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United States District Court,  
D. South Carolina.

Harry PLYLER, et al. (Formerly Gary Wayne Nelson, et al.), Plaintiffs,

v.

William D. LEEKE, Commissioner; South Carolina Department of Corrections;  
and Members of the South Carolina Board of Corrections, Defendants.

Civ. A. No. 3:82-0876-2. | March 26, 1986.

### Opinion

HOUCK, District Judge.

\*1 This cause is before the court for approval of the settlement agreement, as embodied in the Consent Decree submitted by the parties in February 1985. (See Appendix 1).<sup>1</sup>

Notice of the proposed settlement, pursuant to the requirements of Federal Rule of Civil Procedure 23(e), was given to the members of the plaintiff class, and they were permitted to file written objections or comments. Of the approximate nine thousand (9,000) inmates included in the plaintiff class, only seven (7) prepared and filed written objections to and/or comments on the proposed settlement agreement. One plaintiff, Jasper Buchanan, filed with the court an objection reportedly signed by sixty (60) other plaintiff-class members. Mr. Buchanan, an original signatory to the proposed Consent Decree, raised general objections to conditions of incarceration and specific complaints about the use of chemicals at a license tag facility located within the South Carolina Department of Corrections (hereinafter SCDC). The written objections were reviewed by the Honorable Charles W. Gambrell, United States Magistrate, who presented a report to this court on June 6, 1985. (See Appendix 3).

The court has thoroughly reviewed the terms of the proposed settlement agreement, the exceptions taken by some members of the plaintiff class, and the report filed by Magistrate Gambrell, as well as the law relating to the issues of overcrowding and prison conditions, *see Rhodes v. Chapman*, 452 U.S. 337 (1981), to determine whether or not the agreement is fair and reasonable and in the best interest of all those who will be affected by it. Based upon this input, the court now makes the following findings:

(1) This case began on May 5, 1982, when a complaint was filed in the United States District Court for the District of South Carolina, Columbia Division, alleging that conditions within the SCDC were overcrowded and intolerable and in violation of the eighth amendment of the United States Constitution.

(2) Pursuant to motion of both parties, the court, on February 7, 1985, issued an order certifying the class pursuant to Rule 23 of the Federal Rules of Civil Procedure. In so ordering, the court found that the class was composed of adult prisoners committed to the SCDC and those who would be committed in the future. Notice to class members was given in accordance with the court's order of March 26, 1985. Notice was also provided by counsel for the plaintiffs, who have visited all institutions operated by the SCDC, to meet with inmates and to answer any questions regarding the settlement proposal. The court finds the notice which was given to be reasonable and adequate under FED.R.CIV.P. 23(e).

(3) The proposed settlement agreement comes before this court after extensive negotiations have taken place between the parties. These negotiations occupied a period of two and one-half (2 ½) years and resulted in the proposed settlement being signed on January 8, 1985, by the attorneys for the plaintiffs and defendants, all defendants,<sup>2</sup> and certain members of the plaintiff class.<sup>3</sup>

\*2 (4) Beginning with the 1984–1985 General Appropriation's Act of the South Carolina Legislature, the legislature approved the proposed settlement agreement and appropriated considerable funds toward its implementation, as is more fully set forth in the stipulations of fact presented to this court on August 9, 1985. (See Appendix 4).

(5) The terms of the settlement agreement provide generally for a maximum number of inmates to be assigned to each of the existing institutions and certain minimum space requirements to be provided each of them in their housing assignments. Additionally, the settlement agreement provides for increased staffing, modernization and upgrading of medical facilities and staff, expansion of programs available to the inmates, and assurances that facilities operated by the defendants will be in compliance with applicable state fire and safety codes. Furthermore, the defendants are required by this agreement to provide for the development of a systemwide classification plan, the primary goal of which is the separation of violent and nonviolent offenders. The proposed settlement agreement also provides that all food services within the SCDC meet the South Carolina Department of Health and Environmental Control (hereinafter DHEC) standards and certain agreed-upon standards maintained by the American Correctional Association; that institutions be maintained in compliance with applicable state standards, including those set forth by DHEC and certain agreed-upon standards of the American Correctional Association as it deals with environmental sanitation; and that certain institutions within the SCDC be closed. In return for these provisions, the settlement agreement provides that the members of the plaintiff class release the defendants from any liability or damages arising out of the allegations of the complaint, that the complaint be dismissed with prejudice, and that this court retain jurisdiction for the enforcement of the agreement.

(6) When