Consent decrees in corrections: a case study of the Fulton County jail

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CONSENT DEGREES IN CORRECTIONS: A CASE STUDY
OF THE FULTON COUNTY JAIL

A DEGREE PAPER
SUBMITTED TO THE FACULTY OF ATLANTA UNIVERSITY
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF PUBLIC ADMINISTRATION

BY
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DEPARTMENT OF PUBLIC ADMINISTRATION

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ABSTRACT

PUBLIC ADMINISTRATION

MOORE, ROY M.  B.B.A., Georgia State University, 1977

Consent Decrees In Corrections: A Case Study Of The Fulton County Jail

Advisor: Dr. Kempe Ronald Hope

Degree Paper dated July 1987

This degree paper is based on a research paper entitled "Consent Decrees in Corrections" delivered at a conference on "Correctional Health Care" in Orlando, Florida, March 5-8, 1986. The conference was sponsored by the American Correctional Health Services Association. This degree paper and the research paper on which it is based have not been published and I retain full proprietary and copyright to both papers.

The intent of this paper is to discuss the provision of constitutionally acceptable services and care in the field of corrections at the Fulton County Jail which led to the filing of a consent decree. Of particular importance are the variables used by the parties who filed the federal suit alleging that facility conditions, inmate overcrowding, health related services, security availability, inmate personal services, and grievance measures did not
meet the standards for human habitation in a correctional facility.

The major findings of this degree paper are as follows:

1. Overcrowding experienced by the jail prior to the Consent Decree remains one of the major problems still hindering the progress of the Fulton County Jail.

2. Health Related Services have improved dramatically since Fulton County moved to incorporate contract medical services.

3. Inmate personal services have been substantially upgraded.

4. Grievance measures have been instituted to appropriately respond to inmate needs and desires.

5. Security has been improved by the addition of staff.

6. Facility conditions have improved by painting cells and other areas, making repairs to electrical, plumbing and sanitation systems throughout the building.

Information concerning Consent Decrees was collected from interviews with Georgia Department of Corrections Officials, publications of the American Correctional Association entitled Corrections Today and Corrections Magazine, the Georgia Code of Law and scholarly works on the subject of corrections. As a direct participant in the case, this writer had personal exposure to many of the occurrences and situations cited.
I. INTRODUCTION

This degree paper is based on a research paper entitled "Consent Decrees in Corrections" delivered at a conference on "Correctional Health Care" in Orlando, Florida, March 5-8, 1986. The conference was sponsored by the American Correctional Health Services Association. This degree paper and the research paper on which it is based have not been published and I retain full proprietary and copyright to both papers.

The purpose of this study is to review and evaluate the delivery of constitutionally acceptable care and services to incarcerated offenders of the Fulton County Jail; the lack of which has led to a court ordered consent decree. Dependent variables which affect incarcerated individuals are (one) facility conditions, (two) inmate personal services, (three) security arrangements necessary to protect and care for those for whom such attention is required, and (four) actions of the Federal Court.

A Consent Decree is a court ordered agreement between a plaintiff(s) and a defendant sanctioned by the judicial system that specified actions are to take place. In corrections, the plaintiffs are generally inmates who voice
their concerns against the government or government representatives, about conditions, treatment, services, needs, cooperation, request, or a variety of subjects that affect them while being incarcerated in any particular institution or detention facility.

A Consent Decree can be classified as an expensive proposition to be dealt with. Financial considerations must be evaluated (dependent upon the nature of the complaint(s)). While agencies realize that they are in charge of the physical maintenance of offenders, the least amount spent on inmates, the better off financially they may think they are. This is definitely not the case if the consent decree is granted. Financial obligations may occur which the institution in question is obligated to supply without the full ability to contest as promoted by the consent order.

Anthony P. Travisono, Executive Director of the American Correctional Association stated that:

Almost every town has one. They are open 24 hours a day, 7 days a week, 365 days a year, and more than 8 million men and women go there every year. They serve billions of meals each year, yet you don't need money to get into most of them. They aren't McDonald's or Holiday Inns. They're the nation's almost 3,400 jails and detention centers; the vital beginning in the chain of correctional services.

Steven Schlesinger, Director of the Bureau of Justice Statistics, Washington, D.C. wrote in December 1986 that:

At the beginning of this year, more than 500,000 people were in federal or state prisons. The largest number on record since the beginning of inmate counts, undoubtedly, the largest in U.S. history. In addition, 230,000 people were in local jails, 270,000 on parole, and 1.7 million on probation. In fact, more than 1 percent of the U.S. population was under some form of correctional supervision.²

II. THE PROBLEM AND ITS SETTING

The 1970s and 80s have been the predominant period when consent decrees were issued by the courts to effect change in the nation's jails and prisons. Inmate civil suits against city, county and state governments have forced officials to closely evaluate plant conditions, food service, medical care, dental care, psychiatric services, security arrangements, legal assistance, recreation availability, policies and procedures, library services and other specialties in an effort to improve overall conditions.

