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THE FULTON COUNTY JAIL PROJECT:
A PRO BONO CLINICAL VIEW FROM THE
CELLBLOCKS

Mark J. Kadish *

[The Fulton County Jail] is like a leaky, rudderless ship
overloaded with dangerous and ill passengers, without a captain
and with a short-handed crew.¹

INTRODUCTION

In the summer of 2004, a groundswell of community criticism
arose regarding the poor conditions of the Fulton County Jail in
Atlanta. The Rice Street Jail, the primary facility of the Fulton
County system, held at least 1000 prisoners over its maximum
capacity.² Compounding the over-crowding, the jail was grossly
understaffed, resulting in serious health hazards, mistreatment of
inmates, outbursts of violence, and inmate escapes.³ In response to
these conditions, the Southern Center for Human Rights (“Southern
Center”) filed a lawsuit on behalf of the inmates of the jail.⁴ The
lawsuit, Harper v. Bennett, highlighted deep, systemic problems

¹ Professor of Law and Director of the Fulton County Jail Project, Georgia State University
College of Law. Professor Kadish graduated from New York University Law School in 1967. Prior to
joining the College of Law in 1990, he was a criminal defense attorney for twenty-three years, during
which time he visited more than forty different jail facilities in at least twenty states. The author thanks
Christopher Bracci, Cliff Williams, and Peter Morris, who assisted in the preparation and completion of
this Article. Jennifer Hendee also deserves special recognition.

2004 Court Order].

³. See Letter from Robert B. Greifinger, M.D., to Paula Morgan Nash, Esq., Office of the Fulton
County Attorney (May 31, 2004) (attached to Consent Order at Appendix A., Harper v. Bennett, No. 04-
CV-1416-MHS (N.D. Ga. Dec. 21, 2005)) [hereinafter Greifinger Report]; see also Amended Complaint
Complaint]. Though there are two other jails in the county, Bellwood Annex and Marietta Annex, those
jails only hold 200 and 100 inmates, respectively. Consent Order at 5, Harper v. Bennett, No. 04-CV-

4. See discussion infra Part I.

561
within Fulton County Jail as a whole. To help address these problems, the Southern Center solicited Georgia State University College of Law to become involved and help resolve the ongoing problems. This initiative became the Fulton County Jail Project ("Project").

Part I of this Article reviews the deplorable conditions faced by Jail inmates prior to the Project’s inception and the filing of the Southern Center’s civil rights complaint against the sheriff and commissioners of Fulton County. Part II describes the decisive steps taken by the District Court to protect the inmates’ legal and human rights. Part III describes the Project’s origins and its initial goals. Part IV describes the Project’s involvement in the jail, focusing on the steps taken by the students to address the needs of the inmates. Part V explains how the Project exposed a critical problem with bench warrants that compelled a shift in the Project’s focus. In Part VI, five law students provide first person accounts of their experiences in the Project. Finally, the article concludes with reflections and hopes for the future of the Fulton County Jail Project.

I. THE NEED FOR INTERVENTION

The Fulton County jail system consists of one main facility and two annex buildings in downtown Atlanta. The main facility, located on Rice Street, consists of a “three-story low rise structure joined to an elevator tower,” which provides access to two housing...

5. See discussion infra Part I.
6. See discussion infra Part III.
7. See discussion infra Part III.
8. See discussion infra Part I.
9. See discussion infra Part II.
10. See discussion infra Part III.
11. See discussion infra Part IV.
12. See discussion infra Part V.
13. See discussion infra Part VI.
14. See infra Conclusion.
15. Consent Order, supra note 2, at 4-5.
towers.\textsuperscript{16} The Rice Street facility has a maximum capacity of 2250 inmates, and the annex buildings have a combined capacity of only 300.\textsuperscript{17} As the Harper Complaint states, the Rice Street jail was designed to hold only 1332 inmates.\textsuperscript{18} Although beds were added to increase the official "capacity" to 2250, that increase in prisoner population was not matched by any expansion or improvement of jail facilities.\textsuperscript{19} In fact, in June 2004 the inmate population numbered over 3300, with some cells housing three inmates apiece and approximately 500 inmates sleeping on the floor or in bunks in the common areas.\textsuperscript{20} Indeed, such overcrowding at the Jail was cited as a factor in at least ten escapes or mistaken releases of inmates from 2002 to 2004.\textsuperscript{21}

Moreover, a hiring freeze left the Jail severely understaffed.\textsuperscript{22} A local paper chronicled the problem in July 2004:

Chief Jailer Roland Lane has said he often has only one guard watching 200 to 300 inmates. He said 20 guards had been attacked by inmates, with seven being injured in the first three months of this year, and that staff injuries were up 43 percent since . . . 2002. At least one prisoner was in a coma after a beating by inmates and another inmate's ear was partially bitten off . . . . \textsuperscript{23}

Against this background, the Southern Center took the first steps in addressing the jail's problems.

