

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

NOV 15 1989

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,

Plaintiff,

File No. G84-63

STATE OF MICHIGAN,
JAMES J. BLANCHARD, Governor of Michigan,
MICHIGAN CORRECTIONS COMMISSION;
GLEN ANDREW, Chairman, Michigan
Corrections Commission,
THOMAS EARDLEY,
G. ROBERT COTTON,
WAYNE WATERS,
DON LE DUC, Members, Michigan
Corrections Commission,
MICHIGAN DEPARTMENT OF CORRECTIONS,
PERRY M. JOHNSON, Director, Michigan
Department of Corrections,
ROBERT BROWN, JR., Deputy Director,
Michigan Department of Corrections,
DALE FOLTZ, Regional Administrator, State
Prison of Southern Michigan,
JOHN JABE, Warden, Michigan Reformatory,
THEODORE KOEHLER, Warden, Marquette
Branch Prison,
JOHN PRELESNIK, Administrator, Reception
and Guidance Center, State Prison of
Southern Michigan,
and
JACK BERGMAN, Administrator, Michigan
Intensive Programming Center,

Defendants.

U.S. v. Michigan



PC-MI-0007-0006

ORDER

In accordance with the opinion of November 3, 1989;

IT IS HEREBY ORDERED that the compliance ratings of the October 1989
report of the Independent Expert, as amended by the Independent Expert through
his testimony on November 2, 1989 are ADOPTED by the Court.

IT IS FURTHER ORDERED that the following schedule is ADOPTED for 1990:

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<u>No.</u>	<u>Event</u>	<u>Week</u>	<u>April Hearing</u>	<u>October Hearing</u>
1	Michigan report	0	12/13	6/06
2	Independent Expert Report Draft	4	1/10	7/04
3	Major Motions and Expert Reports	10	2/21	8/15
4	USA/Amici Response	12	3/08	8/29
5	Michigan Response	14	3/21	9/12
6	Independent Expert Final Report	16	4/04	9/26
7	Compliance/Hearing	17	4/18-20	10/10-12

IT IS FURTHER ORDERED that motions will not be accepted after deadline #3 without express permission from the Court, upon recommendation to the Court by the Independent Expert.

IT IS FURTHER ORDERED that all expert witnesses and their area of expertise must be identified by deadline #3. No expert witness identified after this date will be allowed to testify without the express permission of the Court and upon recommendation by the Independent Expert.

IT IS FURTHER ORDERED that all expert witnesses must file an expert report by deadline #3.

IT IS FURTHER ORDERED that all parties and amici are required to respond to the draft report of the Independent Expert by deadline #4 or #5 as appropriate. The response shall identify the provision, location, and rating challenged, and the basis for the challenge.

IT IS FURTHER ORDERED that at the pre-hearing conference the parties will establish a schedule for the hearing that allocates reasonable and balanced time allotments for the examination and cross-examination of witnesses within the limits of the time scheduled for the hearing. This schedule is subject to approval by the Court.

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IT IS FURTHER ORDERED that the defendants' motion for a protective order terminating or restricting discovery by the Knop amicus is DENIED.

IT IS FURTHER ORDERED that defendants' motion for modification of the hospital site selection date is GRANTED.

IT IS FURTHER ORDERED that the Knop amicus' motion requesting a hearing before the imposition of food loaf is GRANTED in part and DENIED in part.

IT IS FURTHER ORDERED that the Knop amicus' motion requesting an order that defendants cease punishing prisoners with disciplinary write-ups for filing grievances is DENIED.

IT IS FURTHER ORDERED that the Knop amicus' motion for an order requiring defendants to cease the practice of denying any prisoner a minimum of three showers per week is GRANTED.

IT IS FURTHER ORDERED that the Knop amicus' motion requesting that sanitation items related to the presence of vermin be inspected and considered by the Court at both the fall and spring compliance hearings is DENIED. Sanitation will continue to be considered by this Court during the spring compliance hearing.

IT IS FURTHER ORDERED that the defendants develop by February 1, 1990, a plan illustrating how they plan to manage the correctional population projected by their research division. The plan may incorporate alternatives to prisons as well as sentencing modifications to meet their objectives. Nevertheless, the plan should address the achievement and maintenance of compliance with provisions relating to prison overcrowding at Consent Decree facilities, implementation of classification without excessive mis-assignment and the provision of sufficient treatment capacity for mentally ill prisoners.

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IT IS FURTHER ORDERED that by February 1, 1990, the defendants must develop practices and procedures regarding the Self Mutilation Protection Unit ("SMPU") that comply with the following principles:

In order for a prisoner to participate in the SMPU, the prisoner must be a) not seriously mentally ill and therefore not an appropriate candidate for placement in intermediate, comprehensive, or acute care units; and b) assigned to administrative segregation in the normal custody process.

If a prisoner meets the above criteria, acceptance into the SMPU program is a medical, not a custody decision.

Once a prisoner is in the SMPU, decisions to initiate, modify, or terminate, concerning restriction and deprivation, that are normally authorized for any prisoner within administrative segregation, will be made by custody staff. Decisions concerning the initiation, modification, or termination of restrictions or deprivations unique to SMPU prisoners must be made solely by treatment staff, based on an individual assessment of the behavior and needs of the prisoner. Such an assessment and decision must be made by treatment staff who are assigned to the program, and who have directly observed and examined the prisoner.

IT IS FURTHER ORDERED that the defendants resubmit their medical access plan pursuant to Section K of the Consent Decree for approval by January 1, 1990.

DATED in Kalamazoo, MI:

Nov 6, 1989



RICHARD A. ENSLEN
U.S. District Judge