Offenders in correctional settings may be placed in an environment and forced to endure situations and conditions that may be grounds for a federal suit. If the incarcerated individuals communicate their fears, problems, and situations to their attorneys or other legal services, groundwork may be established to uncover the deeper problems that may exist. Grievance procedures are normally the first methods used to solve questionable situations. After efforts to resolve the dilemma fail, the attorneys for the offenders can then move toward filing suit in federal court to resolve the designated issues.
Identification Of The Problems At The Fulton County Jail.

In 1960, the current Fulton County Jail of Atlanta, Georgia was opened to provide services as required for the Metro Atlanta Area. The population limit for the facility was established at 890; one of the larger jails in the nation and certainly the largest in Georgia. Through the following years and especially as Atlanta's population expanded, the jail moved closer to its stated population maximum but was always able to provide acceptable service and prevent overcrowding of the facility.

Twenty two years after the opening of the current Fulton County Jail (1982), the population of the facility had risen to 1,563 inmates. This count of individuals far exceeded the stated maximum capacity and with no relief available, the facility could not do no more than tolerate the conditions currently in effect. By population, the Fulton County facility ranked as the seventh largest jail in the nation exceeded by the facilities of Detroit, New York, Chicago, Los Angeles, San Francisco, and Miami.

According to Chief Brownlee (Fulton County Jail Director), the principal reason that not just the Fulton County Jail but many facilities around the country began to have severe problems, was due to the Law Enforcement Agency (LEAA) grants that were made to government units. Vast sums were sent to police forces for new recruits, new communication systems and improved training were made available, more courts were provided.
with more Judges to handle services and more Public Defenders were hired to protect the rights of the offenders.  

Totally excluded from the funds being distributed to enforcement agencies were the city jails, county jails and state correctional facilities. Due to more people being arrested, more people going to court and more people being sentenced to jail and/or prison, the prison system quickly filled to capacity and the jail population rose. Conditions began to deteriorate even faster than valient efforts by officials could evaluate and correct. The Fulton facilities began to break down due to excess use, inmates were sleeping on the floors, sanitation existed in name only, food services suffered, only ninety seven sworn staff were available to protect and secure fifteen hundred sixty three inmates. Money in general, was difficult to secure from the county. The situation was beyond belief with no help in sight. 

In 1981-82, the Jail’s population was estimated to be at one hundred seventy one percent capacity. At the upper limits, according to American Correctional standards, the maximum would be one hundred three percent. Correctional standards indicated that forty two square feet of space was to be allocated for each incarcerated offender. At the time, each inmate had approximately twenty square feet of space. The National Humane Society demands by law that a dog requires forty square feet. In essence, dogs had more space to maneuver and live than did the inmates of the Fulton County Jail.

The Fulton County Jail situation is a classic example of problems that may be present in a correctional facility that was in need of serious attention. As stated earlier,  

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3 Speaker Ellis Brownlee, Fulton County Jail Director, The American Correctional Health Services Association, Jeckyl Island, Georgia, November 1985.

4 Ibid.

5 Ibid.
the facility was built over twenty years ago to hold a maximum population of approximately eight hundred ninety people but at the time of the Fambro vs. Fulton County suit, the population was approximately fifteen hundred sixty three. On the staff were approximately ninety seven deputies to work three shifts per day, seven days per week. An impossible situation existed which required the utmost patience and understanding on the part of the officers and the inmates.

Inmate Fambro and many other inmates at the Fulton County Jail filed separate suits in the Atlanta Area Federal District Court. Their complaints were numerous and because they were utilizing the Atlanta Legal Aide Society, that in the past had demonstrated competence in matters of this nature, friendly ears were found to hear the request for help. The complaints voiced were in the subject areas of (one) Visitation, (two) Food Service, (three) Medical, Dental and Psychiatric Services, (four) Fire Protection, (five) Additional Security, (six) Sanitation, (seven) Legal Services and (eight) Overcrowding.

During the month of April 1984, a Consent Decree was signed by the attorneys representing the plaintiff, the attorneys representing Fulton County and the presiding Federal Judge. The order established a binding pact which states that all participants (named or unnamed) had a duty
to perform. With the establishment of the order, all persons working within the boundaries of the order were given a copy. The purpose of this court action, which will continue for several years, is to ensure that all parties have full knowledge of the purpose, intent and powers of the order. Ignorance of the court order by any responsible person is no excuse to prevent being held in contempt by the judicial system.

On behalf of the Federal Judge responsible for the activity of the Fambro case, a Special Monitor was employed to oversee the mandated accomplishments as stated by the court order. The introduction of the monitor was an important aspect due to the established reporting mechanism and communication channels established to be constantly aware of change.