\textsuperscript{16} Id. at 5.
\textsuperscript{17} Id. at 4-5.
\textsuperscript{18} Harper Complaint, supra note 2, at 11.
\textsuperscript{19} See id.
\textsuperscript{20} Id. at 11-12.
\textsuperscript{22} See id. ("Chief Jailer Roland Lane agreed with Greifinger's findings and blamed 94 unfilled positions on a hiring freeze instituted by the county government.").
A. Harper v. Fulton County

Created in 1976, the Southern Center for Human Rights is a “non-profit, public interest law firm dedicated to enforcing the civil and human rights of people in the criminal justice system in the South.” In 2004, the Southern Center filed a lawsuit on behalf of Fulton County Jail inmate Frederick Harper and all other current and future inmates against, *inter alia*, the Fulton County Sheriff and the Fulton County Board of Commissioners. Specifically filed in response to a deputy sheriff’s alleged physical abuse of Mr. Harper, the lawsuit sought relief from the jail’s intolerable conditions and mistreatment of inmates.

Filed pursuant to 42 U.S.C. § 1983, the complaint alleged that the plaintiffs’ Eighth and Fourteenth Amendment rights had been violated. They sought compensatory and punitive damages, along with preliminary and permanent injunctive relief and declaratory relief. The complaint detailed the appalling conditions at the jail and the risks posed to both inmates and staff. Due to overcrowding and the lack of adequate staff, there were frequent delays in responding to emergency situations. Additionally, the complaint described many mechanical system breakdowns leading to potentially serious health risks. These basic systems simply were not built to support the number of inmates housed at the jail. The complaint concluded that “[t]he overcrowding, inadequate staffing, raw sewage, heat, humidity, mold, and other conditions at the [j]ail result in tension that leads to violence.”

26. See *id.* at 9-10.
27. See *id.* at 20-21.
28. *Id.* at 1-2.
29. See *id.* at 20-21.
30. See *id.* at 4.
32. See *id.* at 3.
33. See *id.* at 2-3. Such mechanical breakdowns included the ventilation, plumbing, and laundry systems. *Id.* “For months inmates have not been able to get their underwear cleaned.” *Id.* at 14.
34. *Id.* at 15.
B. The Greifinger Report

Dr. Robert B. Greifinger was appointed independent monitor to examine the jail on an ongoing basis and report his findings to the district court.\(^ {35}\) On May 31, 2004, Dr. Greifinger issued a report highlighting several broad areas of concern such as inmate overcrowding, poor ventilation, and understaffing at the jail:

It was dank, full of sweaty bodies. The air was thick with the scent of wet underewear. Rank. Each zone the same. Wet laundry on the railings. Raised voices. Noisy. Crowded. Inmates buzzing about, milling randomly, a few banging on the zone doors. Mattresses on the floor in the day room. No duty officers in sight. It was very hot indoors this pleasant [s]pring day. The air-conditioning had been broken for days . . . .

Extremely tense. Each of my senses raising an alarm. Scary. With almost two decades of visiting inmate housing units, it was the first time that I declined to go in.\(^ {36}\)

Dr. Greifinger focused on specific problems affecting inmates' health and living environments. He discovered that one zone contained only two showers for fifty-nine inmates, eighteen of whom were sleeping on the floor.\(^ {37}\) Another zone, built to house 108 inmates, held 326 and contained only twelve showers.\(^ {38}\) Greifinger reported having to “slosh[!]” dangerously through large slick puddles to get in and out of the shower areas.\(^ {39}\) Inside the showers, he found “mold like a fur carpet on the ceiling.”\(^ {40}\)

Dr. Greifinger also reported on the poor health care inmates received. He observed nurses passing out medication by slipping it

\(^{35}\) See Greifinger Report, supra note 2. Dr. Greifinger had previously investigated the jail in a similar suit filed two years earlier. See Foster v. Fulton County, 223 F. Supp. 2d 1292, 1293 (N.D. Ga. 2002).

\(^{36}\) Greifinger Report, supra note 2, at 1.

\(^{37}\) \textit{Id.}

\(^{38}\) \textit{Id.}

\(^{39}\) \textit{Id.} at 2. These puddles were caused “by the dripping condensation in the air handling system.”

