holding tank. I was only provided liquid with my meals and was unable to wash my hands.
9. After spending four or five days in the holding tank, I was moved to a two-person cell in the day room. The day room is a common area with tables and a shower. There is a guard station in this room. The common area is surrounded by small cells. The small cells contain a toilet and two bunks.
10. Male guards are able to look into my cell when I am changing or using the toilet through a window. I have tried to put up sheets to cover this window while I am using the toilet, in order to have a small amount of privacy. When I try to do this, guards, including a guard named Officer DeYoung, tear the sheets down and reprimand me. Guards have punished me



for attempting to protect my privacy by putting me on lockdown. I have seen them do the same thing to other women in the jail.

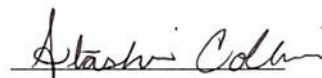
11. At some point, I was moved from the day room to the larger 12-woman cells in an area known as the cell blocks. The cell blocks are 12-woman cells off a cat walk. The cells in the cell blocks each contain a toilet and a shower. One wall of the cell blocks is made of bars. Male guards walking past this wall are able to see me and other women using the toilet and undressing before entering the shower.
12. The shower in the cell blocks is covered in mold. We are not provided with adequate cleaning supplies to keep our cell clean and hygienic. The jail is also full of insects and vermin.
13. The shower also shoots out scalding hot water. Women in the jail have to collect the hot water in containers and let it cool before bathing.
14. Guards do not respond to requests for toilet paper, tissue, or feminine hygiene products. On one occasion, during the week of November 21, 2014, I asked a guard named Ivan Morris for feminine hygiene products first thing in the morning, around 6:00 AM. Mr. Morris ignored my repeated requests, and I was not provided pads until 5:00 PM that day. By then, I had bled into my clothing. I was not provided with clean clothing for hours. I have seen other women who were refused pads bleed through their clothes as well.
15. The jail has a large area on the first floor that is used as a gym. I have been incarcerated for five months, and I have only been taken to the gym once. The gym contains exercise equipment, which is kept locked up. Guards do not allow women to use this equipment.
16. I am usually locked down in my cell for most of the day every day. The only opportunity I have to exercise is to move around my cell. I have gained weight and lost muscle mass since

my incarceration, and I am worried that I will leave the jail in poor health because I am not able to exercise.

17. The jail is also incredibly cold during the winter. When guards take away women's blankets as punishment, or when we are without them during laundry day, we are left in the freezing cold cells in only our thin jumpsuits for hours or even days.
18. I am African-American. Guards use racist and sexist language regularly. Guard Ivan Morris uses the word "nigger" in front of me and other African-American inmates.
19. Guards ignore verbal requests and kites about the above issues. I have filed grievances about mistreatment by guards, lack of toiletries, lack of cleaning supplies, cross-gender viewing, and other issues. Staff have not responded to many of the issues, and when they have responded they have told me there is nothing they can do to fix the problem.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under the laws of the United States that the above statements are true and correct to the best of my knowledge, information, and belief.

Dated: 11/21/14



Stashia Collins

**EXHIBIT 9**

Wilson Expert Report

**EXPERT REPORT REGARDING CONDITIONS IN MUSKEGON**

**COUNTY JAIL**

**PETER R. WILSON**

**DECEMBER 31, 2013**

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2. Materials and Information Reviewed
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4. Jail Standards Reviewed
5. Findings and Recommendations



### EXECUTIVE SUMMARY

The purpose of this report is to summarize my findings and recommendations regarding the conditions in the Muskegon County Jail in Muskegon, Michigan. In general, my findings can be summarized as follows: (1) The Muskegon County Jail is chronically overpopulated and both the Muskegon County Sheriff and Muskegon Circuit Court have failed to execute a Population Control Plan; (2) The safety, security and sanitary conditions in the Jail are currently below constitutional standards; (3) The Muskegon County Jail is in a state of general disrepair and requires an upgrade in its level of sanitation; (4) Female inmates lack sufficient privacy while incarcerated in the Muskegon County Jail, including exposure of their breasts and genitals to male guards while showering and using the toilets; (5) Medical assessments are not being provided for Jail inmates in a timely fashion; and (6) Indoor/outdoor recreation opportunities for Jail inmates are inadequate and/or entirely lacking.

These conditions can be remedied through the implementation of my recommendations as set forth in this report.

MATERIALS AND INFORMATION REVIEWED

In preparation for this report, I reviewed the following materials and documents:

1. Sheriff's letter, dated 5/29/13, advising the Court of an overcrowding emergency in the Muskegon County Jail (MCJ)
2. MCJ population report for January - August 2013
3. Muskegon County Jail classification form
4. MCJ population plan dated 2/17/11
5. Jail staffing 12 hour shift schedule
6. Jail health care contract
7. Sheriff's letter, dated 8/17/11, advising the Court of an overcrowding emergency in the MCJ
8. Staffing allotment for Jail
9. Training document in regard to in-service training of Muskegon County deputies
10. ACLU letter to Mr. Williams, dated 8/8/13, regarding conditions at the MCJ
11. Attorney Kevin Carlson's letter to Mr. Williams, dated 8/16/13, regarding the Muskegon County Jail
12. State of Michigan Act 325 of 1982, "County Jail Overcrowding State of Emergency"
13. Michigan Department of Corrections Jail Inspection Report regarding conditions in the Muskegon County Jail, dated 10/15/12
14. Corrections officers' duties as they relate to recreational activities for inmates in the MCJ
15. Sheriff's letter to the Muskegon County Court regarding an overcrowding emergency at the MCJ, dated 10/2/12
16. Floor plans of the MCJ
17. Floor plans of the proposed new Muskegon County Jail, dated 5/31/13

C.V. - RESUME

Peter R. Wilson  
Work: (989) 776-0400  
Cell: (989) 737-1156  
Email: [kl.wilson@comcast.net](mailto:kl.wilson@comcast.net)

Education

Master of Arts – Education  
University of Michigan

Bachelor of Science - Criminal Justice  
Michigan State University

Correctional Management Training  
Wharton Business School  
University of Pennsylvania

Current Employment

Wolverine Human Services (1997 to Present)

Serve as Security Director, Community Liaison and for three years as the Director of the Secure Treatment Center, an 80 bed high security program providing counseling, education, vocational training, medical, drug treatment and recreation for youth ages 12-20 under contract to the State of Michigan and several counties.

Saginaw Valley State University (2000 to Present)

Adjunct Professor of Criminal Justice and Political Science

Madonna University (1972 to Present)

Adjunct Professor of Criminal Justice

Previous Employment

County of Wayne (1970-1997)



Executive Director of Wayne County Youth Home (1984-1989)

Responsibility — Chief Administrator responsible for a staff of 200 and 300 pre-adjudicated juvenile offenders.

- Appointed by the Wayne County Executive as the first Executive Director to facilitate the transfer of control from the Juvenile Court to CEO's Office.
- Served as Juvenile Justice Advisor to Wayne County Executive regarding the expenditure of juvenile justice funding and related matters.
- Worked with Wayne County Labor Relations in the negotiation of labor contracts for Youth Home employees.
- Participated in labor arbitration hearings as an advisor and gave testimony pertinent to contract issues/disputed.
- Represented the Wayne County Executive and the Youth Home at all Wayne County Commission meetings regarding the budget and other administrative matters.
- Worked with Department of Social Services Director and the staff to correct several licensing violations at the facility.
- Re-wrote the Policy and Procedure Manual for the Youth Home.
- Developed a new perimeter security and key control system at the facility.
- Managed a two day work stoppage, illegal strike, by line staff at the Youth Home. They protested the above described implementation of the security system.
- Adopted a budget control system to manage costs and reduce the over-expenditure of overtime and other budget line items.
- Served as a liaison with the Wayne County Juvenile Court to resolve placement and other issues between the Court and the Youth Home.
- Chaired a Committee of Juvenile Court officials and D.S.S. staff to reduce the overpopulation of the facility.

Director of Jails (1989-1997)

Managed the Wayne County Jail System comprised of 3 facilities with an inmate capacity of 2800, a staff of 1100 and a budget of \$65 million and including the following:

- Appointed by the Chief Judge of Wayne County, County Executive and Sheriff to serve as Chief Administrator for Wayne County Jail system.
- Developed operational plans, budget, staffing pattern and transition plan for 840 bed, direct supervision jail that opened on time and under budget.
- Corrected our jail overpopulation problem by developing a security based computerized classification system and population control plan that resulted in the jail being under its legal capacity and creating a safe and secure environment for inmates and staff.
- Provided expert witness testimony in litigation filed by inmates in state and federal courts.

- Generated \$2.5 million in revenue for jail capital improvements and increased our annual revenue for jail operations by \$9 million per year.
- Implemented a \$3 million computerized jail management system for the three jail system.
- Responsible for \$14 million renovation of a 670 bed maximum security jail.
- Designed and implemented a smoke-free policy in the Wayne County Jail system.
- Instituted a mandatory in-service training program for all jail employees.
- Developed work release and electronic monitoring programs as a cost-effective alternative to incarceration.
- Managed a \$5 million renovation project that converted unused space to 145 dormitory beds and a courtroom.

Corrections Administrator (1983-1984)

Responsibility — Administrator of the Wayne County Jail responsible for staff of 400 and 800 inmates.

Assistant Corrections Administrator (1976-1983)

Responsibility — Administrator of the Wayne County Detention Annex responsible for staff of 100 and 250 inmates.

Administrative Assistant (1970-1976)

Responsibility — Police Training Director for Wayne County Sheriff's Department

Police Officer (1967-1970)

City of Flint Police Department

Teaching Experience

1969 - 70

Carman School District

Part-Time Substitute Teacher

1970 - 72

Wayne County Community College

Taught 4 Law Enforcement Classes

1971 - 97

County of Wayne

Taught several in-service training classes at the Wayne County Sheriff's Police Training Academy, the Wayne County Juvenile Detention Facility, and the Wayne County Jail(s)

1972 - 74	<u>Madonna College</u> Designed Criminal Justice Program Taught several Criminal Justice Classes Served as a part-time Director and Counselor
1980 - 83	<u>Mercy College</u> Taught several Criminal Justice Classes
1994	<u>University of Detroit Mercy</u> Multicultural Relations in Corrections
1995	<u>Lansing Community College</u> Introduction to Juvenile Justice
1972 - present	<u>Madonna University</u> Introduction to Corrections Juvenile Justice Administration
2000 - present	<u>Saginaw Valley State University</u> Criminology Criminal Justice Systems in the United States The Bureaucracy The American Political System Organized Crime Seminar in Criminal Justice

#### Consultant/Expert Witness Experience

- Norton v. Stille (Ottawa County)  
 Provided deposition testimony in an excessive force case in a Court lock-up.
- Boyle v. Eaton County  
 Retained as jail administration consultant and expert witness.
- ACLU v. Livingston County  
 Retained as a consultant in regard to a jail conditions case.
- O'Connor, DeGrazia, Tamm and O'Connor  
 Retained as an expert witness by defendant's counsel in Thompson v. Saginaw County, a wrongful death case. Deposition scheduled, case settled.
- Federal Commission on Safety and Abuse in Prisons  
 Provided testimony to commission attorney regarding safety issues and management of large jail systems.



- Estate of Walsh v. Ogemaw County Sheriff  
Retained as an expert witness by Plaintiff in claims of deliberate indifference in the provision of medical services in jail.
- O'Connor, DeGrazia, Tamm and O'Connor  
Retained as an expert witness by defendants in Braybant v. Saginaw.
- O'Connor, DeGrazia, Tamm and O'Connor  
Retained as an expert witness by defendants in Foster v. Saginaw County, a false imprisonment case.
- Macomb County Circuit Court  
Retained by the Chief Judge to evaluate operations of the Juvenile Detention Center, review policies and procedures and assist with the transition into a new facility.
- O'Connor, DeGrazia, Tamm and O'Connor  
Retained as an expert witness by defendant's counsel in Whittum et. al. v. Saginaw County.
- O'Connor, DeGrazia, Tamm and O'Connor  
Retained as an expert witness by defendant's counsel in Rose. et. al. v. Saginaw County and provided deposition testimony.
- Desmone v. Macomb County  
Retained as an expert witness in a jail sexual assault case.
- County of Wayne  
Retained as an expert witness and consultant in the case of Ketchum v. Wayne County, a jail suicide case. Provided deposition testimony.
- Brown, Goldstein and Levy  
Deposed as an expert witness and provided consultant services in a lawsuit involving the State of Maryland and its prison inmates regarding the implementation of smoke-free facilities.
- Michigan State Legislature  
Consulted with State Senator Hansen Clarke regarding anti-terrorism training for security guards in Michigan. Wrote a course description and training objectives for review by Mr. Clarke and his legislative committee.
- Wayne County Corporation Council  
Consulted with Wayne County attorneys in a wrongful death case involving an inmate assigned to a work detail. Case settled out of court.
- Wayne County Jail Administration  
Consulted with the Wayne County Jail Director regarding staffing issues, pending jail litigation, Circuit Court orders and budget management for the Wayne County Jail System.

- Alpena County  
Consulted with the County Sheriff and Board of Commissioners regarding the construction of a new jail facility and options for providing funding for the operation of a new facility.
- B.I., Inc.  
Made a presentation to the Broward County, Florida, Board of Commissioners, regarding the advantages of a computerized jail management information system.
- Hellmuth, Obata and Kassenbaum, Inc.  
Served on a client focus group panel to advise corporate officials on the proper relationship of clients to architectural staff on large building projects.
- Wolverine Human Services  
Developed the security system, operations plan and assisted in the design of the Wolverine Secure Treatment Center, an 80 bed juvenile high security treatment program.
- Wolverine Human Services  
Served as security and management consultant for company providing juvenile detention service to 800 youths in Michigan and Florida.
- Turner Construction Company  
Assisted in developing R.F.P. and participated in a presentation for a Criminal Justice Facility in Hennepin County, MN.
- Ontario Province, Ministry of the Solicitor General and Correctional Services  
Consulted and made a presentation to top-level executives regarding constructing and managing cost-effective correctional facilities.
- Madonna University  
Consulted with the Criminal Justice Director regarding curriculum revisions for the Criminal Justice Program.
- S.C.C., Inc.  
Presented a training session in Toronto, Ontario regarding utilizing computer technology in a large jail system.
- City of Romulus Police Department  
Managed selection process for police officers, wrote policy and procedure manual, and participated in labor negotiations.
- Brownstown Township Police Department  
Managed selection process for police officers and advised the Township on formation of a new police department.

JAIL CONDITION STANDARDS

In reviewing the conditions in the Muskegon County Jail and providing my recommendations in this Report, I relied upon my experience and familiarity with the operation of county jail and state prison facilities in the State of Michigan as well as the Core Jail Standards established by the American Correctional Association.

The other applicable standards reviewed are from the National Institute of Corrections, the American Jail Association, and the National Sheriffs' Association.



### FINDINGS AND RECOMMENDATIONS

On August 15, 2013, I participated in a meeting and tour of the Muskegon County Jail with ACLU attorneys, the Muskegon County Sheriff and Jail Administrator and attorneys representing the County of Muskegon. The following represents my observations, findings and recommendations in regard to the conditions of the jail:

#### POPULATION CONTROL:

On May 29, 2013, per a letter to the Court, the Sheriff made such a request to reduce the population, which at that time had been in excess of the design capacity for 8 days. There is no evidence that the Court responded to the Sheriff and released inmates according to the Population Control Plan.

The jail count sheets provided by the Sheriff indicated that the average daily population in June, 2013 was 405, with the lowest count at 393 on June 18 and the highest count at 417 on June 24. In July the average was 418, with the lowest count of 404 on July 15 and the highest count of 432 on July 10. The rated design capacity of the jail is 370.

In my opinion, in order to manage a constitutional jail facility, the Sheriff must maintain a population below the rated design capacity.

When a facility is overcrowded, it is impossible to maintain constitutional conditions in other areas such as medical services, recreation, security, safety and sanitation.

The safety, security and sanitary conditions in the Muskegon County Jail are currently below constitutional standards as a result of inmate overcrowding. In this regard, I have the following observations and recommendations:

1. Assuming the jail population remains over its capacity as of this date, the Sheriff's Jail Population plan, agreed to by the Muskegon County Circuit Court, should be implemented. If the Sheriff and/or the Judges find the plan to be unworkable, then a new plan should be adopted in accordance with the law as soon as possible. I understand the Sheriffs of Oakland and Macomb Counties have instituted inmate releases in compliance with the law. Sheriff Roesler may wish to consult with these Sheriffs in regard to this issue.
2. In order to facilitate the orderly and safe release of inmates in compliance with state law, I recommend that the Sheriff establish an inmate classification plan that carefully reviews the backgrounds of all inmates at intake. Some jail facilities in Michigan have adopted a Decision Tree method that identifies all inmates according to security risk. Once that is

accomplished, the lowest risk inmates can then be recommended for release to the judges. I further recommend that the Sheriff assign a ranking officer as Classification Director to manage the process on a day-to-day basis. I reviewed a blank Jail Classification Form that was designed to ask various questions of inmates at the time of admission. The 14 questions on the form were very appropriate; however, I did not see any evidence that the forms had been completed for any inmates, or whether or not the information obtained was used to determine placement in the jail. A further review of jail records is required to determine whether the jail has an effective classification plan and identifies those that qualify for early release.

3. An additional benefit to having a functional classification plan is that inmates would be moved more efficiently through the jail and would minimize the need to house inmates in holding areas that are not designed for that purpose. Reducing the population below the rated design capacity of 370 would most likely resolve this serious safety and security problem.
4. If the County of Muskegon and its judges do not release inmates early to reduce its jail population, as they have agreed to do, I recommend that the County contract with another County Jail to house its inmates until the jail overcrowding emergency is over. I understand that several jails in Michigan are willing to contract its jail space to other Counties.

#### REPAIRS AND SANITATION:

The Muskegon County Jail is in a state of general disrepair and requires an upgrade in its level of sanitation. According to reports and observations, the facility is experiencing plumbing problems, toilet leakage, mold, soiled walls and ceilings and ventilation blockages.

The new jail facility scheduled to be built in the future will solve these problems; however, in the meantime, a concentrated effort to clean and repair the facilities is required in order to alleviate the health and safety risks caused by these conditions, even in the short-term. I have the following recommendations:

1. The Sheriff should assign an employee to serve as the Maintenance Manager of the facility to identify and prioritize the needs of the jail. This staff would serve as a liaison with the maintenance staff to insure that the work is completed on a timely basis. This person should report to the Jail Administrator detailing in writing the outstanding maintenance orders and work that has been completed. The work should be prioritized on a daily basis.
2. The County of Muskegon should assign sufficient building trade staff to the jail to repair the toilets, plumbing, ventilation, and provide painting services to the jail. The Maintenance Manager will coordinate and prioritize the work as needed.



3. The County should also provide the services of the Health Department to assess the sanitation needs of the facility and develop a Sanitation Plan with the Maintenance Manager. Facility supervision and the Health Department should inspect the jail to insure compliance with the plan.
4. The Plan should provide for the temporary closure of a housing unit for a complete cleaning, sanitation inspection, repairs and painting. A group of inmate trustees should be trained to do the cleaning except for skilled trades work. If labor contracts allow, inmate trustees should be trained to paint as part of the program.

#### HOUSING OF FEMALE INMATES:

According to the reports and observations made during the tour, female inmates lack sufficient privacy during the use of the toilet and shower facilities, male staff is assigned to directly supervise the females in their housing units, the jumpsuit style of the uniform causes the inmates to partially expose themselves during the use of the toilet, privacy-style curtains are allowed on an inconsistent basis and those that I observed appeared to have mold and mildew. The problems cited previously in the areas of sanitation and facility repair also apply to the female housing areas. Feminine hygiene products and undergarments are not provided on a timely basis. I have the following recommendations:

1. Provide the female inmates with a two piece uniform.
2. During bathroom and shower periods, provide portable privacy screens or shower curtains to the inmates. Require that the inmates or trustees sanitize them on a daily basis.
3. Purchase a sufficient supply of female hygiene products and undergarments to accommodate the needs of the inmates. Also, make these items available in the commissary for purchase if desired by the inmates.
4. Assign only female officers to directly supervise female inmates. Female officers currently working in the jail should also be assigned to cell block supervision. According to the staffing allocations, provided by the Sheriff, there are currently 11 female Corrections Officers and 1 female Corrections Sergeant assigned in the jail. Assigning the female staff to the female housing areas would negate the need to place male officers on these posts that result in the direct supervision of female inmates.
5. In the jail classification plan, the Sheriff should establish a separate floor or part of a floor for the exclusive housing of all females in the jail. The area would facilitate the implementation of the previous recommendations in regard to female staffing and sufficient privacy for the inmates.

#### MEDICAL SCREENING AND RECREATION OPPORTUNITIES:

1. According to reports and observations made during the tour, the required 14 day medical assessment on new inmates is not being provided.



2. Regular indoor/outdoor recreation opportunities are not provided.
3. To address the issue with regard to medical screening, the County should order the contractual medical service to provide the 14 day medical assessment to all inmates as prescribed by state regulations.
4. The Sheriff should develop a recreation schedule that provides for weekly indoor and outdoor recreation for all inmates. Female inmates should be provided the identical opportunities for recreation as are scheduled for the male inmates.
5. In conjunction with my recommendations regarding separate housing for female inmates, providing more timely medical service could be achieved by providing part-time staff in a medical clinic in the female housing area.

GENERAL CONDITIONS:

1. Grievance Procedure: In order to respond appropriately to written inmate grievances, I recommend that the Sheriff assign a command level position to receive, process, prioritize and record each grievance. A weekly report should be generated to the Jail Administrator, with a copy to the Sheriff. This will provide the Sheriff's Administration with the opportunity to respond in a timely fashion to the most serious or chronic complaints.
2. Jail Staffing: According to the Sheriff, a total of 4 Sergeants and 44 Corrections Officers are assigned to the jail. According to a schedule, provided with staff compliment, officers work 12 hour shifts on 4 teams. At this time, insufficient information is available to determine whether this compliment of personnel can adequately supervise an overcrowded jail facility with a rate capacity of 370 inmates.
3. Medical Services Contract: A review of the jail medical services contract, Health Care Staff, Article 2, 128 hours of Licensed Practical Nurse services are provided. I recommend 160 hours of service (24/7 coverage) in order to provide the appropriate services to facility which is frequently overcrowded with a population in excess of 400 inmates. It is my understanding that the required 14 day medical assessment is not currently provided by the jail medical staff. Additional staff may have to be contracted to meet this standard.
4. On the day of the tour, we inspected the Hall of Justice Basement Housing Unit. The area appears to be overcrowded with male inmates with minimal staff to supervise the cell blocks. A further review of the area is needed to assess the situation in regard to security, life safety, staffing, inmate classification and emergency evacuation procedures.