In many court cases which result in Consent Decrees, a fourth party (other than the plaintiff, defendant, and the Judge) may enter into the official proceedings. The court monitor is brought into a case due to the possible mistrust that could be present between the opposing parties or a situation where as the Judge in the particular case does not trust one or both parties to do what they say they will do.

The relationship between the monitor and the Chief Jailer is of a critical nature. The monitor is to interpret the law and common standards applicable to the case.
In addition, the monitor is to tell the Chief Jailer his status of compliance.

Power of the monitor is dependent upon the complexity of the case, willingness by all persons concerned to comply with the order and the absolute needs of the presiding Judge. There are some cases which explore the powers of the monitor within the consent decree. This action permits all parties concerned to be aware of exactly what to expect where as planning in advance may be possible.

Statement Of The Problem.

The problems of the Fulton County Jail are numerous but may be reduced to six major categories. They are listed as the following:

a. Overcrowding.
b. Health Related Services.
c. Appropriate Security.
d. Grievance Procedures.
e. Facility Conditions.
f. Appropriate Inmate Services.

Context Of The Problem.

As the Administrator of Medical Services currently employed by Correctional Medical Systems at the Fulton County Jail in Atlanta, Georgia, this writer has participated in a major civil action legal case filed against the Fulton County government agency operation. The civil
action suit known as the Fambro versus Fulton County Civil Action Suit became effective in April, 1984, as a result of complaints of poor treatment, poor housing and ill-regarded services provided to incarcerated individuals.

As an active participant, who was brought in to the situation to provide needed services, the view of activity was direct. Specific figures in the Fulton County setting were the elected Fulton County Commissioners, the Sheriff of Fulton County, the Jail Director and the Georgia Department of Corrections. All participants were considered responsible for the housing, health and safety, movement, treatment and services rendered to the incarcerated population.

The responsibility of the Administrator of medical services for the inmates included provision of activities and services necessary to meet and maintain constitutionally acceptable service levels as approved and sanctioned by the Federal Court of Jurisdiction. In the course of providing these services, regular contact was necessary with officials of the Jail's Administrative Staff, Sheriff's Office, County Manager's Office, Public Works Administration, Officials of the Department of Corrections and the Fulton County Commissioners.
III. LITERATURE REVIEW

In past years, grievances made by inmates were largely ignored. This act by officials in charge, in itself, has led to a preponderance of suits being filed in an attempt to solve existing problems in the jails and prisons across the country. Of course, it must be recognized that jail and prison officials can only work within the boundaries granted to them (facility, supplies, salaries, special assistance, etc.). Without full support from high government officials and the internal standards implemented by the administration of the facility, failure to provide constitutional care is eminent.

The major reasons that prompted inmates to file law suits were overcrowding, facility conditions, health related services, grievance procedures, security availability, and normal services to inmates. The following information is an attempt by this writer to link these matters as to the need and utilization of a consent decree. In certain cases, the courts appoint a special monitor to oversee the implementation of a consent decree.
Overcrowding.

Once a defendant has been duly convicted and sentenced, he enters the correctional stage of the criminal justice system. This stage is often hidden from the public by thick walls, locked doors, physical remoteness, and legal procedures, but it is nevertheless extremely important.\(^6\)

Imprisonment is, of course, incarceration in a penal institution - either a jail or a prison. It constitutes the "hard-core base of the correctional process." Although imprisonment arose out of a spirit of reform and humanism, it has for the most part failed as an instrument of reform. Imprisonment is seen as atrophying the offender's capacity to live successfully in the free world. It brutalizes attitudes and destroys self confidence. Prisons and jails have come to be regarded as little more than "schools of crime."\(^7\)

As an example of poor conditions in a correctional institution, the Report Of The National Advisory On Civil Disorder 1968 offers the following:

After arrest, accused persons in Detroit and Newark suffered the abuses of an overtaxed and harassed system of justice. In Detroit, inability to maintain a centralized system of arrest records meant that families and defense attorneys could not locate arrested persons confined in widely scattered emergency detention facilities. In one day alone, 790 persons were booked at the Wayne County jail and 1,068 sent on to other detention facilities, usually without opportunity to notify or consult family or counsel.\(^8\)


\(^7\)Ibid.

Regular detention facilities were swamped. Detroit's main city jail, built for 1200 persons, was crammed with over 1700. Precinct lockups, built for 50 prisoners, received 150 or more. The juvenile detention home, built for 120, held over 600 during the riot. In Newark, a large portion of those arrested were held in an armory without proper food, water, toilet, or medical facilities.  

Facility Conditions.

In 1983, Phillip B. Taft, Jr. wrote in the Corrections Magazine an article which highlighted significant problems in a jail similar to those encountered by the Fulton County Jail. His report is as follows:

Bobby Taylor, the young Director of the Central Texas Legal Aid in Austin collected his mail one morning in 1972, and spotted a strange, lumpy envelope. Tearing it open, he pulled out a twisted dry piece of beef and short note. This is what we had for dinner today at the jail, "it read." See that green spot in the center? Guess what that is? Taylor had received dozens of letters bemoaning conditions at the Travis County Jail, but never one like this. Tossing the moldy piece of beef in the trash, he decided to investigate.  

