



PC-DC-008-007

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED ✓

DEC 17 1990

Clerk, U.S. District Court
District of Columbia

_____)
TWELVE JOHN DOES, <u>et al.</u> ,)
Plaintiffs,)
v.)
DISTRICT OF COLUMBIA, <u>et al.</u> ,)
Defendants.)
_____)

C.A. No. 80-2136
(June L. Green, J.)

MOTION FOR ADOPTION OF CONSENT
DECREE AMENDMENT ON NEW MODULAR 200 UNIT

After lengthy negotiations, defendants and plaintiffs have agreed to the attached proposed modification to the consent decree to address the impact and ramifications of the new Modular 200 Unit currently being constructed within the existing fence line of Lorton Central Facility.

Plaintiffs, with the authorization of counsel for defendants, respectfully submit the proposed amendment to the consent decree for the Court's consideration and move for its adoption by the Court.

Respectfully submitted,

Peter J. Nickles	# 53447
Alan A. Pemberton	# 367108
Clare M. Elmendorf	# 421183
COVINGTON & BURLING	
1201 Pennsylvania Ave. N.W.	
P.O. Box 7566	
Washington, D.C. 20044	
(202) 662-5464	

Counsel for Plaintiffs

Dated: December 14, 1990

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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Clerk, U.S. District Court
District of Columbia

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TWELVE JOHN DOES, <u>et al.</u> ,)	
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Plaintiffs,)	
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v.)	C.A. No. 80-2136
)	(June L. Green, J.)
DISTRICT OF COLUMBIA, <u>et al.</u> ,)	
)	
Defendants.)	
_____)	

CONSENT DECREE AMENDING FINAL SETTLEMENT AGREEMENT
AND CONSENT DECREE OF APRIL 28, 1982, THE AMENDED DECREE
OF AUGUST 18, 1983 AND THE AMENDED DECREE OF MARCH 4, 1985

The parties to this action, having determined that the Settlement Agreement, as amended, should be modified, in the best interests of both the Plaintiffs and Defendants, to make provisions for the addition of a new modular, 200-bed, single cell housing unit (hereinafter referred to as the "Modular 200 Unit") within the existing fence line of the Lorton Central Facility ("Central") and without prejudice to Plaintiffs' ability to seek remedies for noncompliance with the provisions of this Consent Decree, including, but not limited to, the imposition of contempt fines, jointly move for entry of this Consent Decree to amend the Final Settlement Agreement and Consent Decree of April 28, 1982 (the "Settlement Agreement"), the Amended Decree of August 18, 1983 (the "1983 Amended Decree") and the Amended Decree of March 4, 1985 (the "1985 Amended Decree") in the following respects:

1. Physical Characteristics and Construction

a. Defendants have commenced construction of a new modular housing unit within the existing fence line of the Central Facility. As currently designed, the new facility will contain 200 individual cells or rooms. Construction of the Modular 200 Unit shall be generally in accordance with the architectural drawings and specifications reviewed by the Special Officer of the Court on April 19, 1990. The design shall be modified to accommodate the line of sight problem identified in the April 19, 1990 meeting with the Special Officer. No other significant modifications of the design depicted in those drawings and specifications shall be permitted without the advance express written agreement of Plaintiffs. The Modular 200 Unit shall be fully subject to the provisions and requirements of the Settlement Agreement, as amended, except as specifically otherwise provided herein.

b. Prior to housing any inmates in the Modular 200 Unit, Defendants shall certify that they have provided and readied for occupancy two double-wide trailers adjacent to the Modular 200 Unit for staff offices and diagnostic evaluation activities. The two trailers shall remain in place for such purposes as long as the Modular 200 Unit performs Reception and Diagnostic ("R&D") functions, as provided for below, or until Defendants obtain the advance express written agreement of Plaintiffs to permit the removal of such trailers. No advance express agreement is necessary to replace existing trailers with comparable trailers. Such trailers shall be

fully subject to the provisions of Article VI of the Settlement Agreement, as amended, governing environmental conditions of the Central Facility. If the Modular 200 Unit is opened in two stages, with up to 100 inmates being housed on one side of the Unit during the initial stage, then only one trailer will be required for the duration of the initial stage.