\(^{40}\) \textit{Id.}
through the food trap in the cell door.\textsuperscript{41} This procedure prevented the nurse from having any conversation with the inmate, from personally administering the medication, or from determining whether the inmate had taken the medication.\textsuperscript{42}

Dr. Greifinger also found systemic problems within the jail that, in at least one situation, resulted in the jail “los[ing]” an inmate.\textsuperscript{43} That inmate, unable to speak English, had been incarcerated for nineteen months on a low-level felony charge.\textsuperscript{44} The court had ordered a competency evaluation, but no arrangements were ever made with the hospital or the jail to carry out the order.\textsuperscript{45} Lost in the system for nineteen months, the inmate remained imprisoned with no one who could understand him, and consequently, no one who could determine why he was incarcerated.\textsuperscript{46} “I shuddered in disbelief,” Dr. Greifinger stated.\textsuperscript{47}

Inmates faced other systemic problems as well. Specifically, faulty and inadequate records caused the jail to book inmates under wrong names.\textsuperscript{48} Those mistaken identities prevented inmates from receiving timely first appearances and sometimes resulted in improper early releases or escapes.\textsuperscript{49} Additionally, convicted inmates were often improperly held for several months while awaiting transfer into the Georgia state prison system.\textsuperscript{50} All too frequently, inmates did not have timely public defender appointments and had no counsel for many months after incarceration.\textsuperscript{51}

\begin{flushright}
\begin{footnotesize}
\textsuperscript{41} Greifinger Report, \textit{supra} note 2, at 1.  \\
\textsuperscript{42} See id. at 4. “[The nurse] should have been inside, checking identity, administering prescribed medications one dose at a time, inquiring about side effects. But she would need an escort. There was no duty officer to escort her.” \textit{Id.} at 2.  \\
\textsuperscript{43} See id. at 2.  \\
\textsuperscript{44} \textit{Id.}  \\
\textsuperscript{45} \textit{Id.}  \\
\textsuperscript{46} See id.  \\
\textsuperscript{47} \textit{Id.}  \\
\textsuperscript{48} See Interviews by Georgia State University College of Law students with Fulton County Jail inmates, in Atlanta, Ga. (Oct. 2004 - Nov. 2005) (on file with author) [hereinafter Student Interview Reports].  \\
\textsuperscript{49} See id.; see also Visser, \textit{supra} note 21, at A1, A11.  \\
\textsuperscript{50} See Student Interview Reports, \textit{supra} note 49.  \\
\textsuperscript{51} See id.
\end{footnotesize}
\end{flushright}
Dr. Greifinger cited a "severe shortage [of] uniformed staff" as a major problem. He found there were ninety-four unfilled positions, and vacancies continued to occur at a rate of eighty per year. According to Dr. Greifinger, these shortages caused inmates to miss "approximately 18% of scheduled dental appointments and 20% of sick calls and chronic care visits." Dr. Greifinger found that security staff shortages diminished jail security and heightened tension levels, leading to "serious injury and possibly death of inmates."

Based on his observations and extensive research, Dr. Greifinger concluded: "In my opinion, the Fulton County Jail needs immediate intervention by responsible county officials to prevent serious harm to staff and inmates. The [c]ounty must address the problems created by crowding, staff shortages, laundry, and mechanical systems with all possible haste."

II. FEDERAL COURT INTERVENTION

Based on Dr. Greifinger's report, the court immediately took corrective action. On June 25, 2004, Judge Marvin Shoob issued an order stating in part:

The [sheriff of Fulton County] has announced her decision not to seek reelection and appears either unable or unwilling to deal with the serious problems facing the jail . . . .

Given the extremely dangerous and deteriorating condition at the Fulton County Jail, the Court concludes that immediate action is necessary.

After Sheriff Barrett voluntarily relinquished her power over the jail, Judge Shoob appointed a receiver, John Gibson, as the court's

53. Id.
54. Id.
55. Id.
57. See June 2004 Court Order, supra note 1, at 3.
58. Id.
custodian of the jail.\textsuperscript{59} Gibson, a former jail administrator with the Federal Bureau of Prisons, was ordered to:

\begin{quote}
[M]ake every effort (1) to reduce the inmate population at the Rice Street facility to at or below 2,250; (2) to repair and properly maintain the basic systems at the jail, including especially the plumbing, air conditioning, ventilation, and electrical systems; and (3) to provide a sufficient number of trained and qualified staff to adequately protect the health and safety of both inmates and staff.\textsuperscript{60}
\end{quote}

Gibson served as receiver from July 23, 2004 to January 1, 2005, at which time the newly elected sheriff of Fulton County assumed responsibility.\textsuperscript{61} During Gibson's tenure, great strides were made in improving the physical structure of the jail and the psychological state of the inmates.\textsuperscript{62} Soon after Gibson's appointment and just as the students began their work at the jail, Dr. Greifinger filed another report with the court chronicling the progress of the improvements.\textsuperscript{63} Dr. Greifinger noted:

The census at 901 Rice Street [jail] is 2,586, a reduction of 290 in two months . . . .