What he saw at the jail shocked him. The building was overflowing with inmates. Dozens of them were packed in small, dungeon-like "tanks", at least 30 slept without mattresses or blankets on the floor, sweltering in the hot, foul air. Inmates and guards alike told Taylor that they feared for their lives. Standing there listening, Taylor would

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9 Ibid.

shake first one leg, then the other, trying in vain to keep the cockroaches from crawling up his pants.

Taylor immediately took action. He filed Musgrove vs. Frank, a sweeping class action conditions and over crowding suit, on December 15, 1972 against the Travis County Sheriff, Commissioners and county executives on behalf of the inmates.\footnote{\textit{Ibid.}}

Travis County now has a new, spacious, modern and efficient jail and a revamped and fortified criminal justice system. It took eleven years, six major court orders and thousands of pages of testimony but Bobby Taylor succeeded in changing the system through the power of jail litigation.\footnote{\textit{Ibid.}}

Grievances.

The United States Constitution prohibits cruel and unusual punishment. Unfortunately, the constitution does not define what may constitute cruel and unusual punishment. Past history indicates that when inmates would voice their concerns to correctional administrations, their claims were denied.

Whenever prisoners would present claims to the courts, they were traditionally denied on the grounds that courts had no jurisdiction or power over the internal management of prisons.\footnote{\textit{Ibid.}} The litigation by prisoners and prison movement lawyers began changing this. The change, goaded by prisoner unrest, was slow, spasmodic, almost accidental shift that occurred on many fronts. The progress began in the early 1960s when the Black Muslims won an

\footnote{\textit{Ibid.}}

\footnote{\textit{Ibid.}}

\footnote{\textit{Ibid.}}

important series of court victories. The Muslims argued to the courts that the First and Fourteenth Amendments to the Constitution established their rights to hold religious services on the same basis as Catholics and Protestants, to receive their newspaper, and to eat a special diet. After the Muslim's court victories, all prisoners' chances of being heard by the courts increased. When courts finally listened to prisoners, inhumane conditions were revealed. The most dramatic case was Holt v. Sayer, concerning the Arkansas prison system. After the courts abandoned the hands-off doctrine, limited progress was made in changing prisoners' civil and legal status.16

The following are selected quotes from a publication of the U.S. Department of Justice entitled Complaint Procedures in Prisons and Jails:

From a Correctional Officer:

Inmates have no important problems. We feed them, clothe them, shelter them, and provide them with medical treatment. That's enough!17

Another Correctional Officer:

They just tacked a notice on the staff bulletin board that said inmates could file grievances. I didn't understand it and I don't like it!18

15 Ibid., p. 83.
16 Ibid., p. 103.
18 Ibid.
From an Inmate:

It is ironic that I should be locked up by the individuals who consistently break their own rules.\(^\text{19}\)

Complaint procedures began to be formalized in the 1970s. This was also the era when litigation was becoming a prominent factor in jail and prison operations. Administrators were at long last taking the time to listen to what the inmates were saying. It must be understood that hundreds of years of correctional thinking could not be eliminated in just a few years.

The court's attitude was that constitutional care be given to all incarcerated offenders regardless of the institution in question. This could not be accomplished by all courts doing things the same way. The complaints, circumstances, situations, attitudes of the inmates and administrations' political factors and financial constraints were all different.

Early complaint procedures were cumbersome, sometimes non-functional, slanted to one side and had the difficulty of attitude adjustment on the part of the staff and inmates. Trial and error methods with great emphasis on the attitude of the inmate have slowly brought grievance procedures out of the dark ages into an era of respectability.

\(^{19}\text{Ibid.}\)
Quote from an Inmate:

Why should I use the grievance procedure? Once staff make up their minds, they just scratch each other's backs. 

There have been several formal methods of attempting to solve problems in jails and prisons. The most popular have been:

1. Multi-Level Grievance Procedures.
2. Utilization of an Ombudsman.
3. Grievance Commissions.
4. Inmate Councils.
5. Inmate Unions.

The following is a discussion of each of the methods mentioned:

Multi-Level Grievance Procedures:

This is a formal grievance procedure involving submission of complaints to a designated individual within an institution. An unsatisfactory response at the first level enables the complainant to appeal to higher levels within the organization and, in some instances, to an individual or body outside the correctional agency - where outside review exist, it is in all cases advisory. 

Ombudsman:

Bared as a model of complaint resolution developed in Scandinavia, this system creates a public official with full authority to investigate citizens complaints against governmental agencies and to pass judgment on their merit. The official

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20 Ibid., p. 32.
21 Ibid.
has no power to enforce his recommendations, however; he must rely on his persuasiveness, reputation and public support to produce compliance.