Respectfully submitted,

Peter R. Wilson  
Corrections Consultant

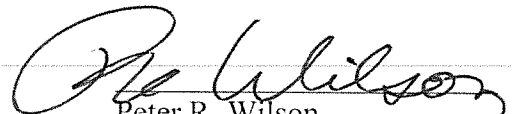
**DECLARATION OF PETER R. WILSON**

I, Peter R. Wilson, state as follows under the penalty of perjury pursuant to 28 U.S.C. § 1746:

1. The statements made in my December 31, 2013 "Expert Report Regarding Conditions in Muskegon County Jail" are true and correct based on my knowledge, information, and belief.

Executed on: October 28, 2014

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Peter R. Wilson

**EXHIBIT 10**

Muskegon County Jail Population Chart

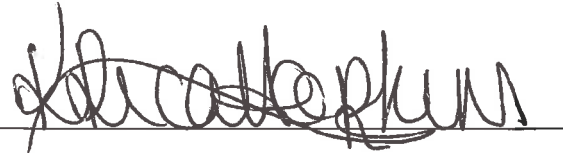
**DECLARATION OF KATHERINE HOPKINS**  
**REGARDING MUSKEGON COUNTY JAIL POPULATION CHART**

I, Katherine Hopkins, state as follows:

1. I am currently a second year law student at the University of Michigan Law School in Ann Arbor, MI.
2. From approximately the end of May 2014 through mid-August 2014, I worked as a legal intern at American Civil Liberties Union of Michigan (ACLU). During this period I worked approximately 40 hours a week under the direction of staff attorney Miriam Aukerman.
3. Ms. Aukerman asked me to review hundreds of Muskegon County Sheriff's Office daily jail count spreadsheets provided to the ACLU in response to a Freedom of Information Act Request (FOIA). The spreadsheets provided to the ACLU were electronic and each daily count spreadsheet was its own excel document.
4. Using the data from the individual daily count sheets, I created a single excel document showing the number of inmates in the holding tank, number of female inmates housed, number of male inmates housed, and total inmate population for each day. I created this excel document by inputting the data from each daily count sheet for the period from January 2, 2011 to April 16, 2014.
5. The original daily jail count sheets separated out the number of inmates held on felonies and misdemeanors. For each date, I combined the number of men housed for felonies and for misdemeanors to get the total number of men housed in the jail on that day. I did the same for the women. Each day, therefore, has an entry for male total, female total, and male/female total. I also inputted the number "not arraigned in holding" for the holding column for each day.
6. There were multiple dates within the range of our FOIA for which we did not receive count spreadsheets. For those dates, I left the entries blank in the excel document. For other dates we received more than one spreadsheet for a given day. For these days I inputted both sets of data—for example in the excel document there are two entries for August 28, 2013.
7. There were also count sheets that I can only assume included typos, but I entered them as they were provided to us. For example, the count given to us for October 16, 2011, had a male total of 1,253.
8. The attached spreadsheet represents a true and accurate summary of the Muskegon County Sheriff's Office daily jail count spreadsheets that I reviewed.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under the laws of the United States that the above statements are true and correct to the best of my knowledge, information and belief.

Dated: 12/2/14

  
Katherine Hopkins

<b>DATE</b>	<b>HOLDING</b>	<b>MALE TOTAL</b>	<b>FEMALE TOTAL</b>	<b>Male / Female Total</b>	
1/1/2011					
1/2/2011	4	340	63	403	
1/3/2011	6	302	103	405	
1/4/2011	2	354	57	411	
1/5/2011	4	351	61	412	
1/6/2011	4	356	59	415	
1/7/2011	6	342	64	406	
1/8/2011	2	338	6	391	
1/9/2011					
1/10/2011	3	338	61	399	
1/11/2011	8	352	61	413	
1/12/2011	0	355	61	416	
1/13/2011	5	340	63	403	
1/14/2011	7	340	63	403	
1/15/2011	7	340	63	403	
1/16/2011	1	340	63	403	
1/17/2011	6	357	68	425	
1/18/2011	10	362	66	428	
1/19/2011					
1/20/2011	6	357	66	423	
1/21/2011	4	362	70	432	
1/22/2011	10	340	58	398	
1/23/2011	4	340	58	398	
1/24/2011	7	342	58	400	
1/25/2011	3	337	62	399	
1/26/2011	2	352	61	413	
1/27/2011					
1/28/2011	4	354	64	418	
1/29/2011	4	350	59	409	
1/30/2011					
1/31/2011	2				
2/1/2011	6	347	65	412	
2/2/2011	2	350	63	413	
2/3/2011	5	353	63	416	
2/4/2011	2	370	63	433	
2/5/2011	6	326	91	417	
2/6/2011	6	347	67	414	
2/7/2011	6	347	67	414	
2/8/2011	8	353	66	419	
2/9/2011	1	351	69	420	
2/10/2011	6	326	91	417	
2/10/2011	6	326	91	417	
2/11/2011	7	334	68	402	
2/12/2011	3	314	60	374	
2/13/2011	3	314	59	373	
2/14/2011	4	329	64	393	



<b>2/15/2011</b>	6	326	91	<b>417</b>	
<b>2/16/2011</b>					
<b>2/17/2011</b>	3	346	65	<b>411</b>	
<b>2/18/2011</b>	1	343	78	<b>421</b>	
<b>2/19/2011</b>	5	354	62	<b>416</b>	
<b>2/20/2011</b>	7	353	63	<b>416</b>	
<b>2/21/2011</b>	5	317	89	<b>406</b>	
<b>2/22/2011</b>	4	346	64	<b>410</b>	
<b>2/23/2011</b>	2	348	63	<b>411</b>	
<b>2/24/2011</b>					
<b>2/25/2011</b>	6	348	59	<b>407</b>	
<b>2/26/2011</b>	8	344	62	<b>406</b>	
<b>2/27/2011</b>	1	348	58	<b>406</b>	
<b>2/28/2011</b>					
<b>3/1/2011</b>	10	349	57	<b>406</b>	
<b>3/2/2011</b>	3	335	50	<b>385</b>	
<b>3/3/2011</b>	3	356	62	<b>418</b>	
<b>3/4/2011</b>	1	363	55	<b>418</b>	
<b>3/5/2011</b>	2	347	53	<b>400</b>	
<b>3/6/2011</b>	5	346	54	<b>400</b>	
<b>3/7/2011</b>	3	335	50	<b>385</b>	
<b>3/8/2011</b>	3	335	50	<b>385</b>	
<b>3/9/2011</b>	5	347	54	<b>401</b>	
<b>3/10/2011</b>	2	354	55	<b>409</b>	
<b>3/11/2011</b>	5	349	58	<b>407</b>	
<b>3/12/2011</b>	2	330	53	<b>383</b>	
<b>3/13/2011</b>	4	341	52	<b>393</b>	
<b>3/14/2011</b>	4	336	56	<b>392</b>	
<b>3/15/2011</b>	2	357	58	<b>415</b>	
<b>3/16/2011</b>	10	360	58	<b>418</b>	
<b>3/17/2011</b>	2	360	55	<b>415</b>	
<b>3/18/2011</b>	3	352	53	<b>405</b>	
<b>3/19/2011</b>	7	345	55	<b>400</b>	
<b>3/20/2011</b>	10	352	129	<b>481</b>	
<b>3/21/2011</b>					
<b>3/22/2011</b>	5	347	60	<b>407</b>	
<b>3/23/2011</b>	0	346	57	<b>403</b>	
<b>3/24/2011</b>	5	349	56	<b>405</b>	
<b>3/25/2011</b>	7	351	59	<b>410</b>	
<b>3/26/2011</b>	2	345	56	<b>401</b>	
<b>3/27/2011</b>	3	346	56	<b>402</b>	
<b>3/28/2011</b>	3	343	56	<b>399</b>	
<b>3/29/2011</b>	5	336	62	<b>398</b>	
<b>3/30/2011</b>	5	336	58	<b>394</b>	
<b>3/31/2011</b>	1	332	62	<b>394</b>	
<b>4/1/2011</b>	4	335	64	<b>399</b>	
<b>4/2/2011</b>	8	325	65	<b>390</b>	

4/3/2011	8	325	65	390	
4/4/2011	3	323	66	389	
4/5/2011	3	325	67	392	
4/6/2011	3	326	67	393	
4/7/2011	3	331	61	392	
4/8/2011	2	332	56	388	
4/9/2011	6	329	57	386	
4/10/2011	3	328	59	387	
4/11/2011	4	330	60	390	
4/12/2011	5	324	58	382	
4/13/2011	7	329	55	384	
4/13/2011	3	329	54	383	
4/14/2011	2	334	58	392	
4/15/2011	3	329	54	383	
4/16/2011	1	282	84	366	
4/17/2011	8	313	62	375	
4/17/2011	3	315	58	373	
4/18/2011					
4/19/2011	5	327	53	380	
4/20/2011	3	330	55	385	
4/21/2011	1	325	58	383	
4/22/2011	6	318	51	369	
4/23/2011	4	316	45	361	
4/24/2011	4	314	55	369	
4/25/2011	6	323	51	374	
4/26/2011	5	320	55	375	
4/27/2011	3	319	57	376	
4/28/2011	5	328	59	387	
4/29/2011	3	337	52	389	
4/30/2011					
5/1/2011	4	320	53	373	
5/2/2011	3	320	53	373	
5/3/2011	5	318	58	376	
5/4/2011	1	311	52	363	
5/5/2011	10	322	59	381	
5/6/2011	10	322	59	381	
5/7/2011	2	325	59	384	
5/8/2011	7	328	63	391	
5/9/2011	3	331	66	397	
5/10/2011	1	330	61	391	
5/10/2011	2	322	60	382	
5/11/2011					
5/12/2011	2	322	60	382	
5/13/2011	4	328	63	391	
5/14/2011	6	314	57	371	
5/15/2011	8	322	56	378	
5/16/2011	3	321	55	376	

5/17/2011	2	312	60	372	
5/18/2011	6	325	60	385	
5/19/2011	2	327	56	383	
5/20/2011					
5/21/2011	1	322	56	378	
5/22/2011	1	322	56	378	
5/23/2011	2	319	58	377	
5/24/2011	2	319	62	381	
5/25/2011	9	329	65	394	
5/26/2011	2	324	66	390	
5/27/2011	7	323	66	389	
5/28/2011					
5/29/2011	3	322	66	388	
5/30/2011					
5/31/2011	4	334	60	394	
6/1/2011	1	323	66	389	
6/2/2011	6	328	60	388	
6/3/2011	4	325	63	388	
6/4/2011	2	321	64	385	
6/5/2011	4	324	66	390	
6/6/2011	8	322	64	386	
6/7/2011	4	328	59	387	
6/8/2011	0	297	90	387	
6/9/2011	1	323	66	389	
6/10/2011	3	318	61	379	
6/11/2011					
6/12/2011	4	330	63	393	
6/13/2011	9	334	64	398	
6/14/2011	3	336	64	400	
6/15/2011	0	297	90	387	
6/16/2011	14	352	76	428	
6/17/2011	10	343	72	415	
6/18/2011	2	337	70	407	
6/19/2011	5	342	70	412	
6/20/2011	3	339	68	407	
6/21/2011	6	349	69	418	
6/22/2011	9	351	73	424	
6/23/2011					
6/24/2011	3	333	66	399	
6/25/2011	5	326	68	394	
6/26/2011	5	326	68	394	
6/27/2011	3	345	66	411	
6/28/2011	3	345	66	411	
6/29/2011	4	349	66	415	
6/30/2011					
7/1/2011	7	347	71	418	
7/2/2011	5	341	64	405	

7/2/2011	8	340	69	409	
7/3/2011	8	340	69	409	
7/4/2011	7	346	67	413	
7/5/2011	14	346	67	413	
7/6/2011	6	361	69	430	
7/7/2011	6	350	70	420	
7/8/2011	8	330	71	401	
7/9/2011	8	330	71	401	
7/10/2011	8	330	71	401	
7/11/2011	8	340	69	409	
7/12/2011	5	337	72	409	
7/13/2011	6	341	70	411	
7/14/2011	9	343	77	420	
7/15/2011	10	341	73	414	
7/16/2011	2	335	67	402	
7/17/2011	8	340	69	409	
7/18/2011	9	342	71	413	
7/19/2011					
7/20/2011	9	344	89	433	
7/21/2011	6	350	77	427	
7/22/2011	8	344	71	415	
7/23/2011	6	342	80	422	
7/24/2011	15	342	80	422	
7/25/2011	8	342	82	424	
7/25/2011	2	347	74	421	
7/26/2011					
7/27/2011	1	344	72	416	
7/28/2011	4	333	76	409	
7/29/2011	7	332	80	412	
7/30/2011	5	345	71	416	
7/31/2011	6	348	74	422	
8/1/2011	2	346	72	418	
8/2/2011	3	331	79	410	
8/3/2011	1	333	85	418	
8/4/2011	1	344	71	415	
8/5/2011	7	354	79	433	
8/5/2011	9	342	81	423	
8/6/2011					
8/7/2011	11	347	79	426	
8/8/2011	18	353	79	432	
8/9/2011	6	356	79	435	
8/10/2011	6	350	76	426	
8/11/2011	9	343	74	417	
8/12/2011	9	343	74	417	
8/13/2011	3	338	78	416	
8/14/2011	7	346	74	420	
8/15/2011	6	343	83	426	

8/16/2011	10	348	85	433	
8/17/2011	9	355	75	430	
8/18/2011	5	350	71	421	
8/19/2011	0	349	71	420	
8/20/2011	6	355	75	430	
8/21/2011	6	355	75	430	
8/22/2011	12	355	75	430	
8/23/2011	9	355	75	430	
8/24/2011	9	355	75	430	
8/25/2011	9	355	75	430	
8/26/2011	12	355	75	430	
8/27/2011	13	347	80	427	
8/28/2011	8	349	80	429	
8/29/2011	14	359	82	441	
8/30/2011	4	357	79	436	
8/31/2011	4	356	68	424	
9/1/2011	4	344	71	415	
9/2/2011	4	334	66	400	
9/3/2011	10	331	57	388	
9/4/2011	7	337	57	394	
9/5/2011	6	337	62	399	
9/6/2011	1	340	62	402	
9/7/2011	5	339	72	411	
9/8/2011	6	351	59	410	
9/9/2011	4	347	80	427	
9/10/2011	2	342	75	417	
9/11/2011	4	343	77	420	
9/12/2011	7	345	60	405	
9/13/2011	9	366	71	437	
9/14/2011	16	366	71	437	
9/15/2011	4	347	80	427	
9/16/2011	4	343	76	419	
9/17/2011	6	336	72	408	
9/18/2011	6	336	72	408	
9/19/2011	6	332	71	403	
9/20/2011	1	335	68	403	
9/21/2011	3	337	70	407	
9/22/2011	4	334	72	406	
9/23/2011	4	334	72	406	
9/24/2011	9	334	74	408	
9/25/2011	5	344	74	418	
9/26/2011	5	332	74	406	
9/27/2011	5	332	74	406	
9/28/2011	12	344	77	421	
9/29/2011	6	339	78	417	
9/30/2011	8	349	70	419	
10/1/2011	4	343	70	413	

10/2/2011	16	352	72	424	
10/3/2011	20	352	74	426	
10/4/2011	6	353	67	420	
10/5/2011	3	351	66	417	
10/6/2011	18	367	65	432	
10/7/2011	18	367	65	432	
10/8/2011	6	357	71	428	
10/9/2011	4	358	69	427	
10/10/2011	8	362	69	431	
10/11/2011	4	358	69	427	
10/12/2011	8	367	65	432	
10/13/2011	5	369	65	434	
10/14/2011	9	369	63	432	
10/15/2011	8	364	70	434	
10/16/2011	14	1253	72	1325	
10/17/2011	15	370	72	442	
10/18/2011	16				
10/19/2011	5	373	72	445	
10/20/2011	14	353	79	432	
10/21/2011	9	358	72	430	
10/22/2011	8	351	72	423	
10/23/2011	8	351	72	423	
10/24/2011	3	350	72	422	
10/25/2011	14	364	77	441	
10/26/2011	14	364	77	441	
10/27/2011	5	359	71	430	
10/28/2011	4	352	66	418	
10/29/2011	6	292	121	413	
10/30/2011	7	352	66	418	
10/31/2011	9	355	67	422	
11/1/2011	1	361	57	418	
11/2/2011	7	351	67	418	
11/3/2011	5	350	65	415	
11/4/2011	12	355	69	424	
11/5/2011	6	361	54	415	
11/6/2011	3	359	54	413	
11/7/2011	15	361	55	416	
11/8/2011	2	354	60	414	
11/9/2011	6	365	60	425	
11/10/2011	6	365	60	425	
11/11/2011	7	295	116	411	
11/12/2011	5	346	65	411	
11/13/2011	4	347	65	412	
11/14/2011					
11/15/2011	3	352	56	408	
11/16/2011	4	351	53	404	
11/17/2011	6	347	61	408	



11/18/2011	9	353	63	416	
11/19/2011	7	354	57	411	
11/20/2011	4	347	68	415	
11/21/2011	11	350	60	410	
11/22/2011	11	350	60	410	
11/23/2011	11	350	60	410	
11/24/2011	0	357	52	409	
11/25/2011	5	358	54	412	
11/26/2011	12	356	54	410	
11/27/2011	11	350	60	410	
11/28/2011	10	363	51	414	
11/29/2011	5	367	57	424	
11/30/2011	3	382	53	435	
12/1/2011	7	375	64	439	
12/2/2011	14	373	68	441	
12/3/2011	10	344	67	411	
12/4/2011	3	370	57	427	
12/5/2011	3	370	57	427	
12/6/2011	11	371	66	437	
12/7/2011	6	374	61	435	
12/8/2011	13	375	68	443	
12/9/2011	6	374	61	435	
12/10/2011	8	364	64	428	
12/11/2011	13	370	64	434	
12/12/2011	16	374	66	440	
12/13/2011	18	372	67	439	
12/14/2011	8	382	64	446	
12/15/2011	14	371	71	442	
12/15/2011	7	359	73	432	
12/16/2011					
12/17/2011	7	363	63	426	
12/18/2011	7	360	72	432	
12/19/2011	5	364	64	428	
12/20/2011	3	352	69	421	
12/21/2011	13	358	75	433	
12/22/2011	7	369	60	429	
12/23/2011	1	358	50	408	
12/24/2011	5	355	52	407	
12/25/2011	2	349	62	411	
12/26/2011	5	355	52	407	
12/27/2011	6	359	55	414	
12/28/2011	5	355	52	407	
12/29/2011	2	343	58	401	
12/30/2011	2	340	60	400	
12/31/2011	4	345	61	406	


<b>DATE</b>	<b>HOLDING</b>	<b>MALE TOTAL</b>	<b>FEMALE TOTAL</b>	<b>Male / Female Total</b>	
1/1/2012	9	345	58	403	
1/2/2012	8	353	64	417	
1/3/2012	4	356	61	417	
1/4/2012	8	358	62	420	
1/5/2012	7	371	58	429	
1/6/2012	5	357	67	424	
1/7/2012	5	358	62	420	
1/8/2012	12	365	63	428	
1/9/2012	12	365	63	428	
1/10/2012	6	351	65	416	
1/11/2012					
1/12/2012	11	375	70	445	
1/13/2012	13	372	74	446	
1/14/2012	3	362	71	433	
1/15/2012	6	367	66	433	
1/16/2012	3	363	64	427	
1/17/2012	12	362	73	435	
1/18/2012	11	372	71	443	
1/19/2012	13	379	71	450	
1/20/2012	6	375	69	444	
1/21/2012	7	354	74	428	
1/22/2012	14	359		403	
1/23/2012	17	330	108	438	
1/24/2012	7	359	78	437	
1/25/2012	6	342	103	445	
1/26/2012	16	342	103	445	
1/26/2012	14	374	75	449	
1/27/2012	12	362	76	438	
1/28/2012	7	359	80	439	
1/29/2012	3	362	75	437	
1/30/2012	12	370	76	446	
1/30/2012	10	372	73	445	
2/1/2012	9	377	70	447	
2/2/2012	6	344	104	448	
2/3/2012	5	342	102	444	
2/4/2012	6	361	75	436	
2/5/2012	6	361	75	436	
2/6/2012	6	361	75	436	
2/7/2012	7	366	72	438	
2/8/2012					
2/9/2012	6	384	63	447	
2/9/2012	6	361	75	436	
2/10/2012	3	360	68	428	
2/11/2012	1	361	52	413	
2/12/2012	9	351	72	423	
2/13/2012	8	367	57	424	

2/14/2012	27	369	70	439	
2/15/2012	19	370	72	442	
2/16/2012	6	367	68	435	
2/17/2012	8	353	81	434	
2/18/2012	7	356	65	421	
2/19/2012	6	361	75	436	
2/20/2012	6	361	75	436	
2/21/2012	5	359	64	423	
2/22/2012	7	383	59	442	
2/23/2012	17	384	75	459	
2/24/2012	7	368	56	424	
2/24/2012	5	368	70	438	
2/25/2012					
2/26/2012					
2/27/2012	6	368	59	427	
2/28/2012	12	369	67	436	
2/29/2012	9	375	68	443	
3/1/2012	18	379	73	452	
3/2/2012	9	370	67	437	
3/3/2012	4	354	64	418	
3/4/2012	7	361	65	426	
3/5/2012	4	359	67	426	
3/6/2012	4	359	67	426	
3/7/2012	6	362	69	431	
3/8/2012	7	363	65	428	
3/9/2012	7	367	65	432	
3/10/2012	7	369	68	437	
3/11/2012	10	345	101	446	
3/12/2012	16	349	102	451	
3/13/2012	7	377	66	443	
3/14/2012	8	369	66	435	
3/15/2012	7	344	99	443	
3/16/2012	7	344	99	443	
3/17/2012	7	359	68	427	
3/18/2012	4	362	67	429	
3/19/2012	5	364	66	430	
3/20/2012	7	371	73	444	
3/21/2012	4	369	72	441	
3/22/2012	7	357	66	423	
3/23/2012	11	367	67	434	
3/24/2012	0	334	96	430	
3/25/2012	5	336	97	433	
3/26/2012	13	341	100	441	
3/27/2012	10	371	68	439	
3/28/2012	7	369	69	438	
3/29/2012	7	338	100	438	
3/30/2012	7	359	68	427	