2. Population Limit

a. Plaintiffs and Defendants agree that, for so long as the Modular 200 Unit is used for R&D functions, as provided below, Defendants shall not house more than one inmate in a single cell or room. Accordingly, if Defendants fully construct the Modular 200 Unit, the maximum capacity for the Modular 200 Unit shall be two hundred (200) inmates. If the Modular 200 Unit ceases to be used for R&D functions, the population limit shall remain at 200 inmates unless and until Defendants make a showing to the Court that a different limit is appropriate in light of the objectives of the Settlement Agreement, as amended. Nothing in this paragraph shall be construed as creating a presumption that a population limit of 200 should continue to be imposed following the termination of R&D functions at the Modular 200 Unit.

b. The population limit of 200 inmates at the Modular 200 Unit will be enforced as per the Court's Order of June 29, 1989 and will be subject to any subsequently entered orders relative to the Settlement Agreement, as amended,

unless future orders specifically exempt the Modular 200 Unit from their coverage.

3. Use of Facility

a. Plaintiffs and Defendants agree that the Modular 200 Unit shall be used exclusively for Reception and Diagnostic ("R&D") testing, evaluation and classification for the Lorton Reservation unless and until the 800-bed Correctional Treatment Facility currently under construction is completed and operational. The content of the R&D processing shall comply with the provisions of Article V of the Settlement Agreement, as amended. A sample diagnostic package shall be appended as Exhibit 1 to this Consent Decree, once the diagnostic package has been agreed upon by the parties and approved by the Special Officer.

b. Plaintiffs and Defendants further agree that the Modular 200 Unit shall not cease to be used as the R&D center unless and until all of its R&D functions are transferred to the aforementioned 800-bed Correctional Treatment Facility, provided that Defendants may, at a future date, seek to obtain the consent of Plaintiffs to a proposal for the phased transfer of Reception and Diagnostic functions, such consent not to be unreasonably withheld. Defendants shall provide Plaintiffs' counsel with 30 days' notice prior to any such transfer.

c. If the Modular 200 Unit is converted to a use other than for R&D purposes, then as a precondition to the continued use of the Modular 200 Unit, Plaintiffs and

Defendants shall agree on such matters as modified staffing requirements, inmate access to programming and industries and any other matter requiring adjustment due to the change in use of the Modular 200 Unit, within at least 30 days prior to the cessation of R&D functions, provided that Defendants may, at a future date, seek to obtain the consent of Plaintiffs to a proposal for the phased transfer of Reception and Diagnostic functions, such consent not to be unreasonably withheld. The Parties shall submit such agreement to the Court for approval. Should the parties fail to reach such an agreement, either party may apply to the Court for appropriate relief.

d. Defendants shall not move or transfer an inmate from the Modular 200 Unit to the general population at Central unless and until all R&D testing and evaluation for that inmate has been completed. For as long as the Modular 200 Unit is used for R&D purposes, no inmate shall be housed in the Modular 200 Unit for longer than 60 days. Defendants shall provide in their monthly compliance reports to Plaintiffs' counsel a certification that no inmate was housed at the Modular 200 Unit for longer than 60 days, and that no inmate was moved or transferred to the general population at Central prior to the completion of all R&D testing.

e. For so long as the Modular 200 Unit is used for R&D purposes, Defendants shall house only inmates undergoing R&D testing in the Modular 200 Unit, provided that Defendants may, at a future date, seek to obtain the consent of Plaintiffs to a proposal for the phased transfer of

Reception and Diagnostic functions, such consent not to be unreasonably withheld.

4. Reception and Diagnostic Staffing

a. The Reception and Diagnostic staffing of the Modular 200 Unit shall consist of the 26 positions set forth in Exhibit 2 attached to this Consent Decree.

b. Defendants shall provide Plaintiffs' counsel with a certified listing of all the names and positions of the R&D staff for the Modular 200 Unit seven days before inmate occupancy of the Modular 200 Unit. In the event that all the required R&D positions are not filled prior to inmate occupancy of the Modular 200 Unit, Defendants shall not house any inmates in the Modular 200 Unit unless and until all required R&D positions are hired, trained and available for duty. If a filled position subsequently becomes vacant, Defendants shall immediately commence to use best efforts to fill the vacant position within 60 days. Vacant positions may be filled through new hires, reassignment, lateral transfer, detailing staff, temporary hires or in a case of last resort, through the limited use of overtime, provided however that under no circumstances will overtime hours be used to cover more than five non-clerical positions, nor will staff be detailed from other consent decree required positions.