Grievance Commissions:

With features of both the Ombudsman and the Multi-Level appeal procedures, inmate grievances commissions exist in a few states, including Maryland, North Carolina, and New York. In these systems a commission of outsiders, generally with an investigative staff, is empowered to receive and investigate complaints. The commission's staff reports its findings to the commission which in turn, makes recommendations to correctional administrators.23

Inmate Councils:

Once the primary channel for communicating inmates' points of view to administrators, inmate councils have lost support as other models have been adopted. Where successful, councils have tended to concentrate on issues of institutional and departmental policy rather than on individual grievances.24 The best known inmate council was the Washington State Penitentiary in Walla Walla, Washington. The Council was disbanded in April, 1975, because of general lack of satisfaction.25

Inmate Unions:

Attempts to organize prisoners to negotiate with administrators concerning their complaints thus far have been unsuccessful: most have been abandoned.26

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22 Ibid.
23 Ibid., p. 33.
24 Ibid.
25 Ibid., p. 34.
26 Ibid.
Security.

To provide correctional services, an adequate number and appropriately trained force of personnel is required.

For centuries, the field of corrections has suffered from a negative personnel recruitment policy: Too much attraction for unqualified people and too little attraction for those capable of confronting the complex challenges of penal work with imagination and dedication. For centuries, the field of corrections has suffered from a negative personnel recruitment policy: Too much attraction for unqualified people and too little attraction for those capable of confronting the complex challenges of penal work with imagination and dedication.27

Penal programs are compulsory for the body politic. As long as there are laws, law violators, and law enforcement, programs will be needed to handle people who are convicted. The quality of correctional manpower and its use are important to correctional programming.28

The correctional field requires a broad spectrum of personnel. Prisons, reformatories, and other total institutions are self-contained communities which must provide most of the essential services of a small town.29

Health Related Services.

The jail has explicit responsibilities for protecting and maintaining the health of individual prisoners. The prevention of disease among prisoners and the prevention of the spread of disease from the jail into the community are co-equal in importance.30

Frequently, persons committed to jail are in poor physical condition, suffering from malnutrition or disease. The incidence of infectious


28 Ibid.

29 Ibid., p. 72.

disease - tuberculosis for example is high among jail inmates. Those convicted of crimes, particularly petty crimes, are frequently inadequate personalities whose standards of living have been substantially different from the normal standards of the community. Malnutrition, atrocious life habits and patterns, association with a wide variety of derelicts, have tended to produce a high incidence of illness and disease among such persons. The concentration in the jail of these derelicts and disease produces a much higher rate of all types of medical problems than is found ordinarily in the community.31

Inmate Services.

A wholesome, nutritionally balanced diet, adequate to maintain life and health, is a basic human right which cannot be denied to prisoners. Food is important to people everywhere, and especially so to prisoners. At best, jail life is regimented and monotonous, and prisoners are permitted few personal choices in their daily routines. Food, therefore, assumes a disproportionate importance to them. Surprisingly enough, luxury foods are not an issue; balanced menus, regular service of three meals a day spaced at reasonable intervals, and simple nutritionally adequate food, attractively served in clean surroundings, are the answer to jail food problems. Since food has such a direct bearing upon the attitudes and morale of the inmate population, it is a particularly important aspect of jail administration.32

Any prisoner is extremely limited in maintaining and defending his safety, health, and personal well being. He is dependent upon his jailer for the sanitation of his surroundings; safety from fire and injury; freedom from the dangers of filth and vermin; and the purity of the water he drinks and the food he eats. The standards of housekeeping, sanitation, and safety maintained by a jail are a sure index to the jailer's competence in carrying out one

31 Ibid.
32 Ibid., p. 109.
of his major responsibilities, the maintenance and protection of human life.33

Constructive activities must be provided during the hours when prisoners are not otherwise occupied. Religious services and affirmative moral influences must be developed if the jail is to prevent moral and spiritual deterioration and provide ethical strengthening for those who need and want it. Moreover, prisoners, oftentimes shamed by their imprisonment, respond to activities through which they can contribute to the good of the community. The opportunity to make those contributions can be readily provided by the jail.34

The Special Monitor.

The earliest noted time frame that monitors (sometimes known as Special Masters) were used was many years ago in Great Britain. Masters, then, were used in a non-correctional setting but the concept and utilization was basically the same.

Grievances, court suits and litigation have prompted the judicial system to seek and rely on comments, research, accumulated documentation, and experience of individuals who will leave no stone unturned to seek the truth and fairness. The number of individuals in this category is small and is not expected to grow to an alarming rate.

