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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**JIMMY DOE, WILLIE ROE,
JOHNNY WOE, DANNY ZOE,
CHARLIE ROE, and ANDREW LOE,
on behalf of themselves and all
others similarly situated,**

Plaintiffs,

v.

**COOK COUNTY and the
Superintendent of the Cook County
Juvenile Temporary Detention Center,**

Defendants.

No. 99 C 3945

Hon. John A. Nordberg

Magistrate Judge Martin C. Ashman

AGREED ORDER APPOINTING A TRANSITIONAL ADMINISTRATOR

Currently pending before the Court is the plaintiffs' Motion to Appoint a Receiver filed on May 29, 2007 (Motion). The plaintiffs have agreed to withdraw this Motion without prejudice in consideration of the defendants' agreement to the terms and entry of this Agreed Order Appointing a Transitional Administrator (Order) and its approval and entry by this Court.

Introduction

1. The purpose of this Order is to appoint a Transitional Administrator (TA) with the authority and responsibility to bring the Cook County Juvenile Temporary Detention Center (JTDC) into substantial compliance with the Memorandum of Agreement (MOA), the Agreed Supplemental Order (ASO), and the Modified Implementation Plan (MIP) and, if consistent with Illinois law, to prepare the JTDC for the transition of administrative

authority over its operations to the Office of the Chief Judge of the Circuit Court of Cook County.

2. The TA shall be an agent of this Court and is specifically appointed with the authority and responsibility to put in place at the JTDC qualified management to implement the requirements of the MOA, the ASO, and the MIP.
3. The parties agree and the Court finds that this Order is in full compliance with the requirements for settlement of class actions and prospective injunctive relief pursuant to the Prison Litigation Reform Act, 18 U.S.C. § 3626.
4. The Court appoints Mr. Earl L. Dunlap as the TA.

Responsibilities of the TA

5. The TA shall have the following responsibilities:
 - a. To develop and implement systems at the JTDC to achieve substantial compliance with the MOA, the ASO, and the MIP.
 - b. To oversee, supervise, and direct all management, administrative, financial, contractual, personnel, security, housing, custodial, purchasing, maintenance, technology, health services, mental health services, food and laundry service, recreational, educational, and programmatic functions relating to the operation of the JTDC consistent with the authority vested in the position of Superintendent of the JTDC and to restructure the JTDC into an institution that substantially complies with the MOA, the ASO, and the MIP.

- c. To preserve, protect, manage, and administer all property and assets relating to the operation of the JTDC.
- d. To develop and implement effective information management systems, performance standards, and quality improvement measures relating to the operation of the JTDC.
- e. To establish effective working relationships with Cook County, the Cook County Board of Commissioners, the Cook County Board President, the Cook County Bureau of Health Services, Cermak Health Services and any other government or private agency whose functions relate to the operation of the JTDC.
- f. To exercise his authority as TA in a manner consistent with the laws, policies and regulations of Cook County and the laws of the State of Illinois. However, where those laws interfere with the TA's responsibilities and authority set out in this Order, the TA, or either party, may petition the Court to waive any requirements imposed thereby. Should the TA determine that it is necessary for him to bypass any policy or regulation of Cook County, he shall inform the parties who may petition this Court for the appropriate relief. If the parties elect not to petition this Court, the TA shall utilize his discretion to bypass a policy or regulation of Cook County when he believes it is necessary under the circumstances.
- g. The parties shall reasonably utilize the non-binding mediation services of the TA to resolve any issues in advance of seeking relief from this Court.

Authority Granted to the TA

6. The TA shall have all reasonable powers necessary to bring the JTDC into substantial compliance with the MOA, the ASO, and the MIP, including:
 - a. All powers relating to the operation of the JTDC, which in usual circumstances, are exercised by the Superintendent of the JTDC. Cook County shall ensure that all other Cook County Bureaus and Departments, including Cermak Health Services, cooperate with the TA and provide his requests for assistance with the highest priority and shall comply with the TA's requests. Should either party believe that any such request by the TA is unreasonable, that party may seek appropriate relief from this Court.
 - b. The power to establish the budget for all functions relating to the operation of the JTDC (JTDC budget) which shall be presented to the Board of Commissioners as part of the annual appropriations process. The JTDC budget shall be of an amount reasonably necessary to ensure compliance with the MOA, the ASO, and the MIP. The TA shall have the authority to undertake the reasonable reallocation of funding within an approved JTDC budget. Cook County shall not adjust approved funds or otherwise transfer existing funds within an approved JTDC budget without prior approval of the TA. The TA's authority shall be exercised as follows:
 - i. Upon appointment, the TA immediately shall assume responsibility for the administration of the JTDC budget for the