In contrast to the 446 inmates without bunks two months ago, there are currently no inmates sleeping on the floors of the housing units. This is a substantial improvement . . . .

Mr. Gibson is working closely with a new command staff and the three major vendors to resolve outstanding issues at the jail.


\textsuperscript{60} Order Appointing Receiver, \textit{supra} note 60, at 3.

\textsuperscript{61} Consent Order, \textit{supra} note 2, at 3.

\textsuperscript{62} Mark Kadish, Observations (Oct. 2004 to Nov. 2005) (unpublished observations and recollections, on file with author) [hereinafter Author's Observations and Recollections].

The tone and attitude of the custody staff have improved. The health care, maintenance, and dietary staff are each doing outstanding work.

There are substantial improvements in maintenance, due to recent approvals by the county to acquire replacement parts for vital functions such as air-handling and the diligence of the maintenance staff in staying on top of work orders.

Additionally, medical facilities improved due to better cooperation between the jail’s medical director and the outside medical services company. No vermin were seen, living conditions in the cellblocks were generally habitable, and food quality improved significantly.

Although Dr. Greifinger reported that the jail was in “turnaround mode,” he did note its remaining problems. He stated that “the major impediment to constructive change is the county’s reluctance to unfreeze vacancies. As of today, the county has yet to unfreeze at least sixty-six security staff vacancies.” Moreover, repairs were still needed for the plumbing, air conditioning, and especially the laundry system, which was a fire hazard because the exhaust ducts were not cleaned on a daily basis. The inmate population, although reduced, remained significantly over capacity.

Six months after the Harper complaint was filed, the district court issued a consent order to guide the future operation of the jail. The order established limits on the minimum number of guards and the maximum number of inmates permitted at the jail. Additionally,
county commissioners could not freeze or otherwise prevent the filling of jail security staff positions without court permission.73 Guards were required to conduct hourly security rounds inside each cellblock and inmates could not be required to sleep on the floor.74 Finally, if an inmate was not released within twenty-four hours of posting bond, the charges against the inmate would be dismissed.75

III. GEORGIA STATE UNIVERSITY COLLEGE OF LAW INITIATES THE FULTON COUNTY JAIL PROJECT

After Harper v. Fulton County was filed, Steven Bright, senior counsel for the Southern Center, approached Steven Kaminshine, then-interim Dean of Georgia State University College of Law, about permitting Georgia State law students to enter the jail and investigate the numerous problems faced by Fulton County jail inmates.76 Dean Kaminshine agreed, and the law school faculty undertook the process of crafting a project to meet the needs of the inmates in the Fulton County jail.77 The faculty met with judges, court officials, jail personnel, and university officials, and decided to establish the Fulton County Jail Project.78

The Project’s aim was to assist inmates with unaddressed problems “due to the severe overcrowding and understaffing of [the jail].”79 Georgia State faculty decided students should begin interviewing individual inmates about jail conditions and other problems relating to the criminal process. Students would participate in training sessions with faculty volunteers and Southern Center paralegals,
interview the inmates, and prepare formal reports to the district court, the Fulton County Superior Court, and the sheriff.\textsuperscript{80}

Before students could enter the jail, however, federal guidelines required that the Project be reviewed by the Georgia State University Institutional Review Board (IRB).\textsuperscript{81} To comply fully with IRB rules and federal regulations, students had to receive training to prepare them to interact with inmates. Thus, Georgia State faculty and Southern Center staff provided training in interviewing techniques, record retention policies, and jail administration.

IV. THE PROJECT’S FIRST YEAR

At the beginning of the fall 2005 semester, the Project sent more than 700 Request for Assistance forms to the jail for distribution. Almost immediately, the Project received 400 completed forms from inmates desperate for assistance. The Project selected applications based on the type of assistance requested. The cases selected fall semester included a few felonies; cases involving language and mental health issues; bench warrant cases where the inmate was being held for months without counsel or a court appearance; and other misdemeanor cases where the inmate involved was “lost” in the system.\textsuperscript{82} In spring 2006, an additional 400 forms were sent out and more than eighty percent were returned.\textsuperscript{83} Typical cases included those issues addressed the previous semester and new issues, including inmates awaiting transfer into the state system from Fulton County; inmates claiming ineffectiveness of the public defender; and inmates who had yet to have their cases calendared or receive a bond hearing. Again, many inmates suffered from mental illnesses, others

\textsuperscript{80} Id.


\textsuperscript{82} See Mark Kadish, File of Request for Assistance Forms (on file with author) [hereinafter Request for Assistance Forms].

\textsuperscript{83} See id.
remained completely uninformed of their situation due to a language deficiency, and some were simply “lost” for months in the jail.  