An article written by Marc R. Levinson in the August, 1982 issue of Corrections Magazine stated that:

33 Ibid., p. 163.
34 Ibid., p. 203.
Probably the first Special Master appointed in a prison litigation case was a massive suit brought against Louisiana's Angola Prison in 1971. The litigation included two years of investigations by U. S. Magistrate Frank Palozola, who was appointed Special Master by U. S. District Judge E. Gordon West. West ordered sweeping changes in the prison in 1975, based partly on Palozola's findings.35

The roles and power of Special Masters vary from case to case. The Judge presiding over a particular case may assign special task and permit additional powers to the "Master" to bring about compliance to his/her order.

Mr. Levinson also stated in his article that there are four important questions that must be answered.36 They are as follows:

1. When should a special monitor be appointed?
2. What should his relationship be with the prison administration?
3. What kind of power should he have?
4. Are there cheaper and more effective mechanisms to bring about changes?37

36 Ibid.
37 Ibid.
IV. METHODOLOGY

Primary Data.

The main methodological approach utilized in this degree paper was descriptive analysis. Primary collection techniques included interviews and personal participation.

In an effort to present views from individuals who have been charged with the responsibility of accomplishing the mandates of a Consent Decree and to make the reader more knowledgeable of the same, this writer was fortunate to have been able to interview two high officials of the Georgia Department of Corrections to discuss the subject. The department was sued by a group of inmates in the mid 1970s for problems which existed within the system and are similar in nature to problems currently in existence at the Fulton County Jail. It should also be made known that the Department of Corrections is a party to the Fambro versus Fulton County Suit.

The individuals interviewed from the Department of Corrections were Mr. Michael Spradlin, Administrator of Health Services and Mr. Sam. Austin, Special Assistant to the Commissioner. Their responses to specific questions asked are as follows:
Interview with Mr. Michael Spradlin:

Question: Please give me your definition of the action of a consent decree.
Response: To resolve as many problems as possible via negotiation and agreement. Everything that can be resolved by common agreement is much more likely to work than something that is forced. Out of all of the successful activities that happened at the Georgia State Prison, ninety eight percent was due to the consent order.

Question: Were the grievances expressed by the inmates valid?
Response: The court said that they were. The court thought that we were operating an unconstitutional health care delivery system.

Question: Is litigation a necessary evil to make advancements?
Response: Unfortunately yes, many gains we made would not have been made had there had not been litigation.

Question: Since the initiation of litigation, are additional changes easier?
Response: Our case is stated easier. The governor's budget officers understand more about what kind of standards we must meet and what it takes to meet those standards.

Question: Have correctional and/or medical staffs been conditioned to head off litigation?
Response: I don't think that the institutional staffs have it in mind all the time, but they are sensitive to the situation that we are all in. We have learned a lot from the Guthrie Suit. The knowledge gained from the litigation has been passed on to the staff to aid them as to how they should approach their work. There was a period of time when the staff was seriously watching themselves. The cost of operating reflected that.

Question: Has constitutional been defined?
Response: Not to everyone's satisfaction, but defined enough to settle some cases.

Question: Inmates complain about medical problems prior to their incarceration; is it the state's responsibility to take care of their past problems and is it the state's desire to take care of the inmate's problems before they are to be released?
Response: No, it is not our responsibility, but it has never been litigated.
Question: Were there problems of political and financial delay in the delivery of medical services?
Response: There were problems of funding and other problems that could not easily be legislated. Examples are bringing about change in human attitude, prejudices and conduct that grew out of the situation. The courts recognized that they could do the job no better and it was in everyone's best interest to keep the prison in the hands of D.O.R..[38]

Interview with Mr. Sam Austin:

Question: Was the state of Georgia not looking at what was going on in the form of litigation around the country before the Guthrie suit was filed?
Response: We were looking at what was happening and we learned from the other states, but circumstances did not indicate identical solutions. You can learn a lot from the problems of others. Decisions are tied to a particular set of circumstances. Across the board decisions apply when the question gets to the Appellate Courts.

Question: Is a monitor really necessary to participate in a consent decree?
Response: If you have a monitor in the term of a consent decree, he is no longer a monitor but becomes a mediator. The monitor's biases cannot help but get involved with the entire process. The problem of litigation has a lawyer as the Judge, the attorney for the plaintiff of course is a lawyer and so is the representative for the defendant. Add the monitor and you have four lawyers deciding something that none of them has actually participated in. The thought has surfaced that a monitor should rarely be a lawyer but a correctional expert who is familiar with prison operations. A correctional expert could be a lawyer but should primarily be the expert first, lawyer second. When you have lawyers on all sides deciding cases that they have not actually been involved in, you have a situation

[38] Interview with Michael Spradlin, Georgia Department of Corrections, Atlanta, Georgia, October 1985.
of lawyers trying to out lawyer the rest of the lawyers. You have lawyers fighting for, fighting against, monitoring and judging something that they were not and will never be directly involved in. 39

Secondary Data.

Secondary information was provided from books written on the subject of correctional activity and Corrections Magazine published by the American Correctional Association.