remainder of Fiscal Year¹ 2007 to effectuate the terms of this Agreed Order. Cook County agrees to accept any recommendations by the TA for additional funding of the 2007 JTDC budget as a priority item. Either party or the TA may petition this Court to resolve issues concerning the TA's additional requests for reasonable funding. This paragraph shall remain applicable until the 2008 JTDC budget is approved in accordance with paragraph 6(b)(ii) below.

- ii. On or about September 15, 2007, the TA shall present to the Office of the President the proposed Fiscal Year 2008 JTDC budget that shall be made part of the President's proposed annual appropriation to the Cook County Board of Commissioners unless the TA proposes a 2008 JTDC budget with an increase in excess of 10% (excluding the funding required under paragraph 7(f) below) above the approved 2007 JTDC budget. If the TA proposes a 2008 JTDC budget with an increase in excess of 10% of the approved 2007 JTDC budget, the TA shall present his proposed 2008 JTDC budget directly to the Cook County Board of Commissioners for their consideration and approval. In the event that the Board of Commissioners moves to reject the 2008 JTDC budget proposed by the TA, the TA or either party may petition this Court, within fourteen (14) days after the Board of

¹ The Cook County fiscal year begins December 1 and ends November 30 of the next calendar year.

Commissioners acts to reject the proposed budget, to resolve the matter. Failure to petition this Court for relief within 14 days shall foreclose that party from seeking such relief.

If the Board of Commissioners acts to reject the 2008 JTDC budget proposed as part of the final vote on Cook County's 2008 budget appropriation, the TA or the parties shall petition the Court in advance of the next regularly scheduled meeting of the Board of Commissioners following the vote rejecting the 2008 proposed JTDC budget. Failure to petition this Court for relief within this time shall foreclose that party from seeking such relief. However, nothing herein shall prevent a party or the TA from petitioning the Court should the next regularly scheduled meeting occur less than 10 days following the vote rejecting the 2008 proposed JTDC budget. If the need for additional funding arises during the fiscal year due to emergencies or unanticipated circumstances, the TA may request additional funds to address the emergencies or unanticipated circumstances. In the event Cook County denies that request, either party or the TA may petition this Court to resolve the matter.

- iii. By September 15th of any subsequent year during the TA's appointment, the TA will present the JTDC budget in the same way as described in paragraph 6(b)(ii) above.

- c. The power to establish personnel policies; to create, abolish, or transfer positions; and to hire, terminate, promote, transfer, and evaluate management and staff of the JTDC.
- d. The power to negotiate new contracts and to renegotiate existing contracts, relating to the operation of the JTDC consistent with the provisions of paragraph 5(f) above.
- e. The power to retain consultants to assist with bringing the JTDC into substantial compliance with the MOA, the ASO, and the MIP.
- f. The power to restructure and reorganize any management and administrative structures of the JTDC.
- g. The power to acquire, dispose of, modernize, repair, and lease equipment and property relating to the operation of the JTDC.
- h. The power to recommend, seek grant applications from other government or private bodies which may be available to bring the JTDC into substantial compliance with this Order, the MOA, the ASO, or the MIP.
- i. The power to petition the Court for any additional powers necessary to bring the JTDC into substantial compliance with this Order, the MOA, the ASO, and the MIP.
- j. The TA shall have the responsibility to monitor the Bureau of Health Services relative to its function to provide medical and mental health care to JTDC residents and report his findings and make any appropriate requests pursuant to paragraph 6(a) above or

recommendations in accordance with paragraph 9(c) below, if necessary. The TA shall possess the authority to retain consultants to assist him in monitoring the provision of medical and mental health services by the Bureau of Health.