3/31/2012	3	351	62	413	
4/1/2012	6	353	62	415	
4/2/2012	8	359	63	422	
4/3/2012	10	365	64	429	
4/4/2012	4	365	65	430	
4/5/2012	7	368	62	430	
4/6/2012	4	363	59	422	
4/7/2012	6	373	71	444	
4/8/2012	10	359	65	424	
4/9/2012	6	360	59	419	
4/10/2012	7	357	62	419	
4/11/2012	5	360	59	419	
4/12/2012	2	355	60	415	
4/13/2012	6	355	60	415	
4/14/2012	11	350	63	413	
4/15/2012	8	353	63	416	
4/16/2012	7	354	64	418	
4/17/2012	6	318	106	424	
4/18/2012	4	356	64	420	
4/19/2012	7	358	62	420	
4/20/2012	0	360	50	410	
4/21/2012	0	360	50	410	
4/22/2012	7	360	48	408	
4/23/2012	7	354	45	399	
4/23/2012	2	353	47	400	
4/24/2012	2	353	47	400	
4/25/2012	2	353	47	400	
4/26/2012	7	351	52	403	
4/27/2012	7	352	55	407	
4/28/2012	3	341	52	393	
4/29/2012	4	344	53	397	
4/30/2012	7	351	53	404	
5/1/2012	4	351	63	414	
5/2/2012	6	358	61	419	
5/3/2012	2	352	57	409	
5/4/2012	2	352	57	409	
5/5/2012	6	372	53	425	
5/6/2012	4	371	55	426	
5/7/2012	11	373	55	428	
5/8/2012	7	366	55	421	
5/9/2012	11	379	55	434	
5/10/2012	7	379	57	436	
5/11/2012	7	383	57	440	
5/12/2012	8	369	58	427	
5/13/2012	15	377	61	438	
5/14/2012	15	376	57	433	
5/15/2012	10	376	57	433	

5/16/2012	11	378	59	437	
5/17/2012	9	372	67	439	
5/18/2012	10	377	68	445	
5/19/2012	6	366	63	429	
5/20/2012	7	365	62	427	
5/21/2012	3	370	59	429	
5/22/2012	18	374	62	436	
5/23/2012	8	360	66	426	
5/24/2012	8	360	66	426	
5/25/2012	5	362	64	426	
5/26/2012	5	365	61	426	
5/27/2012	12	371	64	435	
5/28/2012	24	374	67	441	
5/29/2012	22	381	73	454	
5/30/2012	9	377	61	438	
5/31/2012	7	376	61	437	
6/1/2012	7	376	61	437	
6/2/2012	11	367	64	431	
6/3/2012	9	375	61	436	
6/4/2012	15	383	63	446	
6/5/2012	10	375	65	440	
6/6/2012	16	384	65	449	
6/6/2012	11	382	67	449	
6/7/2012					
6/8/2012	10	373	66	439	
6/9/2012	8	377	66	443	
6/10/2012	10	373	66	439	
6/11/2012	14	378	63	441	
6/12/2012	8	375	67	442	
6/13/2012	12	381	73	454	
6/14/2012	10	378	67	445	
6/15/2012	12	375	67	442	
6/16/2012	7	350	66	416	
6/17/2012					
6/18/2012					
6/19/2012	5	375	68	443	
6/20/2012	8	369	65	434	
6/21/2012	5	362	63	425	
6/22/2012					
6/23/2012	9	355	64	419	
6/24/2012	11	354	67	421	
6/25/2012	2	354	65	419	
6/26/2012	7	349	65	414	
6/27/2012	3	348	60	408	
6/28/2012	6	355	59	414	
6/29/2012					
6/30/2012	2	352	56	408	



7/1/2012	13	365	58	423	
7/2/2012	8	364	59	423	
7/3/2012	7	351	54	405	
7/4/2012	10	351	55	406	
7/5/2012	8	354	61	415	
7/6/2012	4	348	57	405	
7/7/2012	4	347	55	402	
7/8/2012	10	351	55	406	
7/9/2012					
7/10/2012	1	352	53	405	
7/11/2012	8	366	55	421	
7/12/2012	8	366	55	421	
7/13/2012	4	366	57	423	
7/14/2012	3	355	55	410	
7/15/2012	0	358	59	417	
7/16/2012	8	363	61	424	
7/17/2012	8	358	55	413	
7/18/2012	9	351	64	415	
7/19/2012	15	351	54	405	
7/20/2012	15	351	54	405	
7/21/2012	6	338	57	395	
7/22/2012	9	351	64	415	
7/23/2012	3	362	61	423	
7/24/2012	4	349	62	411	
7/25/2012	3	348	54	402	
7/26/2012	6	350	60	410	
7/27/2012					
7/28/2012	5	342	58	400	
7/29/2012	7	352	58	410	
7/30/2012	11	358	59	417	
7/31/2012	7	355	58	413	
8/1/2012	6	361	56	417	
8/2/2012	11	372	60	432	
8/3/2012	3	370	58	428	
8/4/2012	11	372	60	432	
8/5/2012	5	369	61	430	
8/6/2012	3	370	58	428	
8/7/2012	6	368	57	425	
8/8/2012					
8/9/2012	4	367	57	424	
8/10/2012	4	370	55	425	
8/11/2012	6	370	57	427	
8/12/2012	4	367	57	424	
8/13/2012	9	372	61	433	
8/14/2012	6	375	59	434	
8/15/2012	6	375	61	436	
8/16/2012	9	382	60	442	

8/17/2012	7	376	60	436	
8/18/2012	10	371	63	434	
8/19/2012	7	369	64	433	
8/20/2012	10	374	62	436	
8/21/2012	12	378	66	444	
8/22/2012	12	384	71	455	
8/23/2012	6	371	58	429	
8/24/2012	2	368	58	426	
8/25/2012	6	371	58	429	
8/26/2012	10	380	61	441	
8/27/2012	16	385	58	443	
8/28/2012	12	384	63	447	
8/29/2012	14	387	65	452	
8/30/2012	4	381	60	441	
8/31/2012	1	362	53	415	
9/1/2012	2	360	53	413	
9/1/2012	8	378	61	439	
9/2/2012					
9/3/2012	4	362	54	416	
9/4/2012	6	370	57	427	
9/5/2012	3	375	54	429	
9/6/2012	4	372	59	431	
9/7/2012	4	372	59	431	
9/8/2012	7	374	60	434	
9/9/2012	8	378	61	439	
9/10/2012	12	384	64	448	
9/11/2012	11	384	61	445	
9/12/2012	8	383	61	444	
9/12/2012	7	382	61	443	
9/13/2012					
9/14/2012	5	377	62	439	
9/15/2012	4	364	57	421	
9/16/2012	10	371	58	429	
9/17/2012	4	368	58	426	
9/18/2012	9	378	62	440	
9/19/2012	3	378	64	442	
9/20/2012	9	376	65	441	
9/21/2012	9	376	65	441	
9/22/2012	5	370	65	435	
9/23/2012	16	378	69	447	
9/24/2012	14	379	68	447	
9/25/2012	12	372	64	436	
9/26/2012	10	375	66	441	
9/27/2012	2	373	63	436	
9/28/2012	6	373	63	436	
9/29/2012	17	390	61	451	
9/30/2012	17	390	61	451	

10/1/2012	15	390	64	454	
10/2/2012	2	381	62	443	
10/3/2012	7	387	68	455	
10/4/2012	11	382	68	450	
10/5/2012	8	385	64	449	
10/6/2012	0	371	60	431	
10/7/2012	14	382	64	446	
10/8/2012	6	375	65	440	
10/9/2012	10	383	64	447	
10/10/2012	10	390	65	455	
10/11/2012	10	389	70	459	
10/12/2012	10	376	69	445	
10/13/2012	5	353	69	422	
10/14/2012	9	353	72	425	
10/15/2012	12	350	73	423	
10/16/2012	6	359	68	427	
10/17/2012	6	352	65	417	
10/18/2012	2	350	66	416	
10/19/2012	2	350	66	416	
10/20/2012	2	337	65	402	
10/21/2012	3	398	335	733	
10/22/2012	5	335	62	397	
10/23/2012	9	341	65	406	
10/24/2012	9	350	57	407	
10/25/2012	3	341	58	399	
10/26/2012	3	341	58	399	
10/27/2012	3	332	59	391	
10/28/2012	7	333	62	395	
10/29/2012	5	338	59	397	
10/30/2012	4	335	61	396	
10/31/2012	4	322	56	378	
11/1/2012	3	326	53	379	
11/2/2012	6	330	55	385	
11/3/2012	5	335	54	389	
11/4/2012	8	341	56	397	
11/5/2012	4	343	56	399	
11/6/2012	8	353	57	410	
11/7/2012	10	346	58	404	
11/8/2012	12	350	59	409	
11/9/2012	3	352	58	410	
11/10/2012	4	353	55	408	
11/11/2012	3	347	52	399	
11/12/2012	5	350	53	403	
11/13/2012	8	349	53	402	
11/14/2012	4	342	53	395	
11/15/2012					
11/16/2012	10	343	50	393	

11/17/2012	5	340	49	389	
11/18/2012	7	344	50	394	
11/19/2012	3	343	51	394	
11/20/2012	2	342	52	394	
11/21/2012	6	352	53	405	
11/22/2012	3	343	51	394	
11/23/2012	2	343	56	399	
11/24/2012	4	350	59	409	
11/25/2012	3	355	57	412	
11/26/2012	3	352	57	409	
11/26/2012	4	344	51	395	
11/27/2012					
11/28/2012	2	356	52	408	
11/29/2012	4	357	53	410	
11/30/2012	6	355	52	407	
12/1/2012	1	354	50	404	
12/2/2012	5	356	49	405	
12/3/2012	6	358	45	403	
12/4/2012	2	356	49	405	
12/5/2012	5	352	57	409	
12/5/2012	3	351	54	405	
12/6/2012					
12/7/2012	9	355	55	410	
12/8/2012	4	344	55	399	
12/9/2012	3	350	54	404	
12/10/2012	5	349	52	401	
12/11/2012	2	341	47	388	
12/12/2012	9	346	52	398	
12/12/2012	4	341	54	395	
12/13/2012					
12/14/2012	6	338	56	394	
12/15/2012	6	338	58	396	
12/16/2012	3	336	59	395	
12/17/2012	4	335	58	393	
12/18/2012	2	326	60	386	
12/19/2012	3	329	59	388	
12/20/2012	2	325	61	386	
12/21/2012	3	329	56	385	
12/22/2012	4	330	50	380	
12/23/2012	9	335	55	390	
12/24/2012	2	335	54	389	
12/25/2012	1	335	52	387	
12/26/2012	4	336	53	389	
12/27/2012	2	342	52	394	
12/28/2012	1	330	50	380	
12/29/2012	3	325	49	374	
12/30/2012	3	325	49	374	

<b>12/31/2012</b>	<b>6</b>	<b>335</b>	<b>52</b>	<b>387</b>	



<b>DATE</b>	<b>HOLDING</b>	<b>MALE TOTAL</b>	<b>FEMALE TOTAL</b>	<b>Male / Female Total</b>	
1/1/2013	9	356	49	405	
1/2/2013	6	339	54	393	
1/3/2013	1	330	55	385	
1/4/2013	4	346	57	403	
1/5/2013	6	330	50	380	
1/6/2013	4	333	58	391	
1/7/2013	8	341	58	399	
1/8/2013	6	339	59	398	
1/9/2013	1	342	57	399	
1/10/2013	13	342	59	401	
1/11/2013	8	347	57	404	
1/12/2013	4	348	58	406	
1/13/2013	6	353	58	411	
1/14/2013	5	358	56	414	
1/15/2013	11	369	60	429	
1/16/2013	8	366	62	428	
1/17/2013	9	372	64	436	
1/18/2013	9	356	62	418	
1/19/2013	7	357	62	419	
1/20/2013	11	363	66	429	
1/21/2013	12	363	64	427	
1/22/2013	8	366	62	428	
1/23/2013	0	355	61	416	
1/24/2013	4	351	57	408	
1/25/2013	4	342	59	401	
1/26/2013	2	347	61	408	
1/27/2013	3	343	61	404	
1/28/2013	5	346	57	403	
1/29/2013	8	350	60	410	
1/30/2013	1	355	57	412	
1/31/2013	3	359	56	415	
2/1/2013	3	361	56	417	
2/2/2013	5	345	51	396	
2/3/2013	7	347	50	397	
2/4/2013	5	345	50	395	
2/5/2013	2	353	49	402	
2/6/2013	2	353	49	402	
2/7/2013	2	348	50	398	
2/8/2013	2	344	47	391	
2/9/2013	5	356	48	404	
2/10/2013	4	355	48	403	
2/11/2013	9	358	52	410	
2/12/2013	0	361	56	417	
2/13/2013	15	355	53	408	
2/14/2013					
2/15/2013	3	359	48	407	

<b>2/16/2013</b>	5	359	49	<b>408</b>	
<b>2/17/2013</b>	0	361	56	<b>417</b>	
<b>2/18/2013</b>	6	356	48	<b>404</b>	
<b>2/19/2013</b>					
<b>2/20/2013</b>					
<b>2/21/2013</b>	5	356	46	<b>402</b>	
<b>2/22/2013</b>					
<b>2/23/2013</b>					
<b>2/24/2013</b>					
<b>2/25/2013</b>					
<b>2/26/2013</b>	15	361	56	<b>417</b>	
<b>2/27/2013</b>	5	349	53	<b>402</b>	
<b>2/28/2013</b>	1	350	47	<b>397</b>	
<b>3/1/2013</b>	2	348	51	<b>399</b>	
<b>3/1/2013</b>	4	348	51	<b>399</b>	
<b>3/2/2013</b>	5	348	52	<b>400</b>	
<b>3/3/2013</b>	7	355	52	<b>407</b>	
<b>3/4/2013</b>	3	355	56	<b>411</b>	
<b>3/5/2013</b>	0	355	56	<b>411</b>	
<b>3/6/2013</b>	1	355	56	<b>411</b>	
<b>3/7/2013</b>	8	371	52	<b>423</b>	
<b>3/8/2013</b>	5	363	51	<b>414</b>	
<b>3/9/2013</b>	3	355	56	<b>411</b>	
<b>3/10/2013</b>	6	355	56	<b>411</b>	
<b>3/11/2013</b>	3	358	51	<b>409</b>	
<b>3/12/2013</b>	2	358	52	<b>410</b>	
<b>3/13/2013</b>	8	364	52	<b>416</b>	
<b>3/14/2013</b>	2	355	56	<b>411</b>	
<b>3/14/2013</b>	6	355	56	<b>411</b>	
<b>3/15/2013</b>	8	376	54	<b>430</b>	
<b>3/16/2013</b>	6	355	56	<b>411</b>	
<b>3/17/2013</b>	6	374	60	<b>434</b>	
<b>3/18/2013</b>	16	379	59	<b>438</b>	
<b>3/19/2013</b>	6	355	56	<b>411</b>	
<b>3/20/2013</b>					
<b>3/21/2013</b>	5	355	56	<b>411</b>	
<b>3/22/2013</b>	5	352	50	<b>402</b>	
<b>3/23/2013</b>	1	352	47	<b>399</b>	
<b>3/24/2013</b>	4	352	50	<b>402</b>	
<b>3/25/2013</b>	3	352	49	<b>401</b>	
<b>3/26/2013</b>	4	350	47	<b>397</b>	
<b>3/27/2013</b>					
<b>3/28/2013</b>	2	348	51	<b>399</b>	
<b>3/29/2013</b>	0	358	49	<b>407</b>	
<b>3/30/2013</b>	5	358	49	<b>407</b>	
<b>3/31/2013</b>	5	362	51	<b>413</b>	
<b>4/1/2013</b>	4	367	49	<b>416</b>	

<b>4/2/2013</b>	2	361	46	<b>407</b>	
<b>4/3/2013</b>	2	358	43	<b>401</b>	
<b>4/4/2013</b>	4	358	48	<b>406</b>	
<b>4/5/2013</b>	2	356	48	<b>404</b>	
<b>4/5/2013</b>	5	356	48	<b>404</b>	
<b>4/6/2013</b>					
<b>4/7/2013</b>	14	416	74	<b>490</b>	
<b>4/8/2013</b>	3	370	56	<b>426</b>	
<b>4/9/2013</b>	6	366	54	<b>420</b>	
<b>4/10/2013</b>					
<b>4/11/2013</b>	4	372	56	<b>428</b>	
<b>4/12/2013</b>	4	373	56	<b>429</b>	
<b>4/13/2013</b>	7	376	57	<b>433</b>	
<b>4/14/2013</b>	8	380	53	<b>433</b>	
<b>4/15/2013</b>	8	380	53	<b>433</b>	
<b>4/16/2013</b>	10	383	54	<b>437</b>	
<b>4/17/2013</b>	4	380	54	<b>434</b>	
<b>4/18/2013</b>	4	375	59	<b>434</b>	
<b>4/19/2013</b>	8	371	57	<b>428</b>	
<b>4/20/2013</b>	4	377	59	<b>436</b>	
<b>4/21/2013</b>	10	378	60	<b>438</b>	
<b>4/22/2013</b>	10	383	54	<b>437</b>	
<b>4/23/2013</b>	6	369	57	<b>426</b>	
<b>4/24/2013</b>	7	365	56	<b>421</b>	
<b>4/25/2013</b>	7	363	54	<b>417</b>	
<b>4/26/2013</b>	8	366	54	<b>420</b>	
<b>4/27/2013</b>	7	364	55	<b>419</b>	
<b>4/28/2013</b>	7	367	57	<b>424</b>	
<b>4/29/2013</b>	7	371	56	<b>427</b>	
<b>4/30/2013</b>	6	366	60	<b>426</b>	
<b>4/30/2013</b>	8	365	63	<b>428</b>	
<b>5/1/2013</b>	8	358	48	<b>406</b>	
<b>5/2/2013</b>	8	358	48	<b>406</b>	
<b>5/3/2013</b>	7	358	62	<b>420</b>	
<b>5/4/2013</b>	9	364	59	<b>423</b>	
<b>5/5/2013</b>	1	367	60	<b>427</b>	
<b>5/6/2013</b>	6	365	61	<b>426</b>	
<b>5/7/2013</b>	12	373	60	<b>433</b>	
<b>5/8/2013</b>	12	377	63	<b>440</b>	
<b>5/9/2013</b>	11	373	60	<b>433</b>	
<b>5/10/2013</b>	6	367	61	<b>428</b>	
<b>5/11/2013</b>	4	362	62	<b>424</b>	
<b>5/12/2013</b>	4	362	62	<b>424</b>	
<b>5/13/2013</b>	10	367	70	<b>437</b>	
<b>5/14/2013</b>	10	366	60	<b>426</b>	
<b>5/15/2013</b>	10	371	70	<b>441</b>	
<b>5/16/2013</b>	4	368	67	<b>435</b>	

5/17/2013	8	351	68	419	
5/18/2013	11	361	72	433	
5/19/2013	9	358	73	431	
5/20/2013	7	361	73	434	
5/21/2013	5	353	74	427	
5/22/2013	11	362	70	432	
5/23/2013	12	364	74	438	
5/24/2013	14	370	70	440	
5/25/2013	12	363	69	432	
5/26/2013	3	366	69	435	
5/27/2013	7	373	68	441	
5/28/2013	13	377	68	445	
5/29/2013	5	377	66	443	
5/30/2013	17	380	66	446	
5/31/2013	10	368	66	434	
6/1/2013					
6/2/2013	10	367	67	434	
6/3/2013	8	364	67	431	
6/4/2013	7	361	66	427	
6/5/2013	9	360	69	429	
6/6/2013	0	354	65	419	
6/7/2013	3	350	67	417	
6/8/2013	4	350	66	416	
6/9/2013	2	358	69	427	
6/10/2013	10	358	68	426	
6/11/2013	9	359	68	427	
6/12/2013	5	351	69	420	
6/13/2013	6	350	73	423	
6/14/2013	7	345	74	419	
6/15/2013	3	341	72	413	
6/16/2013	8	351	68	419	
6/17/2013	8	352	70	422	
6/18/2013	7	347	64	411	
6/19/2013	7	351	65	416	
6/20/2013	4	350	66	416	
6/21/2013	4	350	66	416	
6/21/2013	4	355	64	419	
6/22/2013	10	362	68	430	
6/23/2013	15	370	71	441	
6/24/2013	4	364	68	432	
6/25/2013	8	364	69	433	
6/26/2013	9	360	70	430	
6/27/2013	2	352	69	421	
6/28/2013	14	357	69	426	
6/29/2013	5	361	66	427	
6/30/2013	14	369	66	435	
7/1/2013	8	363	66	429	