39 Interview with Sam Austin, Georgia Department of Corrections, Atlanta, Georgia, October 1985.
V. ANALYSIS OF THE PROBLEM

As mentioned in the Problem and Setting section of this paper, this writer experienced portions of the problematic situation as it developed over a number of years.

The following segments under the headings Overcrowding, Health Related Services, Facility Conditions, Security, Inmate Services, and Grievances will provide the reader with a contrast of before and after the Consent Decree.

Overcrowding.

Prior to the signing of the Consent Decree effecting Fulton County, there were approximately fifteen hundred inmates being housed in the Fulton County Jail. Currently, as of the writing of this Degree Paper, the population is approximately twelve hundred.

The defendants in the Fambro vs. Fulton County case were considered to be reasonably diligent, after the suit was filed, in their efforts to limit overcrowding. The unexpected increase in the criminal activity forced Fulton County to house more individuals than had been expected.

Prior to the suit, Fulton County was forced to increase its population due to the legal position of the Sheriff's Office. Legally, the law mandates that all
individuals who are to be bound over to the courts, must be processed and maintained by the Sheriff's Department. This point is made specifically clear by the Official Georgia Code which states "the jail cannot refuse to accept inmates presented to it for incarceration." 40

Since the Fulton County Jail is a pre-sentence institution, to maintain a stable population, for each individual inmate that enters, one inmate must also exit. When more inmates are presented to the facility to be housed than the number that the facility can accommodate, overcrowding is the end result. Such a situation not only will violate the terms of the consent decree but imposes severe hardship and discomfort on the inmate population.

Facility Conditions.

After twenty-two years of continuous use, the Fulton County Jail facility has served its purpose well. Contrary to some opinions, considering the age and design features, the jail, after design and renovation measures, continues to function adequately with its many flaws.

Prior to April 1984, the walls of the institution were in need of paint, the equipment was antiquated, plumbing services and electrical work were needed, general

maintenance was necessary, heating and air conditioning equipment was in need of repair. Since 1984, a new wing for women has been constructed, complete renovation of all of the male housing wings has been accomplished, the entire institution has been painted, new electrical and plumbing services have been installed and a trained maintenance staff is available to care for the facility's condition.

After serious deliberations and suggestions, the county leaders and the residents of Fulton County elected to replace the aging facility with a new building which is considered "state of the art." Forward thinking indicated that the population of the county will continue to rise and criminal activity will follow suit, creating the definite need for an improved facility.

**Inmate Services.**

Prior to the Consent Decree, the inmates had no space available to store their private belongings and their movement and personal supplies were controlled by other inmates to some extent.

Food was served in the housing area where sleeping and recreational space was available. The kitchen was manned by two to three officers and a swarm of inmates who provided all of the inmate and staff meals.
With the lack of space experienced by the inmates, the feelings expressed were that their constitutional rights were being infringed upon. Possessions could not be stored, life was considered endangered while in the facility, movement and personal supplies were to some extent controlled by other inmates.

Recreation was accomplished, when and if possible, dependent upon the weather conditions and how many officers were available to guard the area. This activity has at times occurred with over six hundred inmates in the outside recreation area with as few as five Deputies available for outside service.

In contrast to the past, food is still being served in the inmate living areas but many other actions have been put into effect to remedy problems that had existed. A private food service vendor has since been contracted to provide services which utilize no inmate labor to receive, store and prepare food. State and local sanitation practices are being followed to ensure cleanliness and good safety practices throughout the food service area. Food is prepared for movement in closed trays but is still served by inmates with officer escorts. The living areas are cleaned after each meal with all food remnants and other trash removed as completely and quickly as possible.
Recreation is now a daily affair, weather permitting. Ample numbers of officers are available to get the entire population outside for at least an hour per day. Recreational supplies are provided for inside use when other activities are prohibited. Fire protection, visitation, legal services and other important matters are being discussed and acted upon to improve the quality of life in the Fulton County Jail for inmates and in some cases, the staff. These matters, and many others, are time consuming and expensive subjects to be involved in, but are subjects that must be confronted and handled appropriately.

Health Related Services.

Medical, Dental and Psychiatric services were provided minimally at the Fulton County Jail. One physician was available to work five hours per week with the assistance of one Physician Assistant and two Sheriff Deputies. Dental services were conducted once per week for the population with limited services available. Psychiatric services were rendered at Grady Hospital by the Psychiatry Department.

Six months prior to the signing of the Consent Decree, contractual relations were completed for the establishment of contract medical services at the Fulton County Jail. The assigned task of the medical unit was to evaluate the health care needs of the inmate population and provide
constitutionally acceptable care based on the recommendations of the American Medical Association and the National Commission on Correctional Health Care.