7. Office of the Transitional Administrator

- a. Upon appointment, the TA shall promptly establish an Office of the Transitional Administrator (OTA). The OTA shall include reasonable staff to effectuate this Order.
- b. Cook County shall be responsible for the reasonable expenses incurred in operating the OTA. These expenses may include, without limitation, the TA's compensation and the compensation of staff to assist the TA in the day-to-day operations of the JTDC (OTA staff) and consultants.
- c. Within 45 days of the entry of this Order, Cook County shall set aside \$150,000 to fund the OTA until the approval of the 2008 JTDC budget in accordance with paragraph 6(b)(ii) above. If the TA or either party determines that the initial amount set aside to fund the OTA is insufficient to effectuate this Order, the TA or the party may petition the Court for additional funds. The OTA funds shall be maintained by the Cook County Comptroller in a separate account and disbursed for the sole purpose of satisfying the reasonable costs and expenses and reasonable compensation of the staff of the OTA.
- d. Every 30 days from the date of this Order, the TA shall submit a request for reimbursement to the State's Attorney's Office, Chief of

the Special Litigation Division for review and submission to the Cook County Comptroller. If both the SAO and the Cook County Comptroller or his designee concur that the subject request for reimbursement is reasonably related to the scope of duties of the OTA, the funds will be released to the TA.

- e. Should either party or the Cook County Comptroller determine that any request for reimbursement is not reasonable under this paragraph, this Court may be petitioned to resolve the issue.
- f. Upon final approval of the 2008 JTDC budget, any remaining funds allocated pursuant to paragraph 7(c) shall be returned to Cook County and future funding of the OTA shall occur as part of the creation of the JTDC budget. However, any funds that are requested by the TA for disbursement to reimburse reasonable and necessary costs and expenses of the OTA and compensation of OTA staff shall remain subject to the procedures referred to in paragraphs 7(d) and (e). The OTA portion of any JTDC budget created and approved under paragraph 6(b)(ii) shall not be considered in determining whether the TA's proposed JTDC budget is in excess of 10% above the approved JTDC budget of the previous year.
- g. The TA, OTA staff, and any contractors or consultants retained by the TA, shall be compensated at reasonable and customary rates by the defendants for their professional time, services, and expenses,

including clerical and administrative support, reasonably incurred to effectuate this Order.

- h. As this Court's representative, appointed to bring the JTDC into substantial compliance with this Order, the MOA, the ASO, and the MIP, the TA shall have absolute immunity from liability.

8. Access

The County shall cooperate with the TA in connection with his efforts to implement the provisions of the MOA, ASO, MIP and this Order, including providing reasonable and prompt access to all relevant information, including access to current Cook County employees at all levels. Such access shall include, but is not limited to, County and JTDC records and documents pertaining to the JTDC budget, personnel, purchasing, equipment, supplies, resident medical and mental health records, and staff discipline. Given the need of the TA to review confidential information maintained by Cook County, the TA, and any person working in conjunction with him, shall be bound by the protective orders entered in this case. Neither the TA nor any member of the OTA shall be permitted access to information privileged by the attorney - client privilege.

9. Documentation and Reporting

- a. The TA shall report to the Court on a regular basis concerning his activities. The TA also shall meet with the parties sixty (60) days after

his appointment, and at least every sixty (60) days thereafter, to report on (1) current conditions at the JTDC; (2) actions taken from the date of his appointment; (3) actions contemplated for bringing the JTDC into substantial compliance with this Order, the MOA, the ASO, and the MIP and (4) to provide his recommendations concerning modification or amendment of the MOA, ASO, MIP and this Order, if any, in recognition of existing circumstances.

b. At least 60 days prior to the termination of his appointment, the TA shall develop a plan for the post-TA operation of the JTDC, which shall include consideration of the structure, funding, and transition to the governmental entities responsible for the long-term operation of the JTDC.

10. Preexisting Remedial Devices Within sixty (60) days of the appointment of the TA, the appointments of the Court Monitors and Compliance Administrator shall conclude notwithstanding any contrary provision set out in the MOA, MIP and the ASO. At his discretion, the TA may retain the former Court-appointed Monitors or Compliance Administrator as consultants or OTA staff to assist in bringing the JTDC into substantial compliance with this Order, the MOA, the ASO, and the MIP.

