

**IN THE COURTS OF THE FIRST JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA**

ADMINISTRATIVE ORDER NO. 2001-29

IN RE: FACILITIES

**ORDER FINDING THE NECESSITY FOR A SAFE
AND FUNCTIONAL COURT FACILITY**

WHEREAS, pursuant to *Florida Rule of Judicial Administration 2.050*, the undersigned Chief Judge of the First Judicial Circuit is responsible for the judicial administration of trial courts within the First Circuit, including regular review of public access to all court facilities within the First Circuit, public safety in those court, trial court calendars, court events, inmate transportation and inmate holding conditions, and;

WHEREAS, the citizens of Okaloosa County are entitled to access the court in a facility that is safe and functional pursuant to mandate of Article I, Section 21, *Constitution of the State of Florida*, and;

WHEREAS, pursuant to §43.28, *Florida Statutes*, all counties within the State of Florida “[s]hall provide appropriate courtrooms, equipment and unless provided by the State, personnel necessary to operate the circuit and county court”¹ of the State of Florida, and;

WHEREAS, the Court after having reviewed all relevant material, studies and reports addressing the above issues as they relate to the Okaloosa County Courthouse Shalimar Annex makes the following findings of fact and conclusions:

I. FINDINGS OF FACT:

A. General Considerations

The Okaloosa County Courthouse Annex in Shalimar was developed in the early 1970s to respond to the court needs in the south end of Okaloosa County. The Shalimar Annex has served the people of Okaloosa County for almost thirty years. Throughout the years, it has been reconfigured to meet the needs of the courts which were necessitated by growth, changes in state and federal laws, and changes in Rules of Judicial Procedure. Continual reconfiguration has been required to accommodate increases in the number of judges, population, and case filings. During these changes, elements of public safety and function have been compromised to the extent that they now have reached critical condition.

¹Additionally, Fla. Const. Art. V, §14. Revision 7 includes the requirement that the counties fund the construction or lease, maintenance, utilities and security of facilities for the trial courts.

Problems regarding the need for more space and adequate court security, as well as compliance with existing requirements for handicap accessibility, have been known by the Okaloosa Board of County Commissioners since at least 1991.² In 1998 the ongoing problems regarding space, security, and handicap accessibility of the Shalimar Annex were again reported to the Board of County Commissioners. In response, the Board of County Commissioners retained the team of HDR Architects, Inc. and Dan Wiley Associates to develop a judicial facilities master plan for the Shalimar Annex.³ The study was completed in August 1999, and the findings of same are incorporated by reference herein.

Since the construction of the Shalimar Annex, the number of judges at the Annex has doubled. Further, the Florida Legislature, in the 2001 legislation session, authorized an additional circuit and county judge. These two new judges together with their judicial assistants will take office on January 2, 2002. While the need for the additional judges is absolutely critical, their arrival will exacerbate already inadequate space conditions. The legislation creating the additional circuit and county judge positions for Okaloosa County was based on the Florida Supreme Court's certification of the need for those judges. The Florida Supreme Court and the Florida Legislature recognize that just as the population of Okaloosa County has increased over the past thirty years, so has the number of criminal and civil cases filed in the county.⁴ The overall caseload is ten times greater than it was in 1975.⁵ During this time period of almost thirty years, there has been no major expansion of the Shalimar Annex. The Annex has been modified periodically to accommodate the necessary functions of the court and the office of the Clerk of Court. Some of the major changes include: removing the Tax Collector's office; removing the offices of the Property Appraiser and the Supervisor of Elections; expanding the office of the Clerk of Court; converting the County Commissioners' Board Room to a courtroom; removing the offices of the State Attorney and the Public Defender; creating criminal case deposition rooms; adding witness rooms; adding court administration offices, staff attorney offices, witness management offices; adding offices for the Guardian ad Litem Program, *pro se* Coordinator, and Drug Court.

In addition, laws and community needs have evolved in such a way during the past thirty years that the courts now provide more services to the public and greater support for the various categories of cases which travel through the system. As a result of these changes, the Court now

²See Report of Inspector Wanda Phillips, Court Security Inspector, United States Marshals Service, *Okaloosa County Courthouse Annex, Shalimar, Florida* (November 12, 1991); *Facilities Subcommittee Report* (1991); *Final Report of the Okaloosa County Judicial Planning Committee* (January 1993).

³See HDR Architecture, Inc. in association with Dan Wiley Associates, *Okaloosa County Judicial Facilities Master Plan* (August 1999).

⁴In 1975, the average daily jail population was 34 inmates. In 2001, it is approximately 500 daily population, and on weekends the population usually exceeds 550. Since 1975, the Okaloosa County Jail has been expanded on three separate occasions. Presently, the Okaloosa County Jail has 470 beds available for inmate population.