<b>7/2/2013</b>	11	372	62	<b>434</b>	
<b>7/3/2013</b>	26	379	64	<b>443</b>	
<b>7/4/2013</b>	3	371	58	<b>429</b>	
<b>7/5/2013</b>	17	375	56	<b>431</b>	
<b>7/6/2013</b>	8	372	60	<b>432</b>	
<b>7/7/2013</b>	10	376	58	<b>434</b>	
<b>7/8/2013</b>	8	376	60	<b>436</b>	
<b>7/9/2013</b>	8	378	59	<b>437</b>	
<b>7/10/2013</b>	4	385	61	<b>446</b>	
<b>7/11/2013</b>	12	389	61	<b>450</b>	
<b>7/12/2013</b>	10	374	61	<b>435</b>	
<b>7/13/2013</b>	10	386	58	<b>444</b>	
<b>7/14/2013</b>	15	390	55	<b>445</b>	
<b>7/15/2013</b>	26	396	55	<b>451</b>	
<b>7/16/2013</b>	6	389	51	<b>440</b>	
<b>7/17/2013</b>	5	387	53	<b>440</b>	
<b>7/18/2013</b>	5	367	61	<b>428</b>	
<b>7/19/2013</b>	8	382	52	<b>434</b>	
<b>7/20/2013</b>	5	377	48	<b>425</b>	
<b>7/21/2013</b>	9	379	47	<b>426</b>	
<b>7/22/2013</b>	8	384	55	<b>439</b>	
<b>7/23/2013</b>	8	390	48	<b>438</b>	
<b>7/24/2013</b>	8	392	54	<b>446</b>	
<b>7/24/2013</b>	8	384	55	<b>439</b>	
<b>7/25/2013</b>					
<b>7/26/2013</b>	2	372	51	<b>423</b>	
<b>7/27/2013</b>	5	384	55	<b>439</b>	
<b>7/28/2013</b>	4	384	55	<b>439</b>	
<b>7/29/2013</b>	6	378	52	<b>430</b>	
<b>7/30/2013</b>	5	378	53	<b>431</b>	
<b>7/31/2013</b>	9	372	56	<b>428</b>	
<b>8/1/2013</b>	5	371	57	<b>428</b>	
<b>8/2/2013</b>	4	360	57	<b>417</b>	
<b>8/3/2013</b>	7	361	58	<b>419</b>	
<b>8/4/2013</b>	12	366	62	<b>428</b>	
<b>8/5/2013</b>	11	367	29	<b>396</b>	
<b>8/6/2013</b>	9	370	68	<b>438</b>	
<b>8/7/2013</b>	7	366	67	<b>433</b>	
<b>8/8/2013</b>	4	365	65	<b>430</b>	
<b>8/9/2013</b>	4	361	64	<b>425</b>	
<b>8/10/2013</b>	3	362	64	<b>426</b>	
<b>8/11/2013</b>	5	363	65	<b>428</b>	
<b>8/12/2013</b>	8	365	66	<b>431</b>	
<b>8/13/2013</b>	10	369	64	<b>433</b>	
<b>8/14/2013</b>	9	373	64	<b>437</b>	
<b>8/15/2013</b>	9	370	66	<b>436</b>	
<b>8/16/2013</b>	8	372	68	<b>440</b>	

8/17/2013	10	366	65	431	
8/18/2013	14	375	67	442	
8/19/2013	10	373	66	439	
8/20/2013	6	377	66	443	
8/21/2013	5	370	64	434	
8/22/2013	6	371	67	438	
8/23/2013	6	367	63	430	
8/24/2013	8	364	72	436	
8/25/2013	12	371	74	445	
8/26/2013	11	375	74	449	
8/27/2013	11	375	74	449	
8/28/2013	7	369	74	443	
8/28/2013	11	375	75	450	
8/29/2013					
8/30/2013					
8/31/2013					
9/1/2013					
9/2/2013					
9/3/2013					
9/4/2013					
9/5/2013					
9/6/2013					
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9/8/2013					
9/9/2013					
9/10/2013					
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9/15/2013					
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10/22/2013					
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10/24/2013					
10/25/2013					
10/26/2013					
10/27/2013					
10/28/2013					
10/29/2013					
10/30/2013					
10/31/2013					
11/1/2013	9	343	64	<b>407</b>	
11/2/2013	9	341	66	<b>407</b>	
11/3/2013	1	335	52	<b>387</b>	
11/4/2013					
11/5/2013	6	348	67	<b>415</b>	
11/6/2013	7	343	68	<b>411</b>	
11/6/2013	2	335	69	<b>404</b>	
11/7/2013					
11/8/2013	6	529	65	<b>594</b>	
11/9/2013	7	310	70	<b>380</b>	
11/10/2013	8	316	71	<b>387</b>	
11/11/2013	5	320	69	<b>389</b>	
11/12/2013	10	322	69	<b>391</b>	
11/13/2013	3	323	72	<b>395</b>	
11/14/2013	6	322	72	<b>394</b>	
11/15/2013	7	319	71	<b>390</b>	
11/16/2013	2	322	75	<b>397</b>	

11/17/2013	1	319	81	400	
11/18/2013	7	318	76	394	
11/19/2013					
11/20/2013	6	326	73	399	
11/21/2013	5	329	70	399	
11/22/2013	2	325	70	395	
11/23/2013	10	281	72	353	
11/24/2013	5	332	70	402	
11/25/2013	8	329	72	401	
11/26/2013	4	324	66	390	
11/27/2013	4	309	64	373	
11/28/2013					
11/29/2013	4	310	68	378	
11/30/2013	4	309	66	375	
12/1/2013	2	312	65	377	
12/2/2013	6	309	65	374	
12/3/2013	8	314	70	384	
12/4/2013	12	320	70	390	
12/5/2013	5	325	68	393	
12/6/2013	4	316	67	383	
12/7/2013	11	326	67	393	
12/8/2013	3	327	63	390	
12/9/2013	3	327	63	390	
12/10/2013	7	336	63	399	
12/11/2013	3	333	66	399	
12/12/2013	5	338	68	406	
12/13/2013					
12/14/2013	5	333	63	396	
12/15/2013	5	335	65	400	
12/16/2013	8	333	63	396	
12/17/2013	14	347	60	407	
12/18/2013					
12/19/2013	5	331	59	390	
12/20/2013	1	325	60	385	
12/21/2013	4	316	67	383	
12/22/2013	5	331	59	390	
12/23/2013	8	332	66	398	
12/24/2013	1	330	62	392	
12/25/2013	2	324	65	389	
12/26/2013					
12/27/2013	5	320	63	383	
12/28/2013	6	332	76	408	
12/29/2013	5	325	64	389	
12/30/2013	2	327	66	393	

<b><u>DATE</u></b>	<b><u>HOLDING</u></b>	<b><u>MALE TOTAL</u></b>	<b><u>FEMALE TOTAL</u></b>	<b><u>Male / Female Total</u></b>
1/1/2014	4	315	64	379
1/1/2014				
1/2/2014	8	319	64	383
1/3/2014	6	320	62	382
1/4/2014	7	410	58	468
1/5/2014	6	318	59	377
1/6/2014	3	318	60	378
1/7/2014	1	317	57	374
1/8/2014	2	317	57	374
1/9/2014	8	318	60	378
1/10/2014	9	327	53	380
1/11/2014	5	314	52	366
1/12/2014	3	317	54	371
1/13/2014				
1/14/2014	2	310	54	364
1/15/2014	1	315	48	363
1/16/2014	1	323	47	370
1/17/2014	5	316	41	357
1/18/2014	2	319	46	365
1/19/2014	1	319	47	366
1/20/2014				
1/21/2014				
1/22/2014	7	330	54	384
1/23/2014	0	312	45	357
1/24/2014	7	317	48	365
1/25/2014	7	321	51	372
1/26/2014	7	321	51	372
1/27/2014	3	318	48	366
1/28/2014	7	328	52	380
1/29/2014	5	329	52	381
1/30/2014	2	329	55	384
1/31/2014	1	331	57	388
2/1/2014	5	330	57	387
2/2/2014	2	336	58	394
2/3/2014	5	320	63	383
2/4/2014	4	337	53	390
2/5/2014	22	317	54	371
2/6/2014	0	340	54	394
2/7/2014	4	338	60	398
2/8/2014				
2/9/2014	3	340	43	383
2/10/2014	12	346	62	408
2/11/2014	8	353	61	414
2/12/2014	8	355	62	417
2/12/2014	3	427	57	484
2/14/2014	6	344	62	406

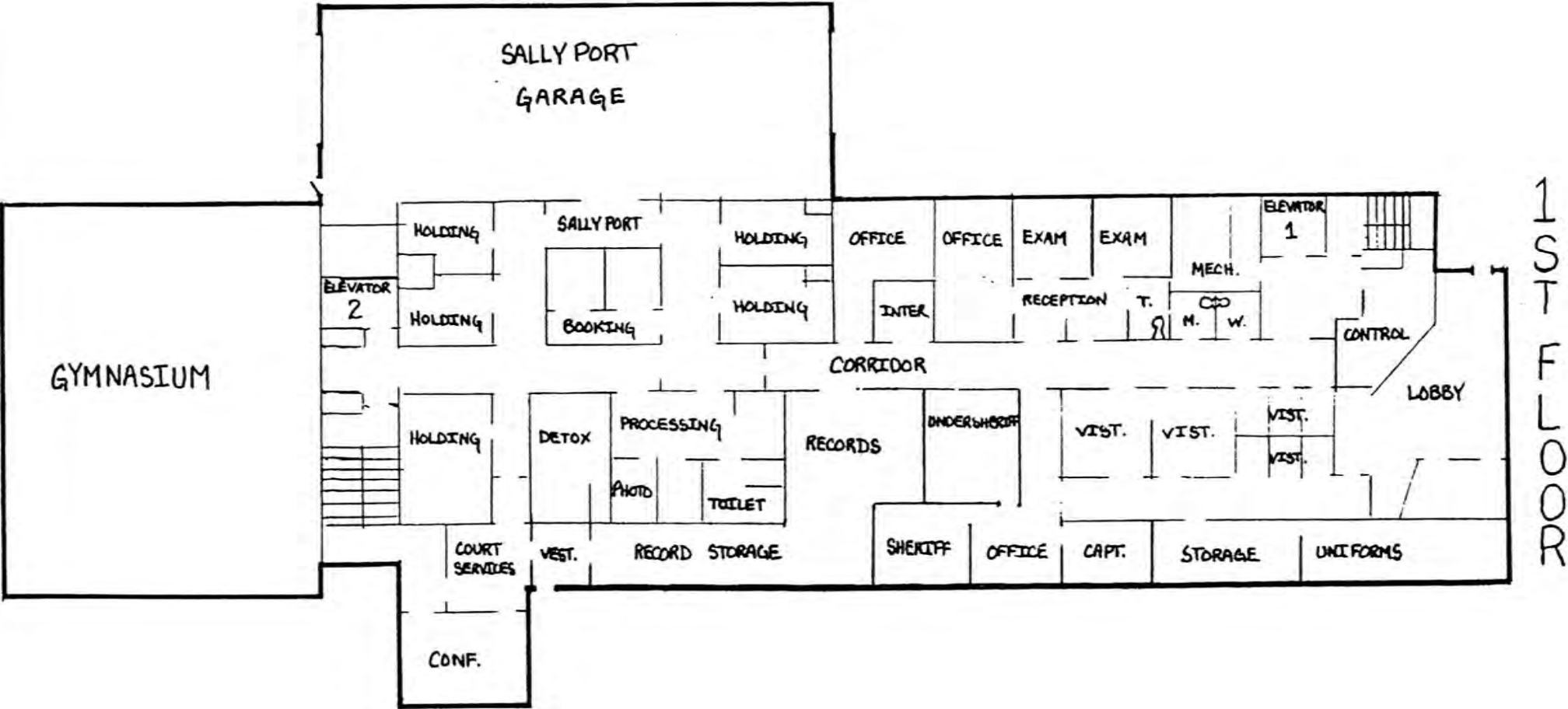
<b>2/15/2014</b>	11	351	63	<b>414</b>
<b>2/16/2014</b>	6	354	61	<b>415</b>
<b>2/17/2014</b>	4	346	62	<b>408</b>
<b>2/18/2014</b>	6	357	64	<b>421</b>
<b>2/19/2014</b>	8	344	67	<b>411</b>
<b>2/20/2014</b>	9	350	65	<b>415</b>
<b>2/21/2014</b>	6	341	66	<b>407</b>
<b>2/22/2014</b>	11	353	49	<b>402</b>
<b>2/23/2014</b>	13	352	74	<b>426</b>
<b>2/24/2014</b>	15	354	75	<b>429</b>
<b>2/25/2014</b>	13	358	79	<b>437</b>
<b>2/26/2014</b>	8	351	58	<b>409</b>
<b>2/27/2014</b>	3	349	71	<b>420</b>
<b>2/28/2014</b>	4	350	70	<b>420</b>
<b>3/1/2014</b>	5	354	70	<b>424</b>
<b>3/2/2014</b>	5	354	70	<b>424</b>
<b>3/3/2014</b>	5	355	69	<b>424</b>
<b>3/4/2014</b>	13	364	74	<b>438</b>
<b>3/5/2014</b>	9	361	77	<b>438</b>
<b>3/6/2014</b>	7	352	82	<b>434</b>
<b>3/7/2014</b>	6	349	81	<b>430</b>
<b>3/8/2014</b>	4	349	82	<b>431</b>
<b>3/9/2014</b>	15	358	84	<b>442</b>
<b>3/10/2014</b>	18	358	82	<b>440</b>
<b>3/11/2014</b>	11	354	88	<b>442</b>
<b>3/12/2014</b>	8	352	80	<b>432</b>
<b>3/13/2014</b>	12	360	78	<b>438</b>
<b>3/14/2014</b>	17	356	75	<b>431</b>
<b>3/15/2014</b>	6	344	74	<b>418</b>
<b>3/16/2014</b>	8	349	74	<b>423</b>
<b>3/17/2014</b>	6	341	74	<b>415</b>
<b>3/18/2014</b>	9	344	77	<b>421</b>
<b>3/19/2014</b>	9	344	81	<b>425</b>
<b>3/20/2014</b>	6	342	80	<b>422</b>
<b>3/21/2014</b>	7	328	78	<b>406</b>
<b>3/22/2014</b>	10	330	79	<b>409</b>
<b>3/23/2014</b>	10	335	84	<b>419</b>
<b>3/24/2014</b>	8	336	84	<b>420</b>
<b>3/25/2014</b>	16	339	84	<b>423</b>
<b>3/26/2014</b>	6	338	83	<b>421</b>
<b>3/27/2014</b>	6	343	82	<b>425</b>
<b>3/28/2014</b>	5	345	77	<b>422</b>
<b>3/29/2014</b>	6	348	81	<b>429</b>
<b>3/30/2014</b>	12	352	80	<b>432</b>
<b>3/31/2014</b>	10	350	80	<b>430</b>
<b>4/1/2014</b>	13	344	44	<b>388</b>
<b>4/2/2014</b>	4	349	77	<b>426</b>

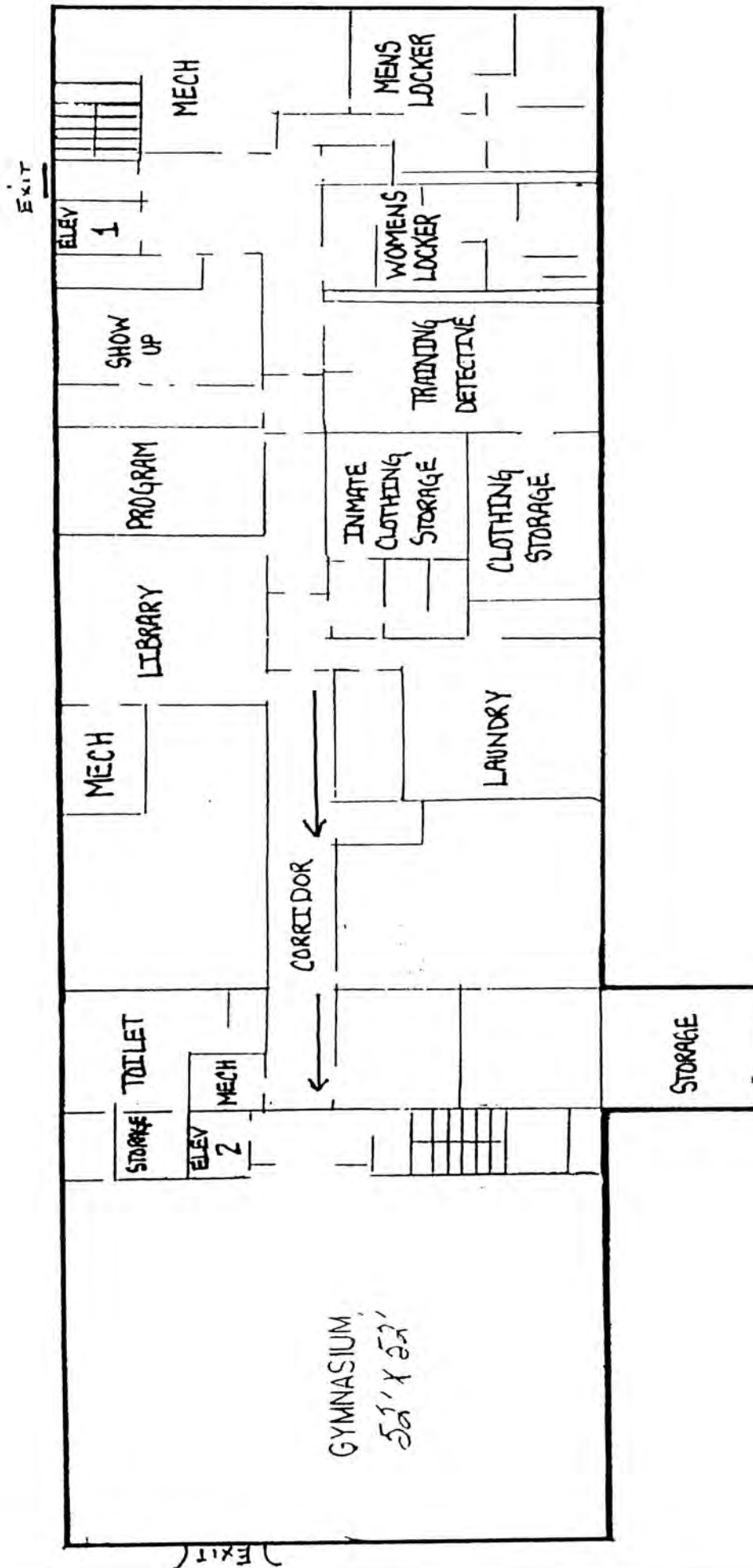
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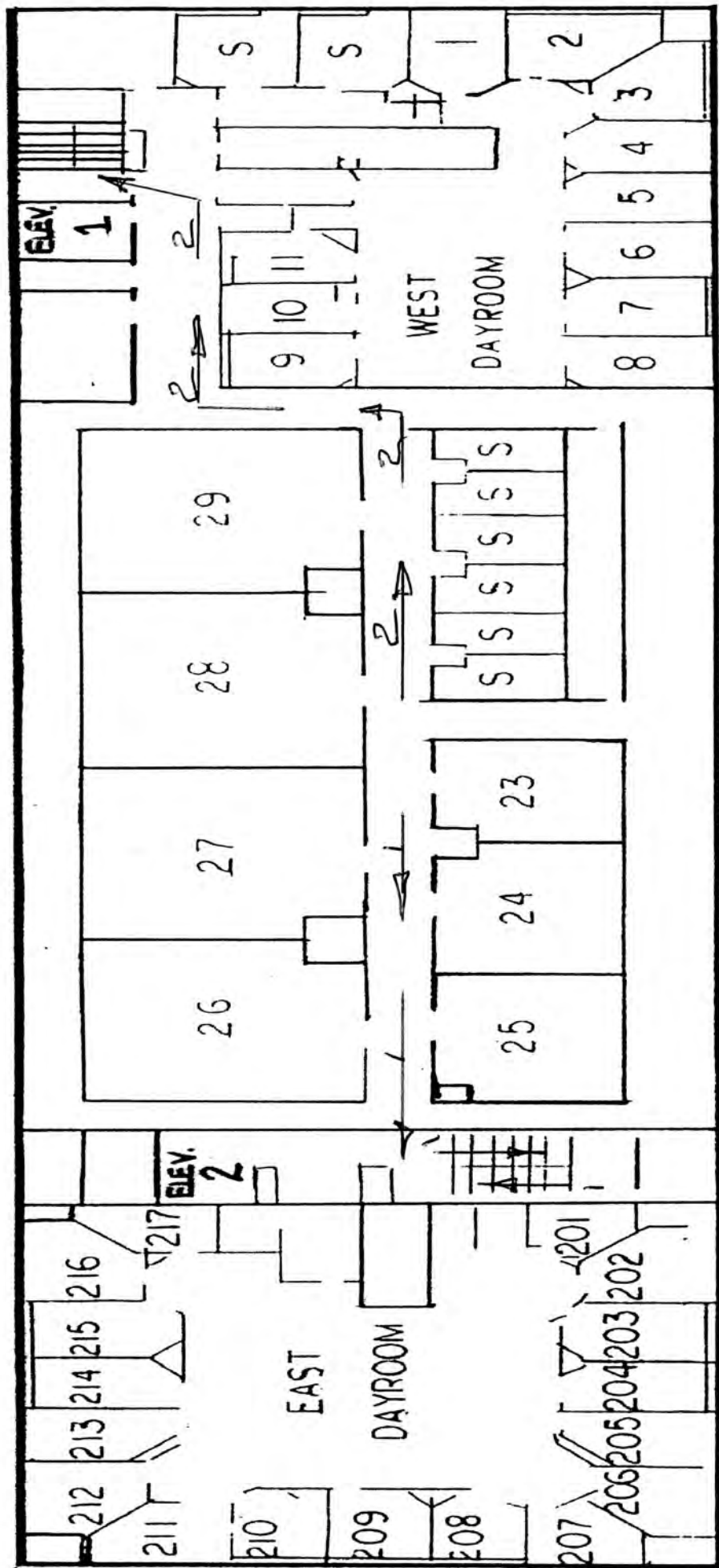
**EXHIBIT 11**