Accomplishments of the medical unit include establishment of sickcall services which are more extensive than past services, full time dental services, twenty four hour daily nursing services, accreditation of the medical unit by the National Commission on Correctional Health Care, infirmary services, medical screening activity for incoming inmates for physical problems and contagious diseases and finally, physical examinations on all inmates.

Security.

By far, security arrangements have improved tremendously since the institution of the consent decree. The staffing arrangement has changed from ninety seven (pre-Consent Decree) to over one hundred eighty officers. A specific point of interest is that at the time that the officer staff was being increased, the inmate population of the facility was decreasing from over fourteen hundred inmates to approximately one thousand. The inmate population has since begun to climb upward again.

Staff is currently available to provide adequate supervision of all activity outside the cell areas, conduct regular rounds of the facility, increase surveillance of incoming inmates, respond to emergencies, transport inmates
to court and associated outside appointments, and monitor general activity.

Grievances.

Grievances expressed by the inmate population prior to the order were verbally passed on to the jail administration or by letters explaining their particular problems. The problems were taken care of to some extent, but circumstances beyond the control of the jail (i.e. overcrowding, medical services, recreation) prevented complete resolution to many of the problems.

Since the Consent Decree, a grievance mechanism has been established to respond to each and every grievance written by an inmate. The grievances are received by a Grievance Officer and after evaluation and investigation, a response is delivered to the inmate. Each grievance received by the Officer is logged and filed. The final decision, if the grievance is not settled at a lower level, is made by the Jail Director.

Special Monitor.

Before the Consent Decree, there were no provisions for a monitor. As of the time of the Consent Decree signing, the monitor, representing the presiding Judge, will continue to furnish updated information to the court and make on-site evaluations and recommendations to the Chief Jailer (Jail Director) and the Sheriff of Fulton
County. As needed changes are made evidently clear, failure to do so will constitute contempt of the court order with penalties to follow.

The Fambro vs. Fulton County Suit made it mandatory that Fulton County could not have an inmate in custody who did not have a bed. Results of this action prompted the jail's administration to find ways to keep the population to a minimum. The State and Superior Courts were pressured to move faster in their efforts to hear, try and decide cases. Bonds were lowered on people that had non-severe cases pending, to permit the offender to stay at home instead of waiting in jail. Pre-trial organizations became a prominent factor in getting low bond persons out of the jail. Mental health teams assisted by sending individuals with known mental problems to mental health facilities outside the jail to receive help instead of letting them sit in a jail cell magnifying the jail's and their own problem. Overcrowding has been reduced significantly, but although improvements have been made, crime continues, the population increases, more arrest are being made and more people are expected to be incarcerated.
VI. CONCLUSION

The presence of inmates in the Fulton County Jail which was established for the purpose of incarceration is the responsibility of the Fulton County Government. It can truthfully be stated that the government body must carefully weigh the quality of life, safety and well being of all inhabitants. Any reversal from quality care constitutes grounds for cruel and inhumane treatment.

Jails are unlike prisons due to the size of the government system, the extreme conditions that may exist, political structure of the area and the value of change. One well placed suit in a state prison system will accomplish much more than independent litigation in a jail unless the jail is a major facility. According to Phillip B. Taft, "Prisons are bigger game; systems were easily wounded with one well place conditions suit."41

Since April 1984, monumental strides have been made by Fulton County to correct situations in the Fulton County Jail which contributed to the filing of the Fambro versus

Fulton County Suit. There still exists one area in which the government administration finds difficult to grasp, which is overcrowding. It is not within the control of the jail to refuse acceptance of prisoners presented via municipal legal channels. It is, therefore, necessary for the administration to find means to provide prisoner discharge from the institution as rapidly as possible. To accomplish this task, the pre-trial activities have been activated to increase evaluation of inmates to be released on their own recognizance; bonding companies have been permitted to arrange for more people to be released; pressure has been exerted on the Department of Corrections to accept inmates within a shorter time frame; the State and Superior Courts have been asked to move faster in hearing, trying and sentencing (as the situation may indicate); and finally, mental health services are being employed, utilizing state supported facilities to make recommendations about various inmates being housed by the county.

The Jail remains overcrowed regardless of the efforts being made. For each inmate within the facility without a bed, the court has established a fine upon the county of one hundred dollars ($100.00) per day per inmate. At one point in time during early 1987, the total fines had accumulated to one million five hundred thousand dollars ($1.5 million). There are more people entering the correctional system than it was designed to handle.
VII. RECOMMENDATIONS

The following recommendations are being made to the correctional officials of Fulton County to insure the delivery of constitutionally acceptable care and services:

1. The jail administration should review and act on inmate grievances as rapidly as possible.

2. The sanitation measures necessary to prevent the spread of disease and vermin should be of the highest priority.

3. Long range planning activities by the Fulton County Government should be initiated for the future growth of the Fulton County Jail.

4. Educational plans for the inmate population should be instituted to provide for the smooth transition of inmates back into society.
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