Law students completed the interviews in pairs. Typically, they interviewed several inmates in the cellblocks during a single visit and each interview took about forty-five minutes. During the interviews, students spoke with inmates about the charges against them, the status of their cases, their contact (or lack thereof) with their lawyers, and the specific assistance required. Following the interviews, students often visited with case managers or reviewed files in the sheriff’s and clerk’s offices. After two to three weeks, the teams returned to the jail to see inmates previously interviewed and to undertake new cases.

Students encountered both administrative problems and substantive legal issues. Difficult administrative problems included resolving calendar issues, learning the status of the charging process, and determining why the inmate had not had a bond hearing. Students often researched questions about whether an inmate was being held on charges from another jurisdiction.

In addition to these procedural problems, students encountered substantive legal issues, such as whether an inmate’s Sixth Amendment right to effective counsel had been respected. Another frequent topic was whether inmates had been granted their constitutionally protected first appearance hearings within forty-eight hours of arrest. Mental health issues, such as competency and the ability to form specific criminal intent also arose. Many inmates

84. See id.
85. See Student Interview Reports, supra note 49.
86. See id. Before an inmate interview was permitted, the inmate’s private or court-appointed attorney had to be contacted for permission to meet with their client, which was granted in all but one case. See id.
87. See id.
88. See Author’s Observations and Recollections, supra note 63.
89. See id.
90. See id.
91. See id.
92. See Student Interview Reports, supra note 49.
were bipolar or schizophrenic, while others had low intelligence or were illiterate.\textsuperscript{93}

Ultimately, the Project helped most of the inmates involved. For example, if an inmate communicated issues regarding the effectiveness of his or her attorney, the Project contacted the attorney on the inmate’s behalf, which ultimately resulted in a better attorney-client relationship between the inmate and the lawyer. Unfortunately, the Project was unable to help some inmates. In these instances, the prisoners received a letter from the Project notifying them of our findings and reporting what affirmative actions were taken on their behalf.\textsuperscript{94}

V. PROPOSED CRIMINAL PROCEDURE CLINIC TO ASSIST BENCH WARRANT INMATES

During the Project’s first year, the students noticed one systemic and widespread problem: hundreds of inmates held on failure to appear ("FTA") violations were eligible for release, but were lost in the system, simply waiting to appear before the court. Beside the obvious unfairness to the FTA inmate, this problem also materially contributed to the overcrowding of the jail. The Project, which was originally created to examine problems such as overcrowding and living conditions, shifted its focus to help address the needs of the jail’s FTA inmates.

A. A Serious Problem is Discovered—The Bench Warrant Cases

An FTA is a unique charge that allows an inmate to be booked in the Fulton County Jail without first appearing in front of a magistrate judge.\textsuperscript{95} Every inmate accused of a crime is constitutionally guaranteed the right to an appearance in front of a magistrate within

\textsuperscript{93}. See id.

\textsuperscript{94}. Letters from Mark Kadish to Fulton County Jail Inmates (throughout clinic term) (on file with author). Inmate information has been preserved confidentially in Project files maintained by Professor Kadish.

\textsuperscript{95}. Id. A first appearance is technically not required because the defendant was given that appearance when arrested on the underlying charge.
forty-eight hours of arrest. However, since FTA inmates are arrested for their non-appearance on the prior charge where they already had a first appearance, their constitutionally guaranteed hearing is deemed to have already occurred. Consequently, such inmates go directly to jail, where they just sit and wait.

While precise statistics are not available, inmates held on bench warrants often remain in jail without bond, without counsel, and without a court date for months, sometimes up to eight months. These cases are usually resolved on a "time-served" basis, meaning that the when the judge finally hears the case and learns the inmate has been "lost" in the jail for months, the inmate is released.

In April 2005, approximately 400 FTA inmates were being held in the Fulton County Jail system. Such a high number of bench warrant cases placed a significant burden on both the jail, which was already over capacity, and the legal system, which was remarkably slow to keep track of these inmates and review their cases. Thus, resolving this problem and reducing the FTA inmate population would alleviate one large source of strain on both the jail and the Fulton County Superior Court.

B. Proposed Fulton County Jail Criminal Procedure Clinic

As students began to appreciate the pervasiveness of the bench warrant situation, they examined the problem more closely and sought to assist the FTA inmate population. The court administrator's staff verified there were approximately 400 inmates

96. See County of Riverside v. McLaughlin, 500 U.S. 44, 60 (1991) (establishing that within forty-eight hours of a warrantless arrest, absent extraordinary circumstances, a defendant must receive a judicial determination of probable cause).

97. Mark Kadish, Failure to Appear Data Compilation (Nov. 2005) (on file with author) [hereinafter FTA Data Compilation]. A great majority of FTA inmates are in jail as a result of an error regarding their court date, through no fault of their own. Common errors include the processor incorrectly typing the inmate's address or name. Consequently, the inmate never received his or her notice to appear in Court. Id.