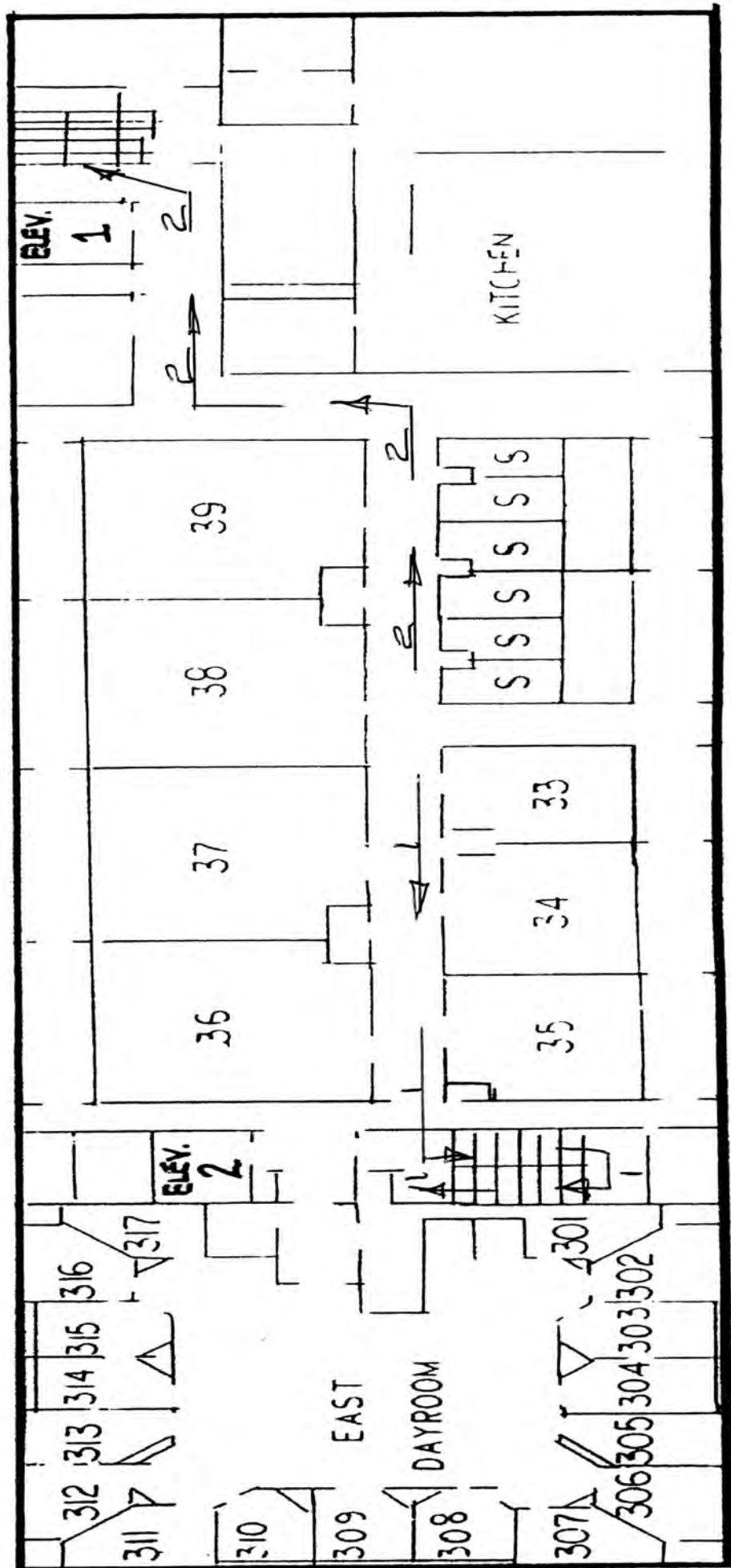
Muskegon County Jail Floor Plan



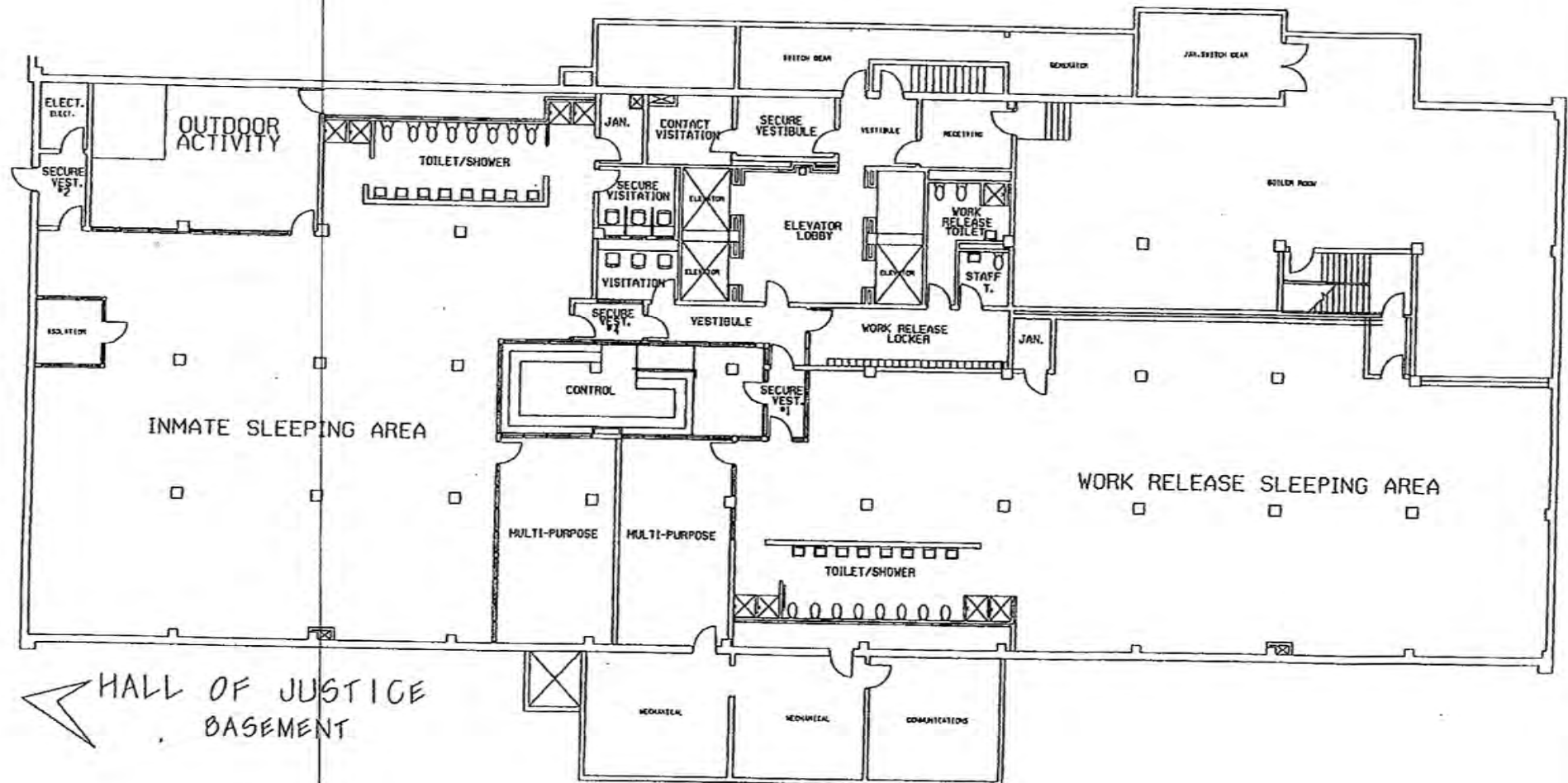












**EXHIBIT 12**

Muskegon Inspection Report 2012



**COUNTY JAIL INSPECTION REPORT  
MUSKEGON COUNTY  
DECEMBER 18, 2012**

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### **Scope of Inspection**

An inspection of the Muskegon County Jail was conducted on October 1, 2012, by the Michigan Department of Corrections, County Jail Services Unit, as provided for by Act No. 232 of the Public Acts of 1953, as amended, being Section 791.262 of the Michigan Compiled Laws.

The inspection was conducted by Wayne Schaudt and Jeffrey Cook, Correctional Facility Specialist, County Jail Services Unit. The exit conference was conducted with Muskegon County Jail Administrator, Lieutenant Mark Burns.

### **Inspection Objectives**

The inspection of the Muskegon County Jail had the following objectives:

1. To determine compliance with the Administrative Rules for Jails and Lockups of 1998, and applicable statutes for housing inmates in county jails.
2. To provide a document for follow-up and to resolve any areas of noncompliance with the Administrative Rules.

### **Background**

The Muskegon County Jail was constructed in 1958 with a rated design capacity of 154 beds.

In 1978, a renovation increased the rated design capacity to 244 beds.

In 1999, renovations to the lower level of the county building increased the rated design capacity to its current 370 beds.

### **Inspection Findings**

The Michigan Department of Corrections finds the Muskegon County Jail in non-compliance with the following Administrative Rules for Jails and Lockups:

**1. R 791.732 Health appraisals**

The rule requires that:

*(1) A facility shall establish and maintain written policy, procedure, and practice which require that a health appraisal for each inmate be completed by a trained health care person within 14 days after arrival at the facility. If there is documented evidence of a health appraisal within the previous 90 days, then a new health appraisal is not required, except as determined by the designated health authority...*

Comment:

Health appraisals for inmates are not being conducted for each inmate within 14 days of their arrival in the facility.

Health appraisals need to be completed by a trained health care person within 14 days after arrival at the facility for all inmates as required by the Administrative Rule.

Sheriff's Response:

No Response Received.

**2. R 791.737 Safety and Maintenance of Equipment and Structures**

The rule requires that:

*(1) The administrator shall develop and implement safety standards that will protect the health and welfare of inmates and staff.*

*(2) The administrator shall ensure that inmate and staff equipment and structures are maintained.*

Comment:

During the inspection, it was noticed that the following items, some of which

were noted in the last inspection, need to be repaired, replaced, or addressed in a timely manner:

There were long handled brushes and mop handles being stored in the security garage. These items should be stored inaccessible to the inmates as they could be used as a weapon.

Resilient flooring in Detox cell # 3 is torn which creates space for dirt to accumulate.

The trays that are used for serving meals are badly stained from repeated use and need to be de-stained or replaced.

Numerous mattresses throughout the facility are cracked and torn exposing the filling. Cracked and torn mattresses cannot be sanitized (as required before re-use); defective outer covers reduces the fire resistance; and openings into a mattress provide spaces for inmate contraband.

Many of the shower curtains throughout the facility are soiled, stained, and contain a black substance suspected to be mold/mildew.

Third Floor East Dayroom cell # 316 and Second Floor East Dayroom cell # 203 have cracked windows in the doors.

The toilets are leaking onto the floor in cells # 24, 25, 26, 27, 33, and 39. This creates a serious potential health hazard for both inmates and staff. Repairs are needed immediately.

The shower water was extremely hot in cells 33, 35, 36, 37, 38, and 39. This creates a potential hazard to the user. Repairs are needed immediately.

Numerous cell lights throughout the facility were covered with paper and toothpaste. Papers on lights can be a fire hazard and limits visibility into the cell by staff.

Water is leaking onto the cell floors from the plumbing chase in cell # 23 and Basement Northside cell. This creates a potential hazard. Repairs are needed immediately.

The ceilings in cells # 27, 28, 29, 35, Second Floor East shower, Basement Northside bathroom, and Minimum bathroom and air supply vents, contain a black substance suspected to be mold/mildew. These vents and surrounding wall areas need cleaning and disinfecting.

Welds are broken on the surface plate of the top bunk in cell # 33. If the surface plate is not reattached it could fall on the inmate in the lower bunk or it could be used as a weapon.

The paint is peeling from the ceilings above the sink/shower areas in cells 24, 25, 26, 27, 29, 33, 35, 37, 38, 39, Basement North side cell, and in Second Floor East Max cells. These surfaces need to be maintained in cleanable condition.

Many of the cells in Third Floor West and Second Floor East, have gang symbols, and graffiti, on the inside of the doors and on the cell walls.

When the toilets are flushed in the cells in Third Floor East, Third Floor West, and Second Floor East, sewage backs up into the toilets of other cells. This plumbing defect needs to be examined by a qualified person and needed repairs made immediately to eliminate this potential health hazard.

A shower in the Minimum cell had been running for the past three days.

Several of the double bunks in the Minimum Security Dorm are missing bolts in the frames thus compromising their design and performance.

A sink in the Minimum Security Dorm is loose and needs to be securely fastened to the wall.

Third Floor East Dayroom has a hole in the ceiling and the ceiling tile is missing. This defect nullifies the fire safety integrity of the structure, and also provides space for an inmate to hide contraband.

In the third floor corridor by elevator the ceiling tile is missing and an electrical cable is accessible. Again, this compromises a fire safety finish detail and creates a serious safety hazard.

Shower drain covers are missing in Third Floor West Max and Cell #26. This condition provides a hiding space for contraband and/or an easy way for inmates to plug the drain.

Third Floor East, Cell # 311 the water in the sink won't shut off.

Third Floor West shower floor is soiled. The light fixture's cover and bulbs are missing allowing access to electrical contacts. The access panel in cell # 14 needs to be secured. The shower vent is plugged with dirt. The hot water in cell # 2 and cell # 9 are not working. The cells walls are soiled and need to be washed. The cold water is not working in cell # 7. The television set has electrical wires accessible.

The hot water is not working in Second Floor East Max cell # 1.

Second Floor East cell # 216 and cell # 217 the hot and cold water are not

working. In cell # 210 and cell # 213 the cold water from the sink sprays on the floor and ceiling. The hot water in cell # 210 does not work. The sink is plugged in cell # 207 and the water won't shut off. The shower vents are plugged with dirt and the shower floor is soiled.

Basement North Side ceiling tile are missing allowing access to wires. The air vent in the sleeping area does not have a screen. The air vent in the shower does not have a screen. The shower walls are soiled and the wall panel is not securely fastened. The light fixture is broken.

Many of the Minimum Dormitory's collapsible clothing hooks do not collapse as they were intended when they were installed. Ceramic tile at the coved base inside the showers is broken which can allow water to seep under the tile and loosen them. Bugs were sighted in the corner of the sleeping area.

Many of the Work Release Dormitory's collapsible clothing hooks do not collapse as they were intended when they were installed. The floor and toilets in the bathroom by the locker room are soiled and stained. The air vents in the sleeping area and bathroom are covered with a black substance suspected to be mold/mildew. Two toilets are not working. Floor tile in the shower are broken. The water fountain leaks water onto the floor. One of the attached seats at the table is loose.

It is recommended that these items be repaired, replaced and maintained as necessary to provide a safe, secure and sanitary facility.

Sheriff's Response:

No Response Received.

**3. M.C.L.A. 801.51      Overcrowding of County Jail.**

Section 2 of the statute requires that:

*If the general prisoner population of a county jail exceeds 100% of the rated design capacity of the county jail or a percentage of the rated design capacity less 100% as set by a court prior to the effective date of this act for 7 consecutive days or for a lesser number of days as set by a court prior to the effective date of this act, the sheriff for that county shall certify that fact in writing, by first class mail or personal delivery, to the chief circuit judge, the chief district judge, and each municipal court judge in the county in which the county jail is located, the chairperson of the county board of commissioners, and the county executive in a county in which a county executive is elected.*

Comment:



As in the last two inspections, on the day of inspection as well as the previous 6 consecutive days, the inmate general housing population exceeded the rated design capacity of the facility.

It is recommend that the Sheriff declare an overcrowding state of emergency pursuant to M.C.L.A. 801.51 when applicable or take other appropriate steps to ensure that the inmate population does not exceed the rated design capacity.

Sheriff's Response:

No Response Received

**EXHIBIT 13**

Muskegon County Sheriff Memo

August 17, 2011



# Muskegon County Sheriff's Office

**SHERIFF DEAN C. ROESLER**

25 W. Walton Avenue Muskegon, Michigan 49440

TX: (231) 724-6236 FAX: (231) 724-6177

08/17/2011

The Muskegon County Jail Facility is a State of Michigan rated facility of 370 beds, and a 95% bed capacity rating of 351.

The Muskegon County Jail has for the past 7 consecutive days been over capacity as indicated by the specific midnight counts:

August 10, 2011 - 413 inmates

August 14, 2011 – 408 inmates

August 11, 2011 – 402 inmates

August 15, 2011 – 413 inmates

August 12, 2011 – 404 inmates

August 16, 2011 – 416 inmates

August 13, 2011 – 405 inmates

August 17, 2011 – 414 inmates

Unless it is determined I am acting in error, it is my intent to declare that an “overcrowding state of emergency” does exist in the Muskegon County Jail.

Under this declared “overcrowding state of emergency” and upon proper notification of all affected parties, I intend to work with all parties to reduce the prisoner population of the Muskegon County Jail, through any available means which are already within the scope of our individual and collective legal authority.

Respectfully,

Dean C. Roesler  
Muskegon County Sheriff

Cc: Honorable John C. Ruck – Chief Circuit Judge 14<sup>th</sup> Circuit Court  
Honorable Harold F. Closz, III – Chief District Judge 60<sup>th</sup> District Court  
Tony Tague – Prosecutor County of Muskegon  
Kenneth Mahoney – Chairman Muskegon County Board of Commissioners  
Bonnie B. Hammersley – Administrator County of Muskegon

**EXHIBIT 14**

Muskegon County Sheriff Memo

August 22, 2012



# Muskegon County Sheriff's Office

## SHERIFF DEAN ROESLER

25 W. Walton Avenue Muskegon, Michigan 49440  
TX: (231) 724-6256 FAX: (231) 724-6683

8-22-12

Muskegon County Jail has been in a persistent state of overcrowding since September 2008 with the count not going below 351

Mid-day jail count on 8-21-2012 was 441; Undersheriff Stout ordered the immediate release of inmates with outdates between 8-21-12 and 8-29-12.

Note: There is no prison ride-out scheduled for this week.

Attached is a list of names released.

- 1) Suthard, Jonathon 12-141348-sm retail frd 2nd, Judge Wierengo.
- 2) Parker, Fantasia 12-141703-sm retail frd 2nd, Judge Closz.
- 3) Pacheco, Sherry 12-140318-sm retail frd 2nd, Judge Ladas-Hoopes.
- 4) Barber, Cory 12-61938-fh Embezzlement, Judge Marietti.
- 5) Riley, Darnell 11-133115-st pay/stay traffic, Judge Wierengo.
- 6) Freeman, George 12-140029-ot pay/stay traffic, Judge Closz.
- 7) Holt, Dana 12-61925-fh Owi 3rd, Judge Graves.
- 8) Wyrick, Dearrea 11-128660-sd pv-owi, Judge Closz.
- 9) Foltyniewicz, Megan 12-139787-sm ret frd 3rd, Judge Nolan.
- 10) Brooks, Jessica 11-130000-sd owi 1st, Judge Ladas-Hoopes.
- 11) Fox, Jeffrey 12-140017-om pay/stay traffic, Judge Closz.
- 12) English, Joshua 12-140654-sm pv-dv, Judge Wierengo.
- 13) Champayne, Chad 12-62101-fh poss marj 2nd off, Judge Hicks.

### Judges report for 8-22-12

Hicks over 30  
Graves over 19  
Marietti over 16  
District Ct over 24  
prelims over 9

Lt. Mark Burns  
Jail Administrator  
Muskegon County Sheriff Office  
25. W. Walton Av.  
Muskegon, MI 49440  
231-724-6289  
[mark.burns@muskegonsheriff.com](mailto:mark.burns@muskegonsheriff.com)



**EXHIBIT 15**

Muskegon County Sheriff Memo

August 29, 2012



# Muskegon County Sheriff's Office

## SHERIFF DEAN ROESLER

25 W. Walton Avenue Muskegon, Michigan 49440  
TX: (231) 724-6256 FAX: (231) 724-6683

8-29-12

Muskegon County Jail has been in a persistent state of overcrowding since September 2008 with the count not going below 351

Jail count on 8-29-2012 at 10pm was 434; Jail Administrator Burns ordered the immediate release of inmates with outdates between 8-29-12 and 9-5-12.

Attached is a list of names released.

NAME	DOCKET	JUDGE	REDUCTION
1) West, Terrance	12141947OT	Ladas Hoopes	1 day
2) Bell, Christopher	1261876FH	Graves	2 days
3) Calloway, Roger	10122321SM	Ladas Hoopes	2 days
Was not released due to other pending charges			
4) Steward, Alexis	11136998SM	Nolan	2 days
5) Patterson, Thomas	12140656OM	Nolan	2 days
6) Jones, Anthony	08096913SM	Closz	2 days
7) Lewis, Eddie	10127894OM	Closz	2 days
8) Piggee, Michael	11131108OT	Wierengo	2 days
Was not released due to other pending charges			
9) Schroeder, Michael	2141096SD	Closz	2 days
10) Sittser, Kerri	09113777SM	Closz	2 days
11) Estlick, Ronald	12142427SM	Closz	2 days
12) Temple, Justin	12140358SM	Ladas Hoopes	3 days
13) Witt, Jessica	12141128SM	Closz	3 days
14) Craine, Steven	11135510SD	Wierengo	4 days
Was not released due to other pending charges			
15) Totten, Dequan	1160415FH	Marietti	4 days
16) Carson, Jimmy	06D317928B	Nolan	4 days
17) Jackson, Justin	1262026FH	Hicks	5 days

Judges report for 8-29-12

Hicks over 29  
Graves over 19  
Marietti over 6

District Ct over 13  
prelims over 13

Lt. Mark Burns  
Jail Administrator  
Muskegon County Sheriff Office  
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**EXHIBIT 16**

Muskegon Chronicle Article (Peters)

July 8, 2009



## Overcrowding a daily challenge for new county jail population coordinator Scott Lamiman

Heather Lynn Peters | [hpeters@mlive.com](mailto:hpeters@mlive.com) By Heather Lynn Peters | [hpeters@mlive.com](mailto:hpeters@mlive.com)

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on July 08, 2009 at 8:16 PM, updated July 08, 2009 at 8:36 PM



Cory Morse| Chronicle photoPrisoners

inside the Muskegon County Jail Wednesday, May 27, 2009, as pictured through a two-way mirror. Officials say the jail, which has about 400 inmates, needs repair and is too small for the quantity of prisoners it houses.

MUSKEGON COUNTY -- For the new Muskegon County Jail population coordinator, tackling the inmate overcrowding issue is a daily challenge.

It's a numbers game, said Scott Lamiman, who was hired in February to help alleviate the problem that has plagued the packed, deteriorating county jail for years.

"I get nervous because I never know what the count is going to be when I come in in the morning," he said. "They get them in a lot quicker than I can get them out, I'm learning."

Muskegon County Sheriff Dean Roesler said Lamiman is part of a bigger solution that includes programs to focus on screening offenders for mental health and substance abuse problems, so they will be less likely to commit crimes in the future and ease overcrowding conditions in the current jail.

### BY THE NUMBERS

**The Muskegon County Jail was built to house 370 inmates. Here are a few recent examples of over-populated days:**

- April 30 -- 417 inmates lodged.
- May 6 -- 424 inmates were lodged.
- May 7 -- 412 inmates were lodged.

"He's the direct bridge between judges, courts and the jail population," he said. "Eventually Scott will track what types of offenses are coming into the jail. Then we can look at what's happening in the community and focus resources out in the community to try to deal with some of the issues that bring these people to jail in the first place."

### The challenge

The remainder of February and much of March and April were relatively "slow" months for jail booking and overcrowding issues, Lamiman said.

But starting at the beginning of May things started to pick up, he said.

On May 6, there was an astounding 424 inmates in the jail that was built to hold 370 inmates. More recently, on May 29, there were 402 inmates packed inside the jail and another 19 waiting to be arraigned in district court.

Every morning Lamiman checks out that day's inmate population number and starts to review eligible inmates for early release.

He reviews up to 100 inmate files a day and practically has them memorized; Say an inmate's name and he can recite that person's raps sheet and release date.