5. Correctional Officer Staffing

a. Defendants shall ensure that at all times there shall be one officer in each control center and two

officers providing floor coverage for the Modular 200 Unit. Defendants shall place on duty sufficient relief officers to meet the requirements of this paragraph, and Defendants shall either certify in their monthly compliance reports to Plaintiffs' counsel that they have complied with this requirement, or explain in that report why they have failed to comply with this requirement.

b. Defendants shall ensure that officers are always available at all times for escort duty. Escort officers shall not be drawn from the officers assigned to the control center nor from the officers providing floor coverage.

c. Defendants shall ensure that a total of four officers will be on duty at the Modular 200 Unit at all times, and the total correctional staff complement for the Lorton Central Facility will be increased by 23 officers to 419 officers.

d. Correctional officer staffing shall be in accordance with the post trick chart appended as Exhibit 3.

e. Defendants shall not house any inmates in the Modular 200 Unit unless and until all required officers are hired, trained and available for duty. Defendants shall provide Plaintiffs' counsel with a certified listing of all the names and job titles for all staff of the Modular 200 Unit seven days before inmate occupancy commences. If the Modular 200 Unit is opened in two stages, with up to 100 inmates being housed on one side of the Unit during the initial stage, then the requirements of this Paragraph will require two officers

be on duty at all times and the total correctional staff complement be increased by 12 officers for the duration of the initial stage.

6. Food Service

a. Food for the Modular 200 Unit shall be prepared by the Central Dining Facility and transported in insulated food trays by an enclosed food truck. The insulated food trays shall be substantially in accordance with the specifications listed in Exhibit 4. Defendants agree to obtain sufficient insulated food trays so as to be able to serve three meals a day to 200 inmates and have replacements for breakage. Regardless of the above measures, Defendants commit to take all actions necessary to serve food at the temperatures required by the health and sanitation standards of Article VI of the Settlement Agreement, as amended. The food service for the Modular 200 Unit shall be fully subject to the provisions of Article VI of the Settlement Agreement, as amended, governing environmental conditions of the Central Facility.

b. Defendants shall hire four food stewards in addition to the 12 food stewards required in the 1983 Amended Decree, Paragraph 20.

7. Medical Services

a. The Central Facility Infirmary, also referred to as Health Services Unit #2, shall add the following medical staff to address the Modular 200 Unit's medical needs:

two licensed physicians' assistants, one medical record technician, one part-time dentist (twenty hours a week), one dental assistant and one clerk typist.

b. Due to the lack of space for a medical clinic in the Modular 200 Unit, Defendants shall cause sick call rounds to be performed daily for the entire population of the Modular 200 Unit, by either licensed physicians' assistants or medical doctors. Defendants shall include a certified list of who performed the daily sick call at the Modular 200 Unit in their monthly compliance reports to Plaintiffs' counsel. A sample certification form is attached as Exhibit 5. Plaintiffs may seek any remedy for noncompliance with this section, including the imposition of contempt fines.

c. Medication will be dispensed at the Central Facility pharmacy. Inmates at Modular 200 Unit requiring medication either (i) will be transported to the Central Facility pharmacy to receive medication as often as is medically necessary or (ii) will receive medication from the licensed physician's assistant or physician performing sick call at the Modular 200 Unit.

d. Defendants shall not house any inmates in the Modular 200 Unit unless and until all required medical personnel listed above are hired, trained and available for duty. Defendants shall provide Plaintiffs' counsel with a certified listing of all the names and job titles for all medical staff positions listed above seven days before inmate occupancy commences. If the Modular 200 Unit is opened in two

stages, with up to 100 inmates being housed on one side of the Unit during the initial stage, then the requirements of this Paragraph will include one licensed physicians' assistant, one part-time dentist and one clerk typist for the duration of the initial stage. If a filled position subsequently becomes vacant, Defendants shall immediately commence best efforts to fill the vacant position within 60 days. Vacant positions may be filled through new hires, reassignment, lateral transfer, detailing staff, temporary hires or in a case of last resort, through the limited use of overtime, provided however that under no circumstances will overtime hours be used to cover more than two positions, nor will staff be detailed from other positions required by the consent decree. Defendants shall notify plaintiffs' counsel prior to any reassignment, lateral transfer, temporary or permanent detailing or resignation of the two licensed physicians' assistants assigned to Modular 200. If a licensed physicians' assistant position becomes vacant, defendants shall notify plaintiffs' counsel of the identity of the licensed physicians' assistant subsequently hired. Plaintiffs may seek any available remedies for noncompliance with this section, including the imposition of contempt fines.