98. Id.

99. Id.

100. Id.

101. Id.
currently incarcerated in the Fulton County Jail on bench warrants. The average time to process an FTA bench warrant inmate in some states was three weeks, compared to four months in Fulton County. Discussions with the chief jailer made it clear that FTA inmates should be processed quickly to free up 300 or more beds.

With wide support from the court system, the Project sought to shift its focus to a criminal procedure clinic that addressed the needs of the jail’s FTA inmates. The proposed clinic was designed as a three-credit course offered exclusively to second- and third-year students. Structurally, second-year students would identify the FTA inmates incarcerated in the jail and interview them, collecting relevant data about the circumstances of the inmates’ arrest, incarceration, and the underlying criminal charges. They would then prepare necessary pleadings, and coordinate with the judge’s office to assure the FTA cases received priority processing. Once the case was set for a hearing, third-year students would meet with an Assistant District Attorney under the authority of the Third Year Practice Act to discuss a possible plea bargain. Third-year students would then tender a negotiated plea on the inmate’s behalf. If further research or motions were required, second- and third-year students would complete this work. Finally, to ensure the inmates received proper treatment by the jail and the court system, the second-year students would follow the inmates’ cases by checking on the release date and probation conditions.

102. Telephone Interview with Fulton County court administrator.
103. Id.; see also Telephone Interviews with court administrator offices in New York, Tennessee, and Kansas (Oct. 2005).
104. See Author’s Observations and Recollections, supra note 63.
105. See id.
106. Mark Kadish, Fulton County Jail Criminal Procedure Clinic Proposal (Nov. 2005) (on file with author) [hereinafter Clinic Proposal].
107. Id.
108. Id.
111. See id.
112. See id.
Georgia State University College of Law faculty members voted to initiate this clinic beginning in the 2006 spring semester. Unfortunately, security concerns prompted the cancellation of the clinic for the fall 2006 semester. Although the work of the clinic is postponed indefinitely, the Fulton County jail remains in crisis. As evidenced by the challenges that the court encountered in having its order enforced at the jail, changes to the broken system occur at a painfully slow pace, if at all. However, I remain hopeful that publicizing the problems at this jail and the efforts of the students involved in the Project will serve to encourage other professors and members of the public to investigate jail conditions nationwide and demand changes designed to ensure basic rights to inmates in large city jails.

VI. STUDENTS’ PERSONAL RECOLLECTIONS AND OBSERVATIONS OF THE PROJECT

The Project not only helped the inmates it served, but it also provided the law students real opportunities to participate in criminal practice. The following students were asked to write a short statement about the Project.

A. Student Jennifer Hendee’s Project Experience

My experience with the Fulton County Jail Project was invaluable and provided a thorough foundation for my current position as an assistant solicitor in Hall County, Georgia. I learned how the inner workings of a big city jail impact the inmates inside, and how the criminal justice system can be overwhelming and frustrating to those who do not understand it. Specifically, I learned in detail the steps through the criminal justice process, from first appearance and bond hearings to trial or pleas. Moreover, researching inmates’ cases developed my understanding of the Banner System; how to pull both

active and closed case files; how to request transcripts; and how to communicate with a variety of court personnel.

I distinctly remember my first interview because the gentleman had been assaulted by two guards. Whenever he had been transported within the jail, he was handcuffed and dragged around. On one occasion, when his pants had fallen down, the guards made him lie on the floor, and at least one guard hit him numerous times. Professor Kadish later learned the three guards involved in the incident were fired. Inmate abuse seemed to occur with some frequency.

My partner and I also interviewed an inmate who had not had a court appearance for more than three months. This was clearly a violation of his Due Process rights. We learned that he had been picked up on a bench warrant and needed to be placed on the trial calendar. By the time we interviewed him, he had already done more jail time than he would have received if he had simply pled guilty on the day of his arrest. After being shuffled through three different case managers, we were finally able to get a court date for this inmate.

We met another inmate who was being held on a failure to appear, but through no fault of his own. The inmate had faxed his change-of-address notification to the court. However, the inmate never received notice of his next court date and was picked up on a bench warrant. After pulling his case file, we found no change of address and learned the courthouse does not accept faxes. We were personally unable to change his address on record, so we informed the inmate of the proper steps to follow. This inmate had been diligent in informing the court of his new address, but because he did not receive notice of his next court date, he was arrested for failure to appear.