In an effort to release inmates who were sentenced for less serious crimes, Lamiman scours through lists of those booked on misdemeanor charges.

On any given day, he reviews "parole holds" -- inmates being held in the Muskegon County jail, but who are scheduled to be shipped to another county for a warrant or other charges. Lamiman then notifies a parole officer in that jurisdiction to "come pick them up."

He then sifts through "failure to pay" inmates -- inmates who didn't pay court-ordered fines and costs from a previous judgment.

Meeting with a judge on those cases is not necessary.

"They're the easiest," Lamiman said.

- July 1 -- 399 inmates were lodged, including one awaiting arraignment.
- July 8 -- 398 inmates were lodged, including nine awaiting arraignment.

### JOB DESCRIPTION



**Lamiman**

#### Responsibilities of a jail population coordinator

- Maintain a close watch on the jail population on a daily basis.
- Help officials determine who might be appropriate for early release if necessary, and who might be better served in a substance abuse or mental health program.
- Communicate with judges and other officials about the status of various inmates and find help for released inmates as they reintegrate into the community.
- Work on ideas to limit the number of inmates who return to





Cory Morse| Chronicle photoA

substance on the office wall of Scott Lamiman, who the jail population coordinator at the Muskegon County Jail, Wednesday, May 27, 2009. "Nobody knows what it is," he said. "We call it 'jail ooze.'" Officials say the jail, which has about 400 inmates, needs repair and is too small for the quantity of prisoners it houses.

In most cases, inmates are screened by Muskegon Community Corrections employees who then determine if the inmate is eligible for an alternative program and which one is best suited for that inmate.

But what's most frustrating for Lamiman is when he works hard to get an "early release" for an inmate and the inmate ends up back in jail.



Cory Morse| Chronicle photoToilets inside the Muskegon County Jail

Wednesday, May 27, 2009. Officials say the jail, which has about 400 inmates, needs repair and is too small for the quantity of prisoners it houses.

jail.

- Provide reports and presentations to county commissioners and other interested parties, and prepare assessments regarding the effectiveness of alternative sentencing efforts.

"They don't follow the rules and they end up back here," he said.

The first person he managed to get approval for early release was a 26-year-old female. She's a perfect example of someone who abused the early release program.

"We had her shipped to an inpatient facility in Holland prior to sentencing," Lamiman said. "She came back for her sentencing and the judge ordered her back to the facility."



Cory Morse| Chronicle photoWires and mold behind the laundry room washing machines inside the Muskegon County Jail Wednesday, May 27, 2009. Officials say the jail, which has about 400 inmates, needs repair and is too small for the quantity of prisoners it houses.

But not long after, Lamiman found out she literally "jumped the fence" at the facility and was apprehended a month later, only to end back up at the county jail.

"You go through all the work to get people out and they jump the fence the first day," he said. "Now the next time when I go back to the judge and ask for an inmate to be sent to a facility, they're more reluctant to approve that."

Because Lamiman isn't in a position where he can monitor inmates after they leave the jail, he hears less success stories than he does bad news.

The overcrowding issue rarely leaves his mind, he said.

"I start having dreams about them and how to get them out of here. I'm constantly thinking about it," Lamiman said. "I have to be looking for new names when I come in each day because I have to stay on top of it."

The cycle continues each day and the pressure mounts on Lamiman and the judges who ultimately make the decisions about who to release.

"You get one out and another comes in to replace him. It's frustrating," Lamiman said.

### **Overcrowding and early releases: A catch-22.**

Prior to hiring Lamiman, Roesler said there was a similar position headed up by the Muskegon Community Corrections office. The community corrections employees were assigned to monitor the jail population, but their focus was primarily on inmates eligible for programs coordinated through their office.

Those employees still conduct the screening of inmates to see if they're eligible for specific treatment facilities, Roesler said.

But having Lamiman answer directly to the sheriff's office is a much better set-up, Roesler said.

"He looks at the entire jail population on a daily basis. It also frees up my jail administrator to concentrate on his duties -- policy and personnel issues within the jail," he said.

Roesler said perhaps the most important aspect of Lamiman's position is keeping the sheriff's office, judges and jail officials connected.

"He provides the judge with necessary information he needs, particularly when it comes to early releases, which we hate to do," he said.

The early-release issue is something Lamiman has to approach with caution. While the early release opportunities provide the jail with more room, allowing inmates back into the community before their sentence is up could have negative repercussions, he said.

"All the judges and I are very frustrated with the early releases we have to do. Many of the inmates recognize they have a good chance of getting out early because of the over-crowding. It makes a mockery of the whole system," he said. "If you're the judge sentencing someone to jail for a year and the person's attitude is, 'I'll do six months at the most,' where is the effectiveness?"

The sheriff and his predecessor, former Sheriff George Jurkas, have combined to declare seven jail overcrowding emergencies since new state guidelines regarding early releases went into effect Feb. 11, 2008. As part of the state-mandated process, Roesler has been forced to release hundreds of inmates, some of whom had not completed their sentences, and some who had not been able to post bail.

**EXHIBIT 17**

Muskegon Chronicle Article (Gaertner)

February 20, 2011



## Muskegon County Jail's poor condition forces more talk of new facility

Eric Gaertner | [egaertne@mlive.com](mailto:egaertne@mlive.com) By Eric Gaertner | [egaertne@mlive.com](mailto:egaertne@mlive.com)

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on February 20, 2011 at 6:25 AM, updated March 22, 2011 at 5:53 PM

MUSKEGON COUNTY — The rundown, busting-at-the-seams Muskegon County Jail is the issue that tends to keep several county officials up at night.

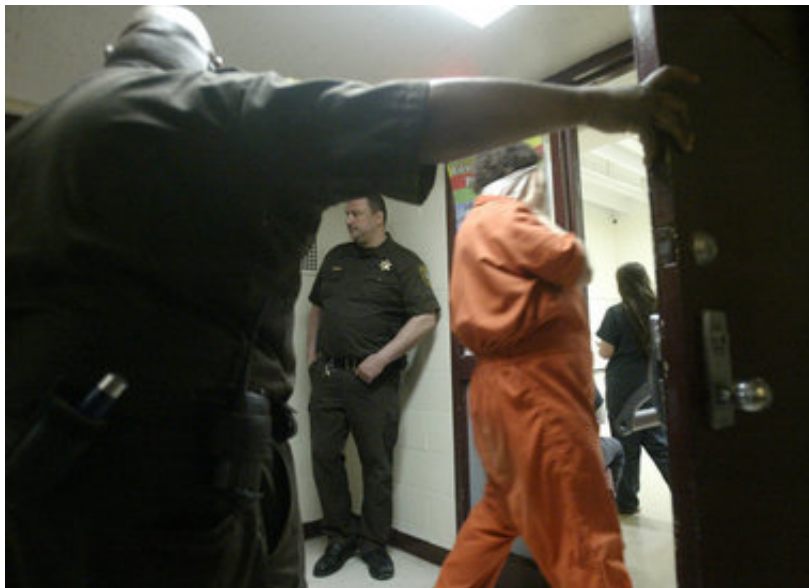
At least they're not sleeping there. The 50-year-old jail generally is regarded as being too small, too old, a logistical nightmare to operate and in constant need of maintenance.

But county commissioners have been reticent to ask voters for a millage to improve the jail during a recession that started about six years ago in Muskegon and has improved only mildly.

Meanwhile, bad conditions have gotten worse and a makeshift jail expansion in the Hall of Justice is bulging at the seams. The jail annex was forced in 1999 following a lawsuit because of the continuous overcrowding at the regular jail.

Some county commissioners fear conditions and overcrowding have reached the point that something has to be done soon. They plan to continue to raise the issue, which has been on the county's agenda for several years, until a decision is made.

Four years ago, an engineering firm hired by the county studied and drew up plans for a new jail. Three years ago, the county board approved millage language for an upcoming ballot. Two years ago this month, the board voted to remove the tax increase for a new jail from the ballot, citing an expectation that voters would reject it. Last year, county commissioners deemed it one of their top priorities during a strategic planning session.



Ken Stevens|Muskegon Chronicle

Muskegon County Sheriff Deputy Warner Watson holds a door open as fellow deputy Ivan Morris (background) watches female inmates enter the small gym area for physical activity time at the Muskegon County Jail on February 11, 2011.

### RELATED CONTENT

• **Muskegon County Jail Coordinator Scott Lamiman says after two years of monitoring overcrowding issue, 'Nothing's changed.'**



By most indications, the search for an answer to the jail problem will be a topic tackled this year by the new county board. The jail issue has been mentioned several times during other agenda items in the first two months of the year.

"It's not a question of if we need to do something," said board Chairman Ken Mahoney. "We have to do something in the near future. My concern is we don't just build a bigger box, but revamp the system."

Board Vice-Chairman John Snider, who serves on the Community Corrections Advisory Board, said even the jail-diversion programs the advisory group continues to implement won't be enough to halt the overcrowding and deteriorating conditions at the jail.

"The fact remains we need a new jail," Snider said. "That's the bottom line. It's a hazard."

County Commissioner Jim Derezinski, who pushed the issue to the forefront a few years ago as chairman, said he knows building a new jail isn't the most popular issue among the community. He pointed out that there is "no poster child" for advocating this issue.

"I see a disaster for the county waiting to happen," Derezinski said. "I'm going to force this board to listen. I'm going to be a horse's patoot."

Muskegon County Sheriff Dean Roesler is concerned that the overcrowding problem will only get worse as state government looks to reduce its costs by trimming its prison population and sending more prisoners to the county jails. Rated for 370 beds, the Muskegon County Jail currently features an average daily population of 414.

"At some point, some decisions have to be made, especially with the push by the state to put more on local governments and the county sheriff," Roesler said.

Roesler is not alone when it comes to a sheriff's perspective on the jail. His



Ken Stevens|Muskegon Chronicle

A damaged ceiling tile above a bunk in the female day room at the Muskegon County Jail on February 11, 2011.



predecessors, George Jurkas and Robert Carter, have similar concerns.

Jurkas, who went public with his concerns about the jail in 2005, said at the time that when inmates in the jail have stinky feet that everyone else smells it. "And there's one toilet per cell, so if someone gets diarrhea, everyone's going to smell it."

Carter, who along with Judge Michael Kobza sued the county board that forced the expansion in 1999, said conditions in the jail continue to worsen.

"Since that time, the place has gone to hell," said Carter, who has visited the jail recently. "Even worse than it was."

Muskegon County 60th District Court Chief Judge Harold F. Closz III said the county's circuit and district court judges, the prosecutor and the sheriff previously reached an agreement on guidelines to address the jail overcrowding issue. In some cases, the guidelines allow for inmates to be released early, sentences are reduced or bails are reduced.

"There are a lot of people walking the streets who would be incarcerated in other counties," Closz said. "We obviously need more jail space."



Ken Stevens|Muskegon Chronicle

An isolation cell in the female day room at the Muskegon County Jail on February 11, 2011. (Muskegon Chronicle/Ken Stevens)

The 2009 millage proposal, eventually pulled from the ballot, would have asked voters to approve up to 1 mill for 20 years for a \$23 million combined jail and juvenile detention facility. The plan was to continue using the annex portion of the current setup and build a new facility, giving the county 538 inmate beds.

While most agree that something must be done, the stumbling block remains: How does the county pay for a new jail? The fear is that voters won't approve a tax increase to pay for it and county government's own financial constraints continue to complicate the matter.

However, pressure to address the issue are the ongoing maintenance costs and price tags associated with the threats of lawsuits, potential renovations and transporting inmates to another county's facility if the jail were forced legally to close.

## Visible problems

The jail's noticeable problems were quite evident during a recent tour of the facility for some local officials and media, led by Roesler. Among those items were: worn-out floors, cracking walls, small holes between floors, security cells with bars filled to capacity (Roesler said the "least of the worst" are put in general population), sewer smell, non-remote locking doors and an overwhelming lack of space.

Jail staff members use storage rooms as offices and programming space is nearly nonexistent. Roesler and Derezhinski pointed out that more space is needed for drug and substance-abuse counseling, programming for mental- and physical-health issues, and for GED test studying — items that could potentially limit repeat offenders.

The five decades old jail also was not originally designed with the current inmate population in mind.



Ken Stevens | Muskegon Chronicle

Peeling paint on a ceiling just outside a male inmate cell at the Muskegon County Jail on February 11, 2011.

Based on the Feb. 11 jail population following a morning prison run of 21 new inmates, the total was 401 inmates. The breakdown was 334 males and 67 females, and 308 felony charges and 93 misdemeanors. Even as recently as the 1980s, the female population was typically in the single digits and high-security offenders were at a minimum.

"At the time, it was a jail designed for its purpose," Roesler said. "It just hasn't kept up with what is needed."

Carter said those who claim that the poor conditions could be a deterrent need to remember that staff work in the "same bowl of crap."

Roesler has said a new jail also would provide judges with the ability to sentence the people who need to be sentenced to jail. Carter said that issue, because of the overcrowding in the 1990s, led to that lawsuit.

"Judges are frustrated, police are frustrated and it's not serving the community in public safety the way it's supposed to," Derezhinski said.

## A matter of money

With all the current economic factors lining up against it, funding for a new jail remains the issue.

The county has been saving money for a potential jail for years. At this point, that fund is at about \$7 million. Much more money is needed to build any type of new jail.

Derezinski and Mahoney mentioned that a bond issue is being examined. The county would then need to find a way in its tight budget to pay off annual bond payments.

Derezinski offered several ideas to explore. He suggested the possibility of privatizing some current county functions, such as the airport and Brookhaven Medical Care Facility. He also said that the county could look at dedicating some of the money it would gain in personal-property taxes from the proposed wind farm on the wastewater site and local shared revenues from the proposed Little River Band of Ottawa Indians casino.

County Commissioner Alan Jager is worried about the potential impact on the county's finances. He said he knows the jail needs help after touring it recently, but the financial commitment is a lot to take on, especially if it leads to more corrections officers for a larger jail.

"We do need a better jail," Jager said. "The long-term costs scare me more than the jail itself."

**E-mail: [egaertner@muskegonchronicle.com](mailto:egaertner@muskegonchronicle.com)**



Ken Stevens|Muskegon Chronicle

A male inmate lies in a cell at the Muskegon County Jail on February 11, 2011.

Loading Photo Gallery

#### **Muskegon County Jail**

Concerns continue for county officials about the conditions of the aging Muskegon County Jail.

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**EXHIBIT 18**

Muskegon Chronicle Article (Gaertner)

October 17, 2012



## The jail dilemma: Overcrowding, ongoing maintenance issues create Muskegon County headache

Eric Gaertner | [egaertne@mlive.com](mailto:egaertne@mlive.com) By Eric Gaertner | [egaertne@mlive.com](mailto:egaertne@mlive.com)

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on October 17, 2012 at 6:31 AM, updated October 17, 2012 at 6:34 AM

*Editor's note: This is the next in a series of posts about Muskegon County's quest to replace the county jail.*

MUSKEGON COUNTY, MI – If you have been inside the jail – as an inmate, visiting an inmate, working as a guard or on a tour – than you probably comprehend the poor conditions that Muskegon County officials often cite when talking about the need for a new facility.

If you haven't been inside, here are some sources describing the conditions:

### Jail Inspection Report for Muskegon County Jail

The most recent inspection report by Michigan Department of Corrections County Jail Services Unit, dated Nov. 10, 2010, shows that the jail was alerted by state officials for concerns with overcrowding and several safety and maintenance issues. The on-site inspection was conducted on Aug. 31, 2010. The inspections are mandatory every two years, and the next report is currently being compiled.

Loading Photo Gallery

Among the items listed in the report that needed to be repaired, replaced or addressed at that time were: Removal of gang symbols, graffiti and pictures on some of the cell walls, removal of an uncovered electrical outlet box, repairs to some sink water faucets that were not working properly or at all, repairing numerous cell doors that are sticking and not closing properly, cleaning and repairs to most of the showers and shower vents throughout the facility, removal of suspected mold and painting needed in spots. The department's response was to issue repair orders for the items.

The overcrowding of the jail caught the attention of the inspector based on the report. He wrote in the report, "As in the last inspection, on the day of the inspection as well as the previous six consecutive days, the inmate general housing population exceeded the rated design capacity of the facility. It is recommended that the sheriff declare an overcrowding state of emergency pursuant to MCLA 801.51 when applicable to take other appropriate steps to ensure that the inmate population does not exceed the rated design capacity."

Sheriff Dean Roesler's response in the report: "The jail crowding issue is and has been a consistent problem in

Muskegon County for over 20 years. Muskegon County does have in place a jail population management plan which requires all judges to participate in bed allocations. Sheriff did declare overcrowding state of emergency as of Oct. 26, 2010 and statutory requirements are being followed as a result of this emergency."

### **Inmate's letter to MLive and The Muskegon Chronicle**

In an Aug. 19 letter sent by Dean Fish and signed by 10 other inmates, they described several issues with the jail. The jail conditions they described included leaking pipes in the 54-year-old facility and they alleged that at times the toilets leak so bad that it covers the floor and forces blankets to be put down.

Among the other issues they wrote about were the needs for certain areas to be painted, the mold that exists above the showers and the problem with overcrowded conditions.

"If our cells were in better conditions, the inmates would not cause as much grief towards the staff," Fish's letter states.

### **Grand Valley State University expert**

John Walsh, a Grand Valley State University professor in the School of Criminal Justice, pointed out that lots of case law exists that defines and establishes that jails must be kept to "acceptable" conditions, in a safe and "somewhat clean" setting.

"While prisoners have limited rights, they still have rights," Walsh said.

He also pointed out that a vast number of inmates are in jail awaiting pretrial hearings, so people need to consider that those inmates haven't been convicted and, under the U.S. Constitution, they should be presumed innocent.

Walsh said that by doing nothing, the county and county taxpayers may be facing a more expensive situation down the road. "It's a community investment," Walsh said, referencing the safety problems that can exist for inmates and staff.

As far as overcrowding, he said the expansion of the community corrections agenda, dealing with nonviolent offenders, should go along with having a new jail.

"What we do know for those who have dealt with this in the last 20 to 25 years, you cannot build your way out of it," Walsh said.

### **Tours of the facility**

Muskegon Chronicle staff members have toured the jail with the sheriff on multiple occasions over the past few years.



Among the items easily identifiable during the tour were worn-out floors, cracking walls, small holes between floors, security cells filled to capacity, a sewer smell, nonremote locking doors and an overwhelming lack of space.

Based on a 2011 tour, county officials highlighted the need for more space for substance abuse counseling, programming for mental- and physical-health issues and areas for preparation for the GED test. They contend that those programs could potentially limit repeat offenders.

Muskegon County officials have been investigating for months the potential options for replacing the jail and the Juvenile Transition Center. The jail is deemed outdated, too small and an operational and maintenance headache by many county officials.



Inmates lounge in their cell as the Citizens Review Committee members tour the Muskegon County Jail on Wednesday, May, 2, 2012. The citizens committee is designed to help review plans for a jail replacement proposal and provide public outreach concerning the jail issues.

Erin Stubblefield | MLive.com

#### **RELATED: The jail dilemma: Muskegon County inmate reports shine light on why they're incarcerated**

The Muskegon County Jail, constructed in 1958, was originally rated with a design capacity of 154 beds. In 1978, a renovation increased the rated design capacity to 244 beds. In 1999, renovations to the lower level of the county building increased the rated design capacity to its current 370 beds.

Chief Circuit Judge William C. Marietti said the overcrowding and overall conditions at the jail are a bigger problem for staff than inmates.

"I just hate to see the staff put in jeopardy, which I think they are in this instance," Marietti said.

#### **RELATED: The jail dilemma: Judge's 1996 lawsuit vs. Muskegon County part of ongoing problem**

Marietti said managing a lot of people in close quarters leads to problems and frustration runs high with inmates.

When asked about the conditions in the jail, Circuit Judge Timothy G. Hicks said, "I don't think anyone disputes the need for a big change."

*Eric Gaertner covers government, politics and the outdoors. He can be reached via email at [egaertne@mlive.com](mailto:egaertne@mlive.com). Follow him on Twitter @EricGaertner1.*

**EXHIBIT 19**

Muskegon Chronicle Article

October 4, 2014



## Safer confines: What will change with construction of the new Muskegon County Jail

Loading Photo Gallery

**Stephen Kloosterman | [sklooste@mlive.com](mailto:sklooste@mlive.com)** By **Stephen Kloosterman | [sklooste@mlive.com](mailto:sklooste@mlive.com)**

**Follow on Twitter**

on October 04, 2014 at 6:43 AM, updated October 04, 2014 at 6:44 AM

"The intent is reducing the ratio of staff to inmates." -- Granger Construction Project Engineer Todd Butler.

MUSKEGON, MI – After years of words, numbers and drawings in documents, Muskegon County's new body of justice has taken shape in downtown Muskegon.

The heart of the new Muskegon County Jail – prefabricated steel cells from Georgia – have been installed on a three-story skeleton at 990 Terrace St. next to the courthouse. The end of construction, June 2015, is less than 12 months away.

The rising walls of bricks, mortar and steel makes it easier for Jail Administrator Mark Burns to show how the jail's business will be conducted differently than in the past – better, he said, even for the inmates.

### Inside looking out

#### Muskegon County Jail construction

Crews continued work at the new Muskegon County Jail site that will have 544 beds for inmates and is expected to open in June, 2015.

Lt. Burns paused in four-man and two-man cells to show a few specifics: Partially obscured glass windows to give inmates some limited privacy in the toilet from the guards. Doors on a percentage of the cells are wide enough for inmates who use wheelchairs. Cell windows don't allow them to make eye contact with people on the street outside, but will allow some natural light inside.

The top two floors are full of the steel cells. But the first floor will be built with cinder-block walls and dormitory-style housing for prisoners in the work-release program. There are also more "weekender-type" holding cells and cells for inmates who need to detox or shower off pepper spray before entering the jail's general population.

For anyone who's **toured the current jail** -- with its stained ceiling tiles and peeling paint, where inmates are crowded into holding cells in cells faced only by steel bars – even the roughed-in walls look like the start of an improvement.

Burns and his staff have heard inmates joking about getting their own "condo" in the new jail.

And Burns said he won't be surprised if, based on statistics for repeat offenders, some inmates of the old jail find

their way into the new structure.

"It's a people business," he said. "It's either comedy or tragedy."

### **Working conditions**

The new jail will also affect the sheriff's deputies whose business it is to run the jail and transition center.