8. Mental Health Services

Defendants shall provide appropriate and adequate mental health care to the inmates of the Modular 200 Unit.

9. Recreation

Defendants shall provide every inmate access to outdoor recreation at least two times a week, barring unusual circumstances. Defendants shall include in their monthly compliance reports to Plaintiffs' counsel all instances where inmates are provided access to outdoor recreation fewer than two times a week.

10. Religious Services

Defendants shall make their best efforts to ensure that every inmate of the Modular 200 Unit has access to appropriate religious services.

11. Law Library Access

Upon an inmate request for a law library aide, one shall be provided within 24 hours of the request. The inmate law library aides shall be paid inmate positions and shall be required to have completed either a legal research or paralegal course. Further, any requested legal materials shall be provided within a reasonable time from the request.

12. Telephones

Legal telephone calls will be arranged within 24 hours of request. All other telephone calls will be arranged by diagnostic and case work staff, and telephone access shall not be unreasonably denied.

13. Showers

Residents at the Modular 200 Unit shall be permitted to have showers at least three times a week.

14. Remedies

Plaintiffs may seek any and all available remedies for noncompliance with any section of this consent decree, including, but not limited to, the imposition of contempt fines.

15. Miscellaneous Provisions

a. The provisions of this Consent Decree are intended to amend the Settlement Agreement, the 1983 Amended Decree and the 1985 Amended Decree. To the extent that this Consent Decree contradicts the above, this Consent Decree shall govern. In all other respects, except as specifically provided otherwise, the Settlement Agreement, the 1983 Amended Decree and the 1985 Amended Decree shall continue in effect and shall apply to the Modular 200 Unit.

b. If any one or more of the provisions of this Consent Decree shall for any reason whatsoever be held invalid or unenforceable, then such provision or provisions shall be deemed severable from the remaining provisions of this Consent Decree and shall in no way affect the validity or

enforceability of the remaining provisions of this Consent Decree.

Clare M. Elmendorf
Peter J. Nickles #53447
Alan A. Pemberton #367108
Clare M. Elmendorf #421183

Richard S. Love
Herbert O. Reid, Sr.,
Corporation Counsel, D.C.
by: Richard S. Love, Assistant
Corporation Counsel, D.C.
#340455

COVINGTON & BURLING
1201 Pennsylvania Ave., N.W.
P.O. Box 7566
Washington, D.C. 20044
(202) 662-6000

Government of the District
of Columbia, Office of the
Corporation Counsel
1923 Vermont Avenue, N.W.
Washington, D.C. 20001
(202) 673-7007

COUNSEL FOR PLAINTIFFS

COUNSEL FOR DEFENDANTS

Dated: 12/14/90

Dated: 12/14/90

Entered as this Court's Consent Decree this 14th day of December, 1990.

James H. [Signature]
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of December, 1990, I caused copies of the foregoing Motion for Adoption of Consent Decree Amendment on New Modular 200 Unit to be hand-delivered to:

Kathryn R. Monaco, Esq.
Special Officer of the Court
Room 306
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Richard S. Love, Esq.
Chief, Correctional Litigation
Section
D.C. Department of Corrections
Room NLL-3
1923 Vermont Avenue, N.W.
Washington, D.C. 20001

I also certify that on this 14th day of December, 1990, I caused copies of the foregoing to be sent by first-class mail, postage prepaid, to the following:

Edward Koren, Esq.
ACLU National Prison Project
Suite 340
1616 P Street, N.W.
Washington, D.C. 20036

John M. Facciola, Esq.
Assistant United States Attorney
Judiciary Center, Room 4122
555 Fourth Street, N.W.
Washington, D.C. 20001

John R. Mooney, Esq.
Beins, Axelrod & Osborne
Suite 300
2033 K Street, N.W.
Washington, D.C. 20006


Clare M. Elmendorf