While in law school, I considered this Project to be an invaluable learning experience. Since I have graduated law school and taken a position as a prosecutor, this Project has even more meaning to me, as it has opened my eyes to what inmates experience after being arrested. The Project made me realize that not everyone is able to hire an attorney, post bond, and get charges reduced or dismissed. The Project made me much more aware and sensitive to the needs and problems faced by various defendants.
My current responsibilities include representing the State at every first appearance. As a result of the Jail Project, I am more sensitive to the inmates and sometimes recommend a lower bond with conditions, rather than asking for a high bond or opposing bond altogether. I am also responsible for bringing to court every inmate held in the county jail on a state court matter. For every inmate being held on a misdemeanor, I keep a log from the first appearance and try to expedite getting him or her into court for "jail pleas." Because the Jail Project provided me an inside view of what inmates experience in the county jail, I am more sympathetic to their needs. Now, when I see stacks of inmates' files, I know that each one represents an individual who would rather be anywhere but the county jail.

B. Student Christopher Bracci's Project Experience

Having studied criminal law in college, I had visited multiple jails prior to my experiences at Rice Street facility. Nothing could have prepared me for what I would see at the Fulton County Jail. The appearance and smell immediately upon entering was enough to make anyone sick. However, the real shock came when I saw the Jail's disrepair in the face of a rising inmate population.

On one particular visit, my partner and I interviewed an inmate who told us that he had recently been transferred to Rice Street from another jail in south Georgia. He said that he had completed his time and was merely awaiting his paperwork to catch up with him. We spoke with him for about twenty minutes and learned the particulars of his case. The following day, we contacted the south Georgia facility and quickly learned that he had in fact completed his time and should have been released. However, his paperwork was on file with that facility, while he was being held in Fulton County. The Fulton County Jail was unaware that they were currently housing this inmate.

My partner and I made numerous phone calls to the south Georgia facility to inform them of this oversight. Unfortunately, though we

114. Christopher Bracci, Student Reflection (July 2006) (on file with author).
spoke to numerous people, we did not make any headway. Consequently, we met with Professor Kadish, informed him of this problem, and handed the case over to him. Commanding more respect than two students, Professor Kadish was quickly able to resolve the discrepancy.

Upon transfer of the paperwork to Fulton County, the officials realized the inmate did not belong in jail and released him immediately. I cannot help but wonder how long it would have taken for the officials to realize this mistake if my partner and I had never interviewed this inmate. As a result of this incident, I learned that although effective assistance of counsel tends to relate to representation prior to incarceration, it also remains of utmost importance even after a client is incarcerated.

C. Student Cash Morris’s Project Experience

My first client was a woman, in her late fifties, arrested on a domestic disturbance call. When asked about her medical state, she replied that she had no mental disorders. After taking notes, Professor Kadish began speaking with this woman. He quickly noted something my group had completely overlooked. “Do you hear voices?” he asked. She replied “yes,” and that they told her to do and say things. Only with Professor Kadish’s experience working with the inmate population were we able to learn her true mental state.

Another client of mine unfortunately had a name identical to another inmate. As a result, the jail consistently confused one with the other when it came time for court dates. My client feared he might be convicted of the other’s crimes. One might ask, “Do not all of these inmates at least have access to a public defender?”

For whatever reason, public defenders seemed non-existent at the Fulton County Jail. Prisoners, in dire need of legal assistance, lined the glass wall and stuck their arms through a metal slot in the locked door yelling Professor Kadish’s name.

I met an indigent inmate who was arrested for possession of illegal substances and the sale of copyrighted material. At the time of our interview, he had been incarcerated for over a year and had never even seen his attorney or been to court. Without speaking to his attorney, who had failed to return his phone calls, he finally pled guilty to the possession charges and not guilty to the sale of copyrighted works. Our legal system provided this inmate with neither “a speedy and public trial” nor any “effective assistance of counsel for his defense.”

D. Student Peter Morris's Project Experience

Nothing could have prepared me for what I would face the first time I walked onto the medical floor of the Fulton County Jail. The smell of stale food overwhelmed me as I entered, and I saw an inmate pushing a cart of old and moldy apples along the medical floor. It was extremely hot walking through the corridors, as the heat hit you in the face like a stiff jab.

My first interviewee was an accountant who held a master’s degree from the University of Maryland, but had lost his job due to his present seven-month incarceration. He told us he was accused of domestic violence and was only on the medical floor because he had broken his hand in a jail fight. He said he was accused of beating his girlfriend and that neighbors had called the police after overhearing a loud argument. He told us it was all a misunderstanding and his girlfriend had called the district attorney’s office to explain this. Consequently, the inmate was waiting to see if the charges would be dropped and if he would be released.

This inmate lacked a private attorney and was unable to get in touch with his public defender to find out what was happening. Such lack of contact from his attorney immediately raised questions of effective assistance. Regardless of whether he in fact committed the crime, he was constitutionally guaranteed legal representation, and this right was being ignored.

