APPENDIX B

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

DARIUS D. LITTLE, Plaintiff, v. SHELBY COUNTY, TENNESSEE; A.C. GILLESS, individually and in his official capacity as Sheriff of Shelby County, Tennessee; DENNIS DOWD, individually and in his official capacity as Chief Jailer of Shelby County; and JIM ROUT, individually and in his official capacity as Mayor of Shelby County, Defendants.	)	NO. 96-2520-TUA

ORDER GRANTING INJUNCTIVE RELIEF TO REMEDY
UNCONSTITUTIONAL CONDITIONS IN SHELBY COUNTY JAIL

IT APPEARING TO THE COURT that on September 12, 1996, the parties entered into a Consent Order Stipulating Liability for Injunctive Relief Purposes Only; and Establishing Procedure for Remedy, which was entered by the court (hereinafter "Consent Order").

IT FURTHER APPEARING TO THE COURT that pursuant to said Consent Order, the court found for purposes of injunctive relief that Darius Little's Eighth Amendment right was violated due to the risk of physical and sexual assault by other inmates in the Shelby County Jail. Liability was stipulated pursuant to 42 U.S.C. § 1983.

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IT FURTHER APPEARING TO THE COURT that, pursuant to said Consent Order, the parties were to submit a prospective remedy which was narrowly drawn, extending no further than necessary to correct the violation of the federal right as stipulated, and which is the least intrusive means necessary to correct the violation of the federal right.

IT FURTHER APPEARING TO THE COURT that the parties consulted with Charles Glover Fisher, Ray Nelson, and Bill Garnos, all experts in jail conditions, who have been certified by this court as experts pursuant to this court's order dated April 1, 1997.

IT FURTHER APPEARING TO THE COURT that the experts agree that the factors which will impact reducing the risk of violence and sexual assault in the Shelby County Jail include:

A. Continual supervision of the inmates;

B. Properly classifying inmates, and separating inmates who are likely to assault other inmates;

C. Separating likely victims of assault from likely predators.

IT FURTHER APPEARING TO THE COURT that upon the testimony of the court's certified experts, the court finds that the relief ordered herein is narrowly drawn, extends no further than necessary to correct the violation of the federal right, and is the least intrusive means necessary to correct the violation of the federal right. In construing this remedial order, the court has given substantial weight to any adverse impact on public safety, or the operation of the criminal justice system caused by the entry of

this order. The court has further kept in mind the desires of Congress, as contemplated by the Prison Litigation Reform Act, Pub. L. No. 104-134 § 800, et seq. (currently codified at 18 U.S.C. § 3626).

IT FURTHER APPEARING TO THE COURT that the following terms need to be defined as they are used in this order.

"Cell" -- an individual living area for one or two inmates, that contains at least one bunk, a toilet, and a wash basin.

"Cell Block" -- a group of cells connected by a common day room (or corridor on the lower level of the jail) that are accessible by a single set of security doors that open into a main access corridor for the jail.

"Cell Block Officer" -- a jailer employed by the Sheriff's Department whose primary responsibility while on duty is to supervise inmates housed in a cell block.

With the aforestated considered,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Classification. Within 90 days of the entry of this order, each inmate admitted to the Shelby County Jail will be confidentially interviewed by classification staff prior to such inmate's cell assignment to determine if such inmate has known enemies from whom he should be separated; protective custody needs; or gang involvement. Information will be collected during the initial classification interview to determine if such inmate has assaulted other inmates during prior incarcerations, or has been a victim of an assault by another inmate during prior incarcerations,

or fears he may be victimized by another inmate, or has gang affiliations or previous convictions for violent crimes. This information shall become part of an automated inmate information system, which shall be developed and implemented as soon as practicable, using good faith efforts but no later than nine months from the entry of this order to insure that potential victims are separated from known predators (i.e., inmates who have assaulted other inmates). All housing unit assignments will be made by classification staff only. Within six months after the entry of this order, all staff assigned to classification will complete a course of classification interviewing training designed to insure compliance with this order.

2. Housing. Any inmate who is classified as violent (a level V, VI, or VII on the current classification scale) shall never be housed in a cell with more than one other inmate. Whenever it becomes necessary to assign two inmates to the same cell, classification officers will not house potential victims with known predators. Furthermore, inmates classified as violent (i.e., those indicated by a red dot on the wrist band under the current classification system, and inmates with a known history of violence, will not be housed with inmates classified as nonviolent (indicated by a blue, green, or yellow dot on the wristband, under the current classifications). When a compatible housing assignment cannot be made, the inmate shall be housed in a single cell. As soon as reasonably possible, but no later than nine months after the entry of this order, the facility shall implement a policy

requiring single-celling for those inmates who have not yet been fully classified.