All of the cells on a floor can be observed from a central hub, where a single jail deputy will have complete control over the floor's electronic functions – elevators, lights, temperature. A log of everything the deputy does will be available for Burns and his managers to review. Cells will be grouped so that groups of inmates who aren't compatible can easily be kept separate from each other.

The new jail may be a safer place to work for jail deputies. Last year, a deputy was seriously injured by an inmate wielding a chunk of crumbled concrete in a sock.

The new jail will also require fewer of the deputies to run it.

During the jail's planning phase, Muskegon County officials said that a more efficient jail with a lower payroll would help with payments on the \$39 million the county borrowed to build the jail and new juvenile transition center. Muskegon County Board of Commissioners Chairman Ken Mahoney said the sherriff's office has agreed to pay more than \$1 million a year against the debt.

Burns said he's still completing his plan of how the new jail will be staffed. A criminologist is helping him.

Some of the staff reductions are built into the bricks and mortar. "I know the intent is reducing the ratio of staff to inmates," said Granger Construction Project Engineer Todd Butler.

For instance, medical exam rooms on each floor will cut down on staff hours needed to walk prisoners across the jail. A video-phone visitation system will cut down on the number of staff needed to supervise the inmates with their family. During the planning process, medical exam rooms on each floor will cut down on staff hours needed to walk prisoners across the jail.

"The new system is going to use the county's existing Cisco telephone system," Burns said. "That's going to be a real, true time-saver."

### **Curb appeal**

At the curb on the other side of the road from the jail's skeleton is a mocked-up wall showing what the exterior shell of the building will look like. The jail will be one of the biggest buildings in downtown Muskegon, and its finished appearance can't be ignored by planners.

The mock wall is built from cinder block at the bottom with metal siding for the upper floors. The metal panels will be a bluish color, to match the Hall of Justice, Burns said. Windows in the exterior are narrow, and let in light, but

are separated by a chase from the interior cells and don't line up with the cell windows.

That exterior is scheduled to be completed soon, after the last of the cells are in place and before winter hits.

"They're on schedule," Mahoney said. "Soon, they'll be closing the place in. It's just taking shape in a hurry."

The Hall of Justice entryway will be extended to connect with the jail. Visitors to both the courthouse and the jail will enter there.

At its groundbreaking and later at a topping-out ceremony, public officials cast the jail as a tool for keeping the county's streets safe. The new jail will be bigger than its predecessor, increasing its capacity from 370 to 544 inmates.

"Jail does make a difference ... when you have jail available as a deterrent," the county's Chief Circuit Court Judge, William Marietti, said at the topping-out ceremony.

*Stephen Kloosterman covers local government, employment and the outdoors for MLive Muskegon Chronicle. Email him at [sklooste@mlive.com](mailto:sklooste@mlive.com) or follow him on **Facebook**, **Twitter**, and **Google+**.*

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**EXHIBIT 20**

Letter to Williams Hughes

August 8, 2013





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August 8, 2013

Theodore N. Williams, Jr.  
Williams Hughes, PLLC  
120 W. Apple Avenue, P.O. Box 599  
Muskegon, MI 49443-0599

**Re: Conditions at Muskegon County Jail**

Dear Mr. Williams,

We look forward to meeting with you and Muskegon County Jail administrators on August 15, 2013 at 10 a.m. to tour the facility and discuss potential solutions to the issues outlined below. This letter is intended to provide you with a summary of our principal concerns regarding conditions at the jail, as well as to outline our proposals for addressing those concerns.

**Background and History**

The ACLU of Michigan has received numerous complaints from inmates and former inmates of the Muskegon County Jail regarding the deplorable conditions at the jail. For over a year, the ACLU, together with the firm of Pitt, McGehee, Palmer, Rivers & Golden, has been investigating these conditions. We have interviewed a significant number of individuals who have or are serving time in the Muskegon County Jail, and have received consistent and highly concerning reports about the conditions there.

County officials have publicly acknowledged that the current jail is “outdated, too small, and a liability.”<sup>1</sup> As Prosecutor Tony Teague has said, “We definitely need a new facility . . . The current facility is in terrible condition.”<sup>2</sup> Similarly, Board of Commissioners Chairman Ken Mahoney has stated that “[t]he jail has been a 40-year issue here. We need to move on.”<sup>3</sup> Conditions are, according to former correctional officials, “even worse” than in 1999, when the County was sued to force expansion of the jail.<sup>4</sup>

According to published news reports, Muskegon County is moving forward with plans to construct a new jail. We appreciate the significant efforts that have gone into that process. We also recognize that building a new jail requires considerable resources, not just in terms of money, but also in terms of the time and attention of county leaders. We hope that jail

<sup>1</sup> [http://www.mlive.com/news/muskegon/index.ssf/2012/03/muskegon\\_county\\_jail\\_committee.html](http://www.mlive.com/news/muskegon/index.ssf/2012/03/muskegon_county_jail_committee.html)

<sup>2</sup> [http://www.mlive.com/news/muskegon/index.ssf/2011/06/muskegon\\_county\\_to\\_consider\\_se.html](http://www.mlive.com/news/muskegon/index.ssf/2011/06/muskegon_county_to_consider_se.html)

<sup>3</sup> [http://www.mlive.com/news/muskegon/index.ssf/2013/03/muskegon\\_county\\_commissioners\\_32.html](http://www.mlive.com/news/muskegon/index.ssf/2013/03/muskegon_county_commissioners_32.html)

<sup>4</sup> [http://www.mlive.com/news/muskegon/index.ssf/2011/02/muskegon\\_county\\_jails\\_poor\\_con.html](http://www.mlive.com/news/muskegon/index.ssf/2011/02/muskegon_county_jails_poor_con.html)



planning/construction process will continue to move forward, and that a new jail will in fact be built. We also hope that construction of the new jail will solve many of the problems with the existing structure.

At the same time, we cannot ignore the unconstitutional conditions in the current jail. First, even assuming that construction of the new jail proceeds without any delays (and delays with large, publicly-funded construction projects are very likely), estimates are that the new jail will not be completed until late 2015. Thus, even under a best case scenario, over the next two years hundreds of people will be incarcerated in the current jail. Second, while some of the problems with the old jail will likely be solved simply by building a new jail (e.g. inadequate plumbing), we are concerned that other problems (e.g. lack of privacy while toileting and showering, inadequate medical care, failure to provide exercise opportunities, ineffective grievance system) will be left unaddressed. Muskegon County should use the opportunity presented by construction of a new jail to develop comprehensive plans to ensure that inmates are housed and treated in a manner that meets constitutional standards.

### **Constitutional Standards for Humane Jail Conditions**

The Eighth Amendment protects convicted prisoners from conditions that “involve the wanton and unnecessary infliction of pain” and which, “alone or in combination, may deprive inmates of the minimal civilized measure of life’s necessities.” *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981). While the Eighth Amendment “does not mandate comfortable prisons [] neither does it permit inhumane ones[.]” *Farmer v. Brennan*, 511 U.S. 825, 832 (1994) (internal quotation marks and citations removed). Similarly, the rights of pretrial detainees are protected by the due process clause of the Fourteenth Amendment. *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). Because pretrial detainees are presumed innocent, the “indignities that would be appropriate punishment for convicted felons” cannot be imposed, and detainees have the right to be free of conditions that amount to “punishment.” *Id.* at 583-84.

### **Overall Conditions at the Muskegon County Jail**

The Muskegon County Jail Facility has a rated capacity of 370 beds. In the words of Sheriff Roessler, the jail “has been persistently overcrowded since September 2009.”<sup>5</sup> For example, inmate counts from September 26, 2012 through October 2, 2012 ranged from 411 to 420.<sup>6</sup> The jail must frequently release inmates pursuant to the standards set by the County Jail Overcrowding State of Emergency Act, M.C.L. 801.501 *et. seq.* Despite these releases, inmates report being crammed together, with bunks being stuffed into common areas and inmates sleeping on mats on the floor. Due to overcrowding, newly arrived inmates are held in a tiny holding cell without access to a bed or shower, sometimes for days.

Inmates report abysmal conditions at the jail, including mold, non-functioning plumbing, bugs, and walls caked with blood. Inmates report being exposed to human feces and urine, due in part to leaking toilets and in part to problems with the plumbing that cause toilets in one area to overflow when toilets are flushed in another area. Inmates report that water does not drain

<sup>5</sup> Memo of Sheriff Dean Roessler, “2012 JOCA #4” (Oct. 11, 2012).

<sup>6</sup> *Id.*



properly in some showers, forcing inmates to stand in the water used by other inmates (who may have illnesses, injuries or be menstruating) in order to clean themselves. The water in some of the showers is scalding hot. Inmates collect water in rubber or plastic totes and wait for it to cool before they can use it to bathe. One inmate reported that when the tote she was using to collect water tore open, the scalding water burned her skin.

Unsurprisingly, given such conditions, inmates also are regularly subjected to outbreaks of communicable diseases. MRSA outbreaks are routine, and are not effectively addressed. For example, one inmate who had recently has a caesarean section, developed MRSA in the wound. The staff did not have the training to deal with her injuries, and as a result she also acquired an e-coli infection. Moreover, the medical unit repeatedly cancelled the inmate's appointments. The infection reoccurred sometime later. Although nursing staff recommended that the inmate be sent to an outside hospital for treatment, the head nurse refused to send her. Instead, she was put in a holding tank, where the wound ruptured. She waited more than two hours in the holding tank before being treated.

Inmates are not only exposed to communicable disease, but also report more generally that they do not receive adequate medical care. Inmates may wait for weeks to be seen, even when they inform jail staff that they have serious medical conditions or are in severe pain. Some inmates report permanent injuries, including disfigurement, as a result of such neglect.

Michigan Department of Corrections' inspection reports confirm the inmates' accounts of conditions at the jail. For example, the draft report from October 2012, which was the most recent one released to us through FOIA, noted, among other things, that leaking toilets created a "serious potential health hazard;" that flushing toilets cause sewage backups into toilets of other cells; that shower water is "extremely hot" in many cells, creating "a potential hazard to the user;" that water is leaking unto cell floors; that shower curtains are soiled and "contain a black substance suspected to be mold/mildew;" that air vents contain a black substance suspected to be mold/mildew; and that there were bugs in the sleeping areas. Health appraisals are not completed within 14 days, as required by law. The report called for immediate improvements.<sup>7</sup>

### **Lack of Privacy for Female Inmates**

Female inmates are regularly and routinely subjected to viewing by male guards while naked or partially naked, while using the toilet, and while showering or changing clothes. The holding tank and cell blocks used to house female inmates are constructed so that women inmates using the toilet or shower facilities can be viewed by male guards from the "catwalk," common areas and other cells. Moreover, women inmates must wear one piece jump suits, and as a result they must disrobe and expose their upper bodies as well as their genital area when they use the toilet. Women inmates are not able to disrobe, bathe or dry themselves with any privacy, nor are they allowed any privacy when entering or exiting the showers. Male guards routinely enter cells and day room facilities at will without knocking or announcing themselves while female inmates are disrobing, using the toilet or using the showers.

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<sup>7</sup> Michigan Department of Corrections, "County Jail Inspection Report: Muskegon" (Draft), Oct. 15, 2012.



Numerous female inmates have reported that they attempt to protect their bodily privacy by covering the windows on the day room doors with plastic bags or other items, or by using their bodies, towels or bed linens to prevent male guards and inmates from seeing women who are changing clothes, using the toilet or using the shower. Women inmates are either disciplined or threatened with discipline when they attempt to protect their own privacy and bodily integrity in this manner.

Genitals, buttocks, and, for women, breasts are especially private parts of the human body. Involuntary exposure of these private body parts to members of the opposite sex is uniquely demeaning and humiliating. *See Lee v. Downs*, 641 F.2d 1117, 1119 (4th Cir. 1981) (most people have “a special sense of privacy in their genitals, and involuntary exposure of them in the presence of people of the other sex may be especially demeaning and humiliating”). The act of using the toilet and, for women, of attending to the sanitary needs related to menstrual periods, are especially private acts. Involuntary exposure to members of the opposite sex while engaged in these act is uniquely demeaning and humiliating.

Although prisoners’ privacy rights are limited compared to those of the general public, prisoners retain a right to bodily privacy while incarcerated. *See, e.g., Cornwell v. Dahlberg*, 963 F.2d 912, 916-17 (6th Cir. 1992) (male inmate strip-searched before female guards raised valid Fourth Amendment privacy claim); *Covino v. Patrissi*, 967 F.2d 73, 78 (2d Cir. 1992) (“we have little doubt that society is prepared to recognize as reasonable the retention of a limited right of bodily privacy even in the prison context”); *Fortner v. Thomas*, 983 F.2d 1024, 1030 (11th Cir. 1993) (“We are persuaded to join other circuits in recognizing a prisoner’s constitutional right to bodily privacy...”). As the Sixth Circuit has explained, “a convicted prisoner maintains some reasonable expectations of privacy while in prison, particularly where those claims are related to forced exposure to strangers of the opposite sex, even though the privacy rights may be less than those enjoyed by non-prisoners.” *Cornwell*, 963 F.2d at 916.

Courts have repeatedly held that routine viewing of naked or partially naked inmates by staff of the opposite sex is unconstitutional. *See, e.g., Cornwell*, 963 F.2d. 912; *Kent v. Johnson*, 821 F.2d 1220 (6th Cir. 1987) (reversing dismissal of male prisoner’s complaint that practice of allowing female guards to see him performing bodily functions and showering violated his rights); *Lee v. Downs*, 641 F.2d 1117 (4th Cir. 1981) (affirming a jury verdict for a female prisoner who was forced to remove her undergarments before male guards because “when not reasonably necessary that sort of degradation is not to be visited upon those confined in our prisons”); *Dawson v. Kendrick*, 527 F. Supp. 1252, 1316 (S.D.W.Va. 1981) (“[T]he privacy of female prisoners is severely infringed by the fact that male prisoners, trustees and deputies can peer into the side cells occupied by female prisoners.”); *Bowling v. Enomoto*, 514 F. Supp. 201, 204 (N.D. Cal. 1981) (“Prison inmates have a limited right to privacy which includes a right to be free from the unrestricted observation of their genitals and bodily functions by prison officials of the opposite sex under normal prison conditions.”); *Hudson v. Goodlander*, 494 F. Supp. 890, 893 (D. Md. 1980) (“[T]he plaintiff’s rights were violated by the assignment of female guards to posts where they could view him while he was completely or entirely unclothed.”).

In sum, routine viewing of female inmates by male guards is clearly unconstitutional. Fortunately, there are simple solutions – such as constructing privacy walls around toilets and



shifting to two-piece jumpsuits – that can protect women’s privacy while maintaining security in the current jail. It is also essential that the privacy issues are addressed in construction of the new jail.

### **Failure to Provide Out-of-Cell Exercise Opportunities**

Female inmates report that although they may be incarcerated at the Muskegon County Jail for as long as a year, they rarely if ever receive out-of-cell exercise opportunities. For example, one inmate reported that during a 7 ½ month incarceration, she only went to the gym on one occasion, and that was because her cell was being searched. Other female inmates reported that jail staff told them that there were simply not enough officers to allow women to go to the gym.

Not only do female inmates lack opportunities for outdoor or even just out-of-cell exercise, but they have very limited opportunities to leave their cells at all. Female inmates eat, sleep, and shower in their cells, which they share with several other inmates, and, with some limited exceptions, are essentially on lockdown 24 hours a day, seven days a week. It is unclear to us how much exercise, if any, male inmates receive.

Courts around the country, including the Sixth Circuit, recognize that prisoners need regular exercise to maintain basic physical and psychological health, and that the absence of exercise may constitute a serious risk to inmate health and welfare. *Ruiz v. Estelle*, 679 F.2d 1115, 1152 (5th Cir. 1982), citing *Campbell v. Cauthron*, 623 F.2d 503, 506-507 (8th Cir.1980); *Patterson v. Mintzes*, 717 F.2d 284, 289 (6th Cir. 1983); *Spain v. Procunier*, 600 F.2d 189, 199 (9th Cir.1979); see also *Hoptowit v. Ray*, 682 F.2d 1237, 1258 (9th Cir.1982) (“The deprivation of nearly all fresh air and light . . . creates an extreme hazard to the physical and mental well-being of the prisoner.”).

Thus, a significant deprivation of exercise violates the Eighth Amendment. *Patterson v. Mintzes*, 717 F.2d 284 (6th Cir. 1983) (inmate denied exercise for 46 days raised an Eighth Amendment violation); *Walker v. Mintzes*, 771 F.2d 920, 927-28 (6th Cir. 1985) (inmates in administrative segregation denied outdoor exercise raised violation of Eighth Amendment); *Ruiz v. Estelle*, 679 F.2d 1115, 1152 (5th Cir. 1982) (prisoners at maximum security facility entitled to out-of-cell exercise where 2 prisoners are held in a 45 square foot cell for almost 24 hours a day); *Spain v. Procunier*, 600 F.2d 189, 199 (9th Cir. 1979) (regular outdoor exercise necessary for the health of inmates who spend virtually all their time in their cells); see also *Kirby v. Blackledge*, 530 F.2d 583, 587 (4th Cir.1976) (prisoner claims regarding inadequate exercise, “taken alone reach the level of cruel and unusual punishment”); *Preston v. Thompson*, 589 F.2d 300 (7th Cir. 1978) (upholding preliminary injunction requiring provision of at least one hour of outdoor recreation per day); *Franklin v. State of Oregon, State Welfare Division*, 662 F.2d 1337, 1346 (9th Cir.1981) (allegations of denial of exercise and the denial of regular outdoor exercise raise Eighth Amendment claims).

### **Lack of Feminine Hygiene Products and Undergarments**

Some female inmates have reported that they do not have adequate access to undergarments and feminine hygiene products. These inmates report that women who get their menstrual periods



while incarcerated do not receive needed sanitary napkins in a timely fashion and in some instances are not provided with sanitary napkins at all. Women inmates who bleed into their clothing due to the lack of adequate feminine hygiene supplies are not provided with clean clothing until the next laundry day. Women may have to wear this bloody clothing for as long as a week before a clean jumpsuit is provided. Other women reported that they went for weeks without a bra.

### **Ineffective Grievance System**

Numerous inmates reported that although they had submitted grievances regarding issues like inadequate medical care, lack of privacy and overall conditions at the jail, they never receive any response. Inmates even reported that jail staff ripped up their grievances in front of them. A functional grievance system is critically important to ensure that the jail can address problems and to inform senior administrators of problems. A functional grievance system is also legally required.

### **Proposed Resolution**

Clearly, addressing the problems outlined above will require the development of a detailed remedial plan. Any remedial plan must include concrete steps to:

- Address the most serious health and safety conditions at the current jail pending construction of the new jail. These conditions include overcrowding, excessive detention in holding cells, outbreaks of contagious diseases, mold, sanitation/plumbing, and inmate exposure to bodily wastes.
- Ensure inmate privacy, consistent with security needs, in both the current jail and new jail.
- Ensure access to feminine hygiene products and undergarments in both the current jail and new jail.
- Ensure out-of-cell exercise opportunities in both the current jail and new jail.
- Ensure access to adequate medical care in both the current jail and new jail.

We are open to negotiation on both the process for developing a remedial plan and the mechanisms for enforcing any such plan. However, at a minimum, the process must include our expert, Peter Wilson (resume attached), and other experts as necessary. In addition, there must be a mechanism to ensure that any agreement we reach is enforced.

In order to begin the process of developing a remedial plan, Mr. Wilson has requested that you provide him with your Policy and Procedure Manual, your Training Curriculum for Entry Level Staff, In-Service Trainings, and your Staff Plan. He may have requests for additional information or documents after the jail tour.

With respect to damages, up until now we had anticipated that this matter would be addressed through class litigation, in which case the County would face serious financial exposure. However, in the interests of resolving this matter without litigation, we are prepared to limit



damage claims to a handful of individual clients who have been working with us during our development of this case.

Similarly, while we have invested a significant amount of time in this matter—approximately 55 hours for ACLU attorneys and approximately 50 hours for cooperating attorneys at Pitt, McGehee, Palmer, Rivers & Golden—we are prepared to discount our attorney's fees (though not costs) in the interests of a settlement pre-filing.

We want to emphasize that we appreciate and acknowledge the efforts that Muskegon County and the Sheriffs' Department have made in developing plans for the new jail. We hope and trust that conditions there will be a significant improvement over the current jail. Everyone recognizes that a new jail is necessary, given the age and condition of the present jail. But that does not absolve the County or Sheriffs' Department of responsibility for taking the necessary steps to bring conditions at the current jail into compliance with minimum, legal standards. We believe that our expert will be able to provide a concrete plan that will allow you to bring the jail into compliance, and hope that this will enable us to avoid litigation.

We look forward to touring the jail and speaking with you in more detail about these issues on August 15<sup>th</sup>.

Sincerely,



Miriam Aukerman  
West Michigan Regional Staff Attorney  
ACLU of Michigan



Kevin Carlson  
Pitt, McGehee, Palmer, Rivers & Golden

Encl.

cc: Peter Wilson

Peter Wilson - Resume

To Whom It May Concern:


Enclosed you will find my resume detailing my experience in the juvenile justice and adult criminal justice fields. My management experience includes directing the operation of treatment/correctional facilities, preparing budgets and controlling expenditures, making presentations to legislative bodies, assisting legislators with justice legislation, negotiating labor contracts, settling union grievances, writing policy and procedure manuals, making presentations to large groups, training employees and writing detailed progress reports to judges, government executives and justice officials.

The following is summary of my career accomplishments:

- Appointed by the Chief Circuit Judge of Wayne County to serve as the first Director of Jails for Wayne County responsible for all facility operations and to gain compliance with court orders and constitutional standards.
- Appointed by the Wayne County Executive to become the first Executive Director of the Wayne County Youth Home to manage the transition from a court operated facility to a CEO operated facility.
- Hired by Wolverine Human Services to assist with the planning and construction of the first privatized high security juvenile facility in Michigan. Also served as Director the facility.
- Assisted in the planning, design and construction of several treatment/correctional facilities valued in excess of \$106 Million.
- Won regional and national awards for the construction of the Wolverine Secure Treatment Center and the 840 bed Dickerson Detention Facility.
- Volunteer Board Member of Growth Works, Inc., a juvenile justice treatment program, for the past 21 years.
- Assisted the administration of Madonna University in developing their criminal justice education program, wrote the curriculum and recruited their first class.
- Nominated as Adjunct Faculty of the Year at Saginaw Valley State University.
- Planned, organized and managed the first Training Academy for the Wayne County Sheriff's Department.