This inmate was just one of many individuals being failed by our justice system. Most inmates appeared to see the members of the Project as a lifeline to tell their story. We listened to the inmates and tried to aid them in any possible way. The inmates wanted us there and believed in our ability to assist them, though our limited capacity to help seemed meager in light of the widespread failures that crippled the Fulton County Jail.

E. Student Clifford Williams's Project Experience

After seeing firsthand the unaddressed problems in the Fulton County’s Jail, I have no doubt that I am going to become a criminal defense attorney. Interviews with numerous inmates and the casework that followed revealed two major problems that are unacceptable in our criminal justice system: deplorable case management by the courts and lack of attorney-client communication for inmates, who are mostly indigent.

The first inmate my partner and I interviewed was a woman awaiting trial for aggravated assault. She had been to court many months prior and was told that paperwork for her case was missing. During the interview, she repeatedly struck the back of her head and revealed that she had been severely abused as a child. We suspected she may have been suffering from a mental illness. To begin my investigation into her case, I went to the Fulton County Courthouse to review her file, only to discover it could not be located. It took the clerk of court and case staff over a month to locate her file. Eventually, she had another hearing and was placed on the trial calendar. Without the Project’s efforts, the court may have never found her file and she would still be awaiting trial indefinitely.

Another inmate, charged with robbery, was booked into the jail in February 2005. The court initially appointed him a public defender, and then appointed a second one in May 2005. When I interviewed him in October, over four months since the second appointment, he still had not spoken with his new public defender. This particular

inmate also had a painful tumor, which had not been attended to by medical personnel in three months. Though his attorney could have easily addressed this concern, the Project was forced to speak with the jail about getting this inmate medical attention.

My last interview was with an inmate who had been sentenced the day before to twenty-five years for robbery. His public defender informed him she would not be representing him on appeal, and the court pledged to appoint a conflict defender to satisfy his constitutional right to an attorney on direct appeal. He was extremely concerned because he had not been appointed counsel, and the 30-day period to file a notice of appeal had started the day before, when he was sentenced. I contacted the judge’s case manager, who assured me his attorney was highly capable and that his file would be forwarded to the conflict defender’s office. In January, three months after my initial interview, I reviewed the status of this inmate’s case. A notice of appeal had been filed on January 4, 2006, followed by a motion for new trial. The thirty-day period for filing the notice of appeal expired at the end of November, 2005.

Believing the motion for new trial had been filed by an appointed attorney, I did not investigate further until August 2006. After contacting the public defender’s office, I realized the notice of appeal and motion for new trial had been filed pro se and outside of the time limit allowed by law. Further, I learned that this particular inmate had written numerous letters to the court requesting that his case be heard. The court has not responded to his concerns, nor has it gotten around to appointing him counsel or forwarding his file to the conflict defender’s office. When the conflict defender’s office receives his file, they will now have to file a motion to allow an out-of-time appeal before the case can proceed. I have again been assured that the court will be notified that this defendant has “slipped through the cracks.” Without the Fulton County Jail Project, this inmate’s pleas for help may have gone unheard forever. If this experience has taught me anything, it is that I cannot be absolutely sure his concerns have even been heard yet. In the Fulton County criminal justice system, being assured a problem will be taken care of rarely means it actually will be. However, more effective case management by the courts and
better attorney-client communication can help resolve these problems.

CONCLUSION

In its one year of operation, the Fulton County Jail Project received requests for assistance from over 1000 inmates and interviewed just over 200 of them. Through the Project, law students aided a needy inmate population and a malfunctioning jail system by rescuing lost inmates, which in turn freed up beds to alleviate overcrowding. The Project also taught participating students about the criminal justice system by giving them the opportunity to perform such tasks as interviewing inmates, preparing court documents, and communicating with defense attorneys and prosecutors. In addition, the Project has revealed many of the system’s shortcomings. Students interacted with inmates who suffered terribly from mental disorders that usually went undiagnosed and untreated. Students also discovered a jail population that was largely unserved or underserved by their own attorneys, and, most disturbingly, ignored by the courts. These lessons drove home the importance of attorney professionalism and the indispensability of compassion and empathy to indigent criminal defense. Students enjoyed the personal gratification from meaningfully assisting needy inmates, but they also experienced anger and disappointment from learning of the countless desperate inmates’ who were lost in a paralyzed institution and an unresponsive justice system.

Although security concerns at the jail unfortunately have prevented the Project from continuing to work with the inmate population and pursue its reconfigured plan to address the bench warrant dilemma at this time, I remain hopeful that the efforts of the students involved in the Fulton County Jail Clinic will serve to raise awareness of the plight of jail inmates in a large city and encourage other professors to undertake similar endeavors in an effort to reform the system.