⁵The number of juvenile cases alone has increased 100% in the past thirty years. In 1975, there was an average of two juvenile cases per month. In 2001, there is an average of over 350 to 500 juvenile cases per month.

provides services and programs that did not exist in 1975.⁶ The Court has exhausted its options for keeping all services and programs within the Shalimar Annex. Consequently, some services and programs are not available at that location.

The 1999 study authorized by the Board of County Commissioners identified the following trends which clearly demonstrate the need for additional courtroom and judicial space: 1) continuing growth in the judiciary; and 2) circuit and county court caseloads anticipated to grow at a rate significantly higher than corresponding population growth.⁷ The analysis of the team of HDR Architects and Dan Wiley Associates concluded that a court facility of approximately 150,000 square feet is needed to adequately accommodate the present needs and potential growth of the Shalimar Annex.⁸ Consequently, a court facility designed and constructed consistent with the recommendations of the experts retained by the county would meet the current and immediate future needs of the court and clerk of court.

B. Public Safety Overview

The facility housing the court and various functions must be safe in order for the public to have adequate and meaningful access.⁹ At the time the Shalimar Annex was designed, public safety issues were significantly different than they are today. Public safety demands adequate protection against harm. This includes issues of circulation and segregation of traffic in the Annex; protection against theft; safe egress in the event of a fire or other emergency; prevention of harm that may come from other citizens who may be litigants or witnesses; prevention of harm from prisoners who may be at the Annex; prevention of harm from facility defects; prevention of violence or escape of prisoners while in the court facility; provision for physical safety of all state and county employees who work in the court facility; protection of facility components, equipment, and surfaces from vandalism or sabotage; and provision for safekeeping of court records.

All studies previously conducted conclude that significant and necessary elements of security are lacking at the Shalimar Annex. A secured area for the transfer of inmates; adequately segregated prisoner holding cells; separate circulation halls for the safety of the

⁶*e.g.*, Pre-trial Services; Guardian ad Litem; Child Support Hearing Officer Program; Drug Court; Teen Court; Domestic Violence Court; Witness Management; Indigence Examiner; Legal Aid Program; Civil Mediation; Domestic Mediation; County Court Mediation; Family Visitation Center.

⁷A 66% increase over present levels for the circuit court and 55.7% increase for the county court by 2020. HDR Architecture, Inc., in association with Dan Wiley Associates, *Okaloosa County Judicial Facilities Master Plan*, Facility Reviews (August 1999).

⁸*Id.* at Executive Summary.

⁹See Fla. Const. Art. V

public, the prisoners and the jurors, court staff and judiciary; secured parking; and court facility exterior perimeter security are all needed.¹⁰

C. Public, Private and Secure Circulation

“Circulation” refers to hallways and corridors which provide for movement from one place to another within the Shalimar Annex. According to the study conducted by the experts retained by the Board of County Commissioners, “[t]here is no way to adequately correct the security problems with the existing facility” due to the overall design of the Shalimar Annex.¹¹ The pivotal problem is the open-air corridor system, which freely allows witnesses, victims, defendants, inmates, lawyers, jurors, and the judiciary the ability to intermingle in this area.¹² Separate circulation for the public, inmates, judges and court staff is essential for public safety and integrity of the legal process. Systemic integrity may be lost when litigants come in contact with juries or judicial officer. Such contact may result in a mistrial, or recusal of a judge. Moreover, the potential for violence exists because of the single circulation pattern in the Annex. Witnesses come in contact with parties or defendants; divorcing couples come in contact with each other; victims and alleged perpetrators of domestic violence and other crimes; and children and abusing parents come in contact with each other. A safe and secure environment must be provided for the protection of all users of the courthouse.

D. Inmate Transportation

The Court developed the use of video appearances for inmates held at the jail to enhance safety and reduce transportation costs. This use of video technology has reduced the number of inmates that must be transported from the jail to the Annex. However, the Court is constitutionally required to have inmates physically present in court for hearings or trials that may substantially affect the inmate’s constitutional rights.

The Annex was designed with a sallyport to ensure the secure transport of inmates to and from the main holding cell area. Significant numbers of inmates are transported from the jail to the Shalimar Annex weekly. The sallyport was designed to accommodate a van; however, a large bus is now used for the transport of prisoners to court. Consequently, the bus must park outside of the secured area and currently parks in the north parking lot where the inmates are offloaded and escorted into the holding cell area of the Annex. The above-described inadequacy of the current Annex, along with the number of inmates transported necessitates parking outside of the secured area, which increases the possibility for inmate escape or injury and compromises public safety.

¹⁰HDR Architecture Inc., in association with Dan Wiley Associates, *Okaloosa County Judicial Facilities Master Plan*, Facility Reviews (August 1999).

¹¹HDR Architecture, Inc., in association with Dan Wiley Associates, *Okaloosa County Judicial Facilities Master Plan*, Facility Reviews (August 1999).

¹²*Id.* at Executive Summary.