3. Inmates Supervision. A separate cell block officer shall be continuously assigned to each of the cell blocks in which inmates are incarcerated, on the lower level of the current jail facility whenever any of the cells in such cell block house two or more inmates. Each cell block officer shall monitor the cell block to which he/she is assigned continuously to assure the inmates housed together in the same cell are housed compatibly. Only under documented emergencies involving risk of safety to cell block officers or inmates will cell block officers supervise more than two adjacent cell blocks at a time, and shall only do so for the time period necessary to resolve such emergency. The continuous monitoring required by this order shall be implemented as soon as reasonably possible, but no later than nine months from the date of entry of this order.

4. Cell block officers assigned to housing duties on floors 2, 3 and 4 of the current jail facility will also continuously supervise individual cell blocks in which inmates are incarcerated to assure compatibility. Cell block officers may only be removed from their assigned cell blocks for documented emergencies involving risk of safety to cell block officers or inmates, and then only for the time period necessary to resolve such emergency. Under no circumstances shall a cell block officer supervise more than two adjacent cell blocks at a time. It is the intent of this order that there shall be a separate cell block officer assigned at

all times to supervise each cell block in the current facility on floors 2, 3 and 4, when such cell block houses inmates and are not totally locked down for the entire shift. Every cell block shall have its own cell block officer continuously supervising such cell block except as otherwise allowed in this order. The continuous monitoring required by this order shall be implemented as soon as reasonably possible, but no later than nine months from the date of entry of this order.

5. Each cell block officer will insure that inmates are housed compatibly by frequent observation of behavior of inmates in the cell block such cell block officer is supervising, and by confidentially interviewing inmates in the cell block to determine if the inmate's cell assignment is safe. In addition, cell block officers will interview any inmate in the cell block who the cell block officer believes may be having compatibility problems with other inmates. Inmates identified as having potentially violent cell mate compatibility problems will be promptly separated and referred to classification for review.

6. In general population cells on the second, third and fourth floors, inmates will be permitted to move between their cell and the day room of the cell block during a five minute period each hour, unless such movement is otherwise restricted by jail operational procedures. During the remaining 55 minutes of the hour, the cell doors will remain locked. Inmates may remain in their cells, or the day room during those 55 minute periods. Cell block officers will continuously monitor the cells during these

five minute periods when the cell doors are open to insure that no inmate enters a cell within the cell block to which such inmate is not assigned.

7. Continuous direct observation of inmates by cell block officers is required during all out-of-cell activity in lock down and protective custody housing units.

8. A court-appointed Special Master shall be appointed by the court to make regular inspections to verify compliance with the terms of this order. Counsel for plaintiff and defendants are hereby ordered to submit the names of five potential compliance monitors within 60 days of the entry of this order, in accordance with the Prison Litigation Reform Act. The court hereby determines that an appointment of a Special Master is necessary because the remedial phase of this order is sufficiently complex to warrant such employment. The Special Master will prepare a periodic monitoring schedule, which will be used to record observations of each element of the order. The Special Master will also investigate each alleged inmate on inmate altercation, whether rape or other assault, to determine if any provision of this order had not been followed in such cases, and to identify any policy or procedure that if in place could possibly have prevented such altercation. The Special Master shall be responsible for recommending agency regulations and procedures that facilitate compliance with this order.

9. A monthly report will be prepared by the Special Master within ten days of the close of the calendar month to report the

progress on the defendants' compliance with this order and the results of the inmate-on-inmate altercation investigations. The Special Master will attempt to subjectively categorize these altercations which represent predatory and gang-related behavior as opposed to the normal kind of altercations that result from people living in close proximity with one another.

10. The Special Master, along with plaintiff's and defendants' counsel, shall conduct a conference no later than eighteen months after the entry of this order to determine whether this order has been successful in reducing the risk of physical and/or sexual assault in the Shelby County Jail. If this order has not made an impact on reducing sexual and physical assaults in the jail to a constitutionally acceptable level, the Special Master shall propose to the court what other remedial relief might be appropriate to correct the unconstitutional condition.

IT IS SO ORDERED this 12th day of November, 1997.

JEROME TURNER
UNITED STATES DISTRICT JUDGE