11. Transition of Authority and Termination of the Appointment of the Transitional Administrator

a. The appointment of the TA shall be subject to dissolution by agreement of the parties or upon a showing of substantial compliance

to this Court with the terms of the MOA, ASO, MIP and this Agreed Order.

- b. In the event pending legislation (House Bill 236) is signed by the Governor of the State of Illinois and becomes law transferring administrative authority of the JTDC to the Office of the Chief Judge of the Circuit Court of Cook County (Chief Judge), the following duties and responsibilities of the TA shall be triggered:
 - i. Throughout the appointment of the TA, it shall be the responsibility of the TA to assess the capacity of the JTDC for the purpose of transitioning administrative and operational authority to the Chief Judge.
 - ii. After consultation with the Chief Judge and with the Chief Judge's prior approval, if the TA determines that any function of the JTDC can be transitioned to the Chief Judge and administered in accordance with the terms of the MOA, ASO and MIP, the TA shall transfer administrative and operational authority of the subject JTDC function to the Chief Judge. If a function transferred to the Chief Judge ceases to comply with the terms of the MOA, ASO or MIP, the TA, in his discretion, may resume administrative and operational authority over the transferred function.
 - iii. The TA shall regularly consult with the Chief Judge for the purpose of keeping the Chief Judge informed relative to

developments at the JTDC and provide information to the Chief Judge upon his request and obtain input from the Chief Judge to foster an efficient and orderly transition of administrative and operational authority to the Chief Judge.

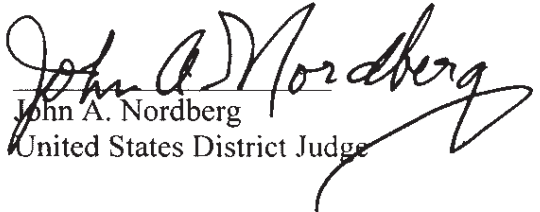
Conclusion

12. The Court retains jurisdiction of this matter for all purposes, including the entry of any additional orders necessary to enforce this Order, the MOA, the ASO, or the MIP. The defendants waive any statute of limitations defense to the MOA, ASO, MIP or this Order until such time as the MOA is terminated pursuant to paragraph 66 thereof.
13. This Order is supplemental to the MOA, ASO and MIP, which remain in full force and effect except to the extent expressly stated herein. Nothing herein shall be construed to prohibit the parties from seeking other or further relief including, without limitation, enforcement of this Order, the MOA, the ASO, or the MIP or from seeking their modification or amendment.
14. The plaintiffs shall continue to have the authority, duties and responsibilities as set forth in the MOA, ASO and MIP for monitoring and enforcing compliance with the MOA, ASO and MIP. Additionally, plaintiffs shall be responsible for monitoring and enforcing this Order.
15. If, for any reason, the TA, referred to in paragraph 4 above, resigns or becomes unavailable to continue, or the parties agree or the Court determines that he should be replaced, the parties will attempt to agree on

the identity of a successor TA. If the parties are unable to agree on a successor TA after twenty-one (21) days, each party shall submit to the Court its nomination of one person to assume the appointment of the TA, together with a statement of the reasons that person is qualified to be appointed the TA. The Court will select one of the party's nominees as the TA or, at its discretion, may solicit additional nominees from the parties.

16. The TA shall be available at the request of either party or the Court to testify at any evidentiary hearing for any relevant purpose, including to evaluate compliance with this Order, the MOA, the ASO, or the MIP.
17. This Order does not resolve the plaintiffs' claim pursuant to 42 U.S.C. §1988 and the Prison Litigation Reform Act, 42 U.S.C. § 1997(e) *et seq.* to attorney's fees, costs, and expenses incurred since the entry of the ASO. In the event the parties are unable to resolve those claims by agreement, the plaintiffs may file a petition for the award of fees, costs, and expenses pursuant to Local Rules of the Northern District of Illinois within 120 days of the entry of this Order. The defendants have reserved their right to object to the amount of fees, costs, and expenses requested by the plaintiffs.

It Is So Ordered.


John A. Nordberg
United States District Judge

Dated: August 14, 2007