Please contact me if you need additional information.

Sincerely,



Peter R. Wilson

**RESUME**

Peter R. Wilson  
16461 Belfast Drive  
Fenton, MI 48430  
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Home: (810) 241-5880  
Cell: (989) 737-1156  
E-mail: [kl.wilson@charter.net](mailto:kl.wilson@charter.net)

**Education**

Master of Arts -- Education  
University of Michigan

Bachelor of Science -- Criminal Justice  
Michigan State University

Correctional Management Training  
Wharton Business School  
University of Pennsylvania

**Current Employment**

**Wolverine Human Services (1997 to Present)**

Serve as Security Director, Community Liaison and for three years as the Director of the Secure Treatment Center, an 80 bed high security program providing counseling, education, vocational training, medical, drug treatment and recreation for youth ages 12-20 under contract to the State of Michigan and several counties.

**Saginaw Valley State University (2000 to Present)**

Adjunct Professor of Criminal Justice and Political Science

**Madonna University (1971 to Present)**

Adjunct Professor of Criminal Justice



## **Previous Employment**

### **County of Wayne (1970 – 1997)**

#### **Executive Director of Wayne County Youth Home (1984-89)**

Responsibility – Chief Administrator responsible for a staff of 200 and 300 pre-adjudicated juvenile offenders.

- Appointed by the Wayne County Executive as the first Executive Director to facilitate the transfer of control from the Juvenile Court to CEO's Office.
- Served as Juvenile Justice Advisor to Wayne County Executive regarding the expenditure of juvenile justice funding and related matters.
- Worked with Wayne County Labor Relations in the negotiation of labor contracts for Youth Home employees.
- Made final decisions for all grievances filed by Youth Home employees.
- Participated in labor arbitration hearings as an advisor and gave testimony pertinent to contract issues/disputed.
- Represented the Wayne County Executive and the Youth Home at all Wayne County Commission meetings regarding the budget and other administrative matters.
- Worked with Department of Social Services Director and the staff to correct several licensing violations at the facility.
- Re-wrote the Policy and Procedure Manual for the Youth Home.
- Developed a new perimeter security and key control system at the facility.
- Managed a two day work stoppage, illegal strike, by line staff at the Youth Home. They protested the above described implementation of the security system.
- Adopted a budget control system to manage costs and reduce the over-expenditure of overtime and other budget line items.
- Served as a liaison with the Wayne County Juvenile Court to resolve placement and other issues between the Court and the Youth Home.
- Chaired a Committee of Juvenile Court officials and D.S.S. staff to reduce the overpopulation of the facility.

### Director of Jails (1989 – 1997)

Managed the Wayne County Jail System comprised of 3 facilities with an inmate capacity of 2800, a staff of 1100 and a budget of \$65 million and including the following:

- Appointed by the Chief Judge of Wayne County, County Executive and Sheriff to serve as Chief Administrator for Wayne County Jail system.
- Developed operational plans, budget, staffing pattern and transition plan for 840 bed, direct supervision jail that opened on time and under budget.
- Corrected our jail overpopulation problem by developing a security based computerized classification system and population control plan that resulted in the jail being under it's legal capacity and creating a safe and secure environment for inmates and staff.
- Provided expert witness testimony in litigation filed by inmates in state and federal courts.
- Generated \$2.5 million in revenue for jail capital improvements and increased our annual revenue for jail operations by \$9 million per year.
- Implemented a \$3 million computerized jail management system for the three jail system
- Responsible for \$14 million renovation of a 670 bed maximum security jail.
- Designed and implemented a smoke-free policy in the Wayne County Jail system.
- Instituted a mandatory in-service training program for all jail employees.
- Developed work release and electronic monitoring programs as a cost-effective alternative to incarceration.
- Managed a \$5 million renovation project that converted unused space to 145 dormitory beds and a courtroom.

Corrections Administrator (1983 – 1984)

Responsibility – Administrator of the Wayne County Jail responsible for staff of 400 and 800 inmates.

Assistant Corrections Administrator (1976 – 1983)

Responsibility – Administrator of the Wayne County Detention Annex responsible for staff of 100 and 250 inmates.

Administrative Assistant (1970 – 1976)

Responsibility – Police Training Director for Wayne County Sheriff's Department

Police Officer

City of Flint Police Department (1967 – 1970)



**Peter R. Wilson – Teaching Experience**

1969 – 70	<u>Carman School District</u> Part-Time Substitute Teacher
1970 – 72	<u>Wayne County Community College</u> Taught 4 Law Enforcement Classes
1971 – 97	<u>County of Wayne</u> Taught several in-service training classes at the Wayne County Sheriff's Police Training Academy, the Wayne County Juvenile Detention Facility, and the Wayne County Jail(s)
1972 – 74	<u>Madonna College</u> Designed Criminal Justice Program Taught several Criminal Justice Classes Served as part-time Director and Counselor
1980 – 83	<u>Mercy College</u> Taught several Criminal Justice Classes
1994	<u>University of Detroit Mercy</u> Multi-Cultural Relations in Corrections
1995	<u>Lansing Community College</u> Introduction to Juvenile Justice
1996 – Present	<u>Madonna University</u> Introduction to Corrections Juvenile Justice Administration
2000 – Present	<u>Saginaw Valley State University</u> Criminology Criminal Justice Systems in the United States The Bureaucracy The American Political System Organized Crime Seminar in Criminal Justice

**Peter R. Wilson – Consultant/Expert Witness Experience**

- **O'Connor, DeGrazia, Tamm and O'Connor**  
Retained as an expert witness by defendant's counsel in Thompson v. Saginaw County, a wrongful death case. Deposition scheduled, case settled.
- **Federal Commission on Safety and Abuse in Prisons**  
Provided testimony to commission attorney regarding safety issues and management of large jail systems.
- **Estate of Walsh v. Ogeman County Sheriff**  
Retained as an expert witness by Plaintiff in claim of deliberate indifference in the provision of medical services in jail. Did not testify.
- **O'Connor, DeGrazia, Tamm and O'Connor**  
Retained as an expert witness by defendants in Braybant v. Saginaw. Did not testify.
- **O'Connor, DeGrazia, Tamm and O'Connor**  
Retained as an expert witness by defendants in Foster v. Saginaw County, a false imprisonment case. Did not testify.
- **Macomb County Circuit Court**  
Retained by the Chief Judge to evaluate operations of the Juvenile Detention Center, review policies and procedures and assist with the transition into a new facility.
- **O'Connor, DeGrazia, Tamm and O'Connor**  
Retained as an expert witness by defendant's counsel in Whiithum et. al. v. Saginaw County. Did not testify.
- **O'Connor, DeGrazia, Tamm and O'Connor**  
Retained as an expert witness by defendant's counsel in Rose et. al. v. Saginaw County and provided deposition testimony.
- **Desmone v. Macomb County**  
Retained as an expert witness in a jail sexual assault case. Did not testify.
- **County of Wayne**  
Retained as an expert witness and consultant in the case of Ketchum v. Wayne County, a jail suicide case. Provided deposition testimony.



- Brown, Goldstein and Levy  
Deposed as an expert witness and provided consultant services in a lawsuit involving the State of Maryland and its prison inmates regarding the implementation of smoke free facilities.
- Michigan State Legislature  
Consulted with State Senator Hansen Clarke regarding anti-terrorism training for security guards in Michigan. Wrote a course description and training objectives for review by Mr. Clarke and his legislative committee.
- Wayne County Corporation Council  
Consulted with Wayne County attorneys in a wrongful death case involving an inmate assigned to a work detail. Case settled out of court.
- Wayne County Jail Administration  
Consulted with the Wayne County Jail Director regarding staffing issues, pending jail litigation, Circuit Court Orders and budget management for the Wayne County Jail System.
- Alpena County  
Consulted with the County Sheriff and Board of Commissioners regarding the construction of a new jail facility and options for providing funding for the operation of a new facility.
- B.I., Inc.  
Made a presentation to the Broward County, Florida, Board of Commissioners, regarding the advantages of a computerized jail management information system.
- Hellmuth, Obata and Kassenbaun, Inc.  
Served on a client focus group panel to advise corporate officials on the proper relationship of clients to architectural staff on large building projects.
- Wolverine Human Services  
Developed the security system, operations plan and assisted in the design of the Wolverine Secure Treatment Center, an 80 bed juvenile high security treatment program.
- Wolverine Human Services  
Served as security and management consultant for company providing juvenile detention service to 800 youths in Michigan and Florida.
- Turner Construction Company  
Assisted in developing R.F.P. and participated in a presentation for a Criminal Justice Facility in Hennepin County, MN.

- Ontario Province, Ministry of the Solicitor General and Correctional Services  
Consulted and made a presentation to top-level executives regarding constructing and managing cost-effective correctional facilities.
- Madonna University  
Consulted with the Criminal Justice Director regarding curriculum revisions for the Criminal Justice Program.
- S.C.C., Inc.  
Presented a training session regarding utilizing computer technology in a large jail system.
- City of Romulus Police Department  
Managed selection process for police officers, wrote policy and procedure manual, and participated in labor negotiations.
- Brownstown Township Police Department  
Managed selection process for police officers and advised City on formation of a new police department.

**EXHIBIT 21**

Letter from Douglas Hughes to Kevin Carlson

March 11, 2014

# WILLIAMS | HUGHES PLLC ATTORNEYS

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\*Also Admitted in ID  
\*\*Also Admitted in Texas, U.S.

March 11, 2014

Mr. Kevin M. Carlson  
Pitt McGehee Palmer Rivers & Golden  
117 W. Fourth Street, Ste. 200  
Royal Oak, MI 48067-3848

COPY

Re: Muskegon County Jail

Dear Mr. Carlson:

I met with the Sheriff and his Department representatives concerning your letter of January 9, 2014 which enclosed the comments of Mr. Wilson.

Below is a summary of our response concerning the "Findings and Recommendations" in the order that they were made.

## Population Control

1. A population plan is being implemented.
2. The Community Corrections Manager has and oversees the efforts of the Population Coordinator who employs the Decision Tree analysis for the release of lower risk individuals.
3. We dispute that there is any serious safety or security problems in the jail.
4. The Sheriff's office has in place agreements to allow for the temporary disposition of certain members of its population. The Sheriff has also initiated a new policy with the local police agencies which uses citations and notices to appear as opposed to the booking and holding of misdemeanor defendants on the night of the incident. This reduction in booking numbers has made a positive impact on total population numbers. Additionally, violators held for parole violations are being processed back to the Muskegon Correctional Facility and taken out of the jail.

W | H



Mr. Kevin M. Carlson

March 11, 2014

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#### Repairs and Sanitation.

The Muskegon County Sheriff is not responsible for the overall repair or sanitation associated with the operation of the jail. That responsibility is designated to the Muskegon County Facilities Manager, John Warner. The Sheriff has employed individual efforts to fix various things, but resistance is often expressed by County maintenance staff and in some instances has led to the filing of grievances as the Union complains about the assignment of work to non-unionized personnel. So:

1. The Facilities Manager is assigned responsibility to identify and prioritize the needs of the jail. This individual works as liaison, with the maintenance staff to ensure the work is completed on a timely basis. The Jail Administrator and the Facilities Manager have an open line of communication and address the needs of the facility as time and manpower allows.
2. See answer to No. 1 above.
3. See answer to No. 1 above.
4. See answer to No. 1 above.

#### Housing of Female Inmates.

1. The female inmates are provided with a two-piece uniform.
2. The shower curtains in the female cells are treated with quadrastatic applications designed to kill mesa and other viruses.
3. There is an adequate supply of female hygiene products available to female inmates.
4. The Sheriff tries to assign female officers to supervise the female inmates. Staffing is done through shift "bids." The Sheriff's office is doing all it can to balance the women who bid on the shifts with the female population that is located in the jail.
5. The Sheriff has designated a separate portion for the female population. There are 97 units available and the Sheriff uses the POD system as needed.

#### Medical Screening and Recreation Opportunities.

1. The Sheriff has a contract with CHC, a private medical service provider, who monitors and provides the medical assessments. Obviously inmates that don't stay a minimum of fourteen days don't receive a medical assessment because it is not necessary. Others are being timely performed.
2. Regular indoor recreation opportunities are provided. You and your group toured the facility. There is no ability to provide outdoor recreation at this time.
3. See Answer to No. 1.
4. The individual who served in the capacity of Activities Coordinator has recently retired and the Sheriff is committed to replacing that individual. The new facility will better serve the need of the population once constructed. Each floor of the new jail is being offered recreation opportunities and females will be included in the group.

Mr. Kevin M. Carlson

March 11, 2014

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5. See Answer to No. 1.

General Conditions.

1. An inmate grievance procedure is in place currently. Reports are kept under the name of the individuals and we employ a jail management system to process complaints that arise.
2. The Sheriff thinks that the current complement of personnel available is able to handle the responsibilities associated with running a jail.
3. The Sheriff denies that the population of the jail is frequently overcrowded in excess of 400 inmates. Funds for medical services are budgeted and funds are allocated as needed.
4. The Sheriff advises me that minimum security evaluation planning applies to the Hall of Justice basement housing unit.

Although I noticed in your latest e-mail exchange with me that you expressed a need to have additional face-to-face conferences. We can certainly do that, but I think that the list of items that your expert identified have already been addressed and resolved. If there are other matters to discuss please prepare an agenda we will begin to arrange the schedules of the people that need to continue to review the matter.

Sincerely,



Douglas M. Hughes  
(Direct Dial 727-2119)

E-mail: [doughughes@williamshugheslaw.com](mailto:doughughes@williamshugheslaw.com)

DMHrt

cc: Miriam Aukerman

**EXHIBIT 22**

Muskegon County Jail Rules and Regulations for Inmates

MUSKEGON COUNTY JAIL  
INFORMATIONAL GUIDELINE FOR INMATES

The following is a list of Informational Guidelines that are to be observed by inmates at the **MUSKEGON COUNTY JAIL**. They explain what is expected of you and are intended to insure safe custody, decent living conditions, and fair treatment for all inmates. Any infraction of these rules may result in loss of privileges, disciplinary action, prosecution and/or notification to the court for review by the judge assigned to your case.

CARE OF LIVING QUARTERS

- 1. Every inmate must assume responsibility for the maintenance of clean living quarters.
- 2. Quarters must be ready for daily cleanliness inspection at 9:00 a.m. Beds must be made and jail uniforms on. TV will be allowed from 9:00 a.m. - 11:00 p.m. daily; except for those inmates whose cells are not cleaned satisfactory.
- 3. Cells, cell blocks, catwalks, and hallways are not to be littered with paper, wrappers, etc.
- 4. Toilets and showers are to be cleaned daily.
- 5. Blankets or mattress covers are not to be used as tables, seat covers or rugs. They are to remain on beds at all times.
- 6. When occupied, cell lights are to remain on from 5:00 a.m. to 11:00 p.m.
- 7. Light shields or reflectors on lights are prohibited.
- 8. Cooking and heating of any kind in cells is prohibited.
- 9. Posters, pictures, writing or drawing on walls, ceilings, bunks, tables or benches are prohibited.
- 10. Newspapers, magazines, books, or personal effects will not be allowed to accumulate in cells. Only three (3) books or three (3) magazines are to be allowed per inmate at any given time. Newspapers are to be disposed of daily.
- 11. No hangers or clothes lines in the cells or cell blocks.
- 12. No blocking vents, doors or windows.
- 13. All cell property must fit in & be kept in 1 tote.

TELEPHONES

- 1. You will be allowed to notify a family member or your attorney of your confinement after booking information is complete.
- 2. Pay telephones are available for collect calls.
- 3. Inmate telephones at this institution can be monitored and recorded. Your use of these telephones at this institution constitutes consent to such monitoring and/or recording.
- 4. Using a pin number, inmates may dial 111 on inmate phones

- 5. Inmates can have money placed on phone accounts by ordering a phone card from commissary or by having Someone put money on your phone account with a credit Card by calling 231-724-6275

UNLAWFUL COMMUNICATIONS

- 1. All forms of communications between the separated areas of the jail are not allowed.
- 2. Inmate communications through windows with persons outside the jail, either by voice, signal, or written messages is prohibited. Inmates should know that when observed, this type of activity is subject to punishment.

CONDUCT

- 1. KANGAROO OR SANITARY COURTS and all other inmates’ organizations of this type will not be tolerated.
- 2. No inmate will harass bully or otherwise pick on another inmate at any time for any reason.
- 3. Loud talk and profanity are disturbing to others and will not be tolerated. TV’s and talk are to be kept at such a volume so as not to disturb others.
- 4. Sexual misconduct will not be tolerated at Muskegon County Jail. It will be investigated and prosecuted.
- 5. GAMBLING is prohibited.
- 6. Inmates are not permitted in another’s room or allowed to use another’s bunk at any time.
- 7. All inmates shall answer promptly and correctly when questioned by jail personnel.
- 8. Inmates are not authorized to operate concessions, sell services, rent goods, buy, sell, loan clothing to each other, or resell concession items.
- 9. Smoking is not allowed in any part of the jail. Tobacco is contraband and possession is prohibited.
- 10. Possession or use of weapons of any type is prohibited.

MEALS

- 1. Maximum security inmates are to lock up before any meal is served.
- 2. All dishes, trays, and spoons are to be returned in good condition after each meal.
- 3. All particles of food and/or liquids dropped on the floor must be cleaned up after each meal. Food is not to be saved or stored in the cell area.

MEDICAL SERVICES

- 1. Requests for medical service must be directed to the Jail Nurse, in writing, by the inmate on the prescribed Jail Form.
- 2. Medical requests must give some indication as to the nature of the medical problem.
- 3. Emergency situations are to be reported to the Jail Officer on duty immediately; who will in turn contact the proper authorities, who will take the necessary action.
- 4. All medication must be taken in the presence of the Jail Officer/medical staff.
- 5. If medical treatment is required during your period of confinement, Michigan Law allows the County Board of Commissioners to seek reimbursement for expenses incurred in providing such treatment. Such fees are as follows:

Nurse	\$5.00	Medication	\$ Actual
Doctor	\$10.00	All Outside Treatment	\$ Actual
- 6. If inmate has any type of health insurance, or health care corporation, or other source from which medical expenses are paid, then the inmate will cooperate fully with the Muskegon County Sheriff’s Department in providing this information and seeking to bring the terms of any coverage into effect.
- 7. Any monies held in trust by the Muskegon County Sheriff’s Department may be used to pay for medical treatment provided to the inmate. If those monies are insufficient to cover medical services then the inmate shall be billed for the unpaid portion.

PERSON CLEANLINESS

- 1. Soap & shower facilities are provided for all inmates. All inmates must keep themselves in a state of cleanliness at all times, and are required to shower at least twice a week.
- 2. Inmate will have the opportunity to shave Monday, Wednesday and Friday. Hair, beards, and moustaches should be kept neat and trimmed.
- 3. Shoes and jail uniforms must be worn at all times except when retiring.

PRIVILEGES

- 1. To have visitors.
- 2. To file grievances within 7 days of the event at issue.
- 3. To receive and send mail.
- 4. TV, Phone, Commissary.
- 5. To have newspapers.
- 6. To attend religious services and other programs, when held.



- 7. To enjoy the service of the book cart.
- 8. To exercise.

COMMISSARY

- 1. Money may be deposited into an inmate’s account at the County Building Kiosk M-F 8am-5pm or the Walton St records entrance 24-7, Kiosk takes cash or credit card. Also money can be added with a credit card by calling 1-888-497-2387 or go to [www.ezmoneylload.com](http://www.ezmoneylload.com) and follow the prompts. Money must be deposited before commissary may be ordered.
- 2. A list of commissary items and prices is available. Toothbrush, toothpaste, and deodorant are available for inmates with no money. If released, orders must be picked up within one week.
- 3. Pop Token and Phone Card Request Forms are processed on Tuesdays and Fridays.
- 4. Commissary can be ordered from outside the facility by calling 1-888-634-0034 or online at [www.mycarepack.com](http://www.mycarepack.com). Inmates owing jail fees may not participate.

JAIL PROPERTY

- 1. All property in jail must fit in and be in your tote, property found left out of tote may be disposed of by staff.
- 2. Jail property and equipment are not to be transferred among inmates.
- 3. Blankets, mattress, mattress covers, towels, uniforms and all other equipment issued to you must be returned in good condition.
- 4. All clothing, mattress covers, and towels are to be returned on assigned days for clean replacement; knots are not to be tied in the corners of the towels or mattress covers.
- 5. Inmate will be responsible to pay for county property which is damaged or lost. Funds for this purpose will be withdrawn from your account.

PERSONAL PROPERTY

- 1. All valuable articles must be left at the Receiving Desk and will be returned to you at the time of your release.
- 2. Three sets of underwear, or under garments, and three pairs of socks are allowed in your cell. These items must be purchased through the jail commissary.
- 3. Any items purchased from the Commissary may be retained. All other items will be considered as contraband.
- 4. In emergency situations only, money may be withdrawn by signing the Inmate Funds card. Persons receiving the money also sign the Inmate Funds card. These withdrawals must be approved by the Jail command on duty.

WORK RELEASE/SCHOOL RELEASE/PAY IT BACK(PIB)

Must test negative for drugs/alcohol. All administrative fees must be paid before being allowed into program.

VISITS

- 1. Inmates must be ready for visits, court or interviews as scheduled. All property must be in tote when left in cell.
- 2. No head covering outside of cell.

LAWS OF STATE OF MICHIGAN APPLY TO INMATES.  
ILLEGAL ACTIVITIES WILL BE PROSECUTED.

BILLINGS

Michigan Law allows the County Board of Commissioners to seek reimbursement for expenses incurred in maintaining an inmate. All persons committed to the Muskegon County Jail will be billed for each day of confinement based on the following daily rates.

If paid within 10 days of release date \$10.00/day

If paid within 30 days of release  
or payment plan is set up though administration \$18.00/day


If not paid after 30 days/or payment plan completed  
bill will be turned over to a collection agency \$32.00/day

You are the sole person responsible for costs incurred in jail;  
you will be billed accordingly. Administrative fees may apply  
to services rendered.

Applicable fees:

Warrant Fee	\$ 10.00
Booking	\$ 12.00

RULES  
AND  
REGULATIONS  
FOR INMATES



DEAN ROESLER  
SHERIFF OF  
MUSKEGON COUNTY