E. Inmate Holding Cells

The county and the sheriff are subject to the Florida Model Jail Standards.¹³ Further, §951.23(4)(a)(2), *Florida Statutes*, requires that male and female inmates be housed separately and that juveniles be separated from adults.¹⁴

These standards appear to be consistently violated. The original holding cells in the Annex are located near the center of building ‘D’. These rooms are now typically used for female inmates. The male inmates are housed in the main holding cell area near the sallyport. From the holding areas, both male and female inmates are lead through the same door and into the same semi-secure corridor behind the courtrooms as those used by judicial staff. Juvenile inmates are routinely lined up in this same corridor behind the courtrooms since a separate holding cell area is unavailable. Further, the courtrooms do not contain separate holding cells for male, female and juvenile inmates.¹⁵ Thus, routinely, female and juvenile inmates are brought into the courtroom early and seated to the side of counsel table in chairs pushed against the wall.

It is absolutely essential that all courtrooms, whether used for criminal, civil or family cases, be accessible by inmates through separate circulation and that all courtroom are serviced by holding cells. Even in certain civil, family law or dependency proceedings incarceration may occur. Incarcerated parties have the right to attend their respective hearings and/or trials. At the same time, the public has the right to expect that prisoners will be held securely and transported, without risk to the public, to courtrooms for proceedings.

Consequently, the physical safety of the public, prisoners, and of court or judicial staff and employees of the Clerk of Court requires that the Shalimar Annex be equipped and staffed to provide appropriate security and safety in all areas.

F. Handicap Accessibility

The Americans with Disabilities Act (ADA) requires court facilities be readily accessible to, and usable by, individuals with disabilities. Because the Shalimar Annex was constructed before the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities was promulgated, it lacks many features that ensure access to disabled persons. The primary concern at the Shalimar Annex is that the two main courtrooms (‘C’ and ‘D’) are non-accessible to individuals with disabilities. As stated in the 1999 study, the main courtrooms “in no way

¹³Florida Model Jail Standards, ch. 2.01 (1997).

¹⁴Florida Model Jail Standards, ch. 2.01 requires that a holding cell must have reasonable access to toilet, sink, and drinking water facilities; and ch. 12.03 (1997) further requires that in multi-occupancy cells, there must be one toilet and one sink for each eight inmates.

¹⁵Courtrooms ‘C’ and ‘D’ contain one holding cell each. Courtrooms ‘E’ and ‘F’ do not have holding cells.

meet the accessibility requirements.”¹⁶ The courtroom spaces around the witness stand, jury box, litigants’ tables and judge’s bench are not wheelchair accessible. The problems with accessibility to these two courtrooms are so numerous, the 1999 study concluded that “the only solution was to totally renovate (including filling in the floor with concrete) or to build new courtrooms.”¹⁷

Consequently, the Shalimar Annex must be brought into compliance with the American with Disabilities Act so that disabled members of the public, judges, judicial staff, clerk of court staff, and inmates have access to all areas of the court facility.

II. CONCLUSIONS:

A. Current deficiencies in the Shalimar Annex have existed for some time. As a result, the Court is unable to continue providing its core function or conducting safe and fair proceedings accessible to the public. Access to the courts, as guaranteed by the *Constitution of the State of Florida*, is therefore not assured.

B. The 1999 report of experts retained by the Board of County Commissioners has confirmed that the courthouse is not in compliance with Florida Model Jail Standards.

C. The design of the current Annex will not permit appropriate and safe circulation pattern for citizens, prisoners, jurors and court staff.

D. The Annex does not provide adequate access for the disabled.

E. The Annex does not presently contain sufficient space to conduct business of the court.

F. The Annex is not designed to provide safety and security to those who come upon its premises.

G. The Court is well satisfied that the time for corrective action is at critical stage.

H. Specific plans for correcting the problems addressed in this Order and the various reports and studies referenced herein are now under consideration by the Okaloosa Board of County Commissioners; it is therefore

ORDERED AND ADJUDGED that:

¹⁶HDR Architecture, Inc., in association with Dan Wiley Associates, *Okaloosa County Judicial Facilities Master Plan*, Handicap Accessibility Review at 29 (August 1999).

¹⁷*Id.* at 35.

A copy of this order shall be provided to the Okaloosa Board of County Commissioners for expeditious action to provide a safe and functional court facility consistent with the findings and conclusions set out herein and in compliance with the requirements of the state and federal law. In so doing the Court acknowledges the cooperative and productive efforts of the County Commissioners in working with the judiciary of the First Circuit regarding these matters. The Court fully supports and applauds the fine work which the Commission has begun in the planning of a new court facility which will ensure that both the needs of our citizens and requirements of state and federal law are met.

DONE AND ORDERED in chambers at Pensacola, Escambia County, Florida, this 20th day of June, 2001.

Signed by: John P. Kuder, Chief Judge

Copies provided to:

All members of the Okaloosa Board of County Commissioners
All County and Circuit Judges, First Judicial Circuit
Newman C. Brackin, Clerk of Court, Okaloosa County
Wayne Peacock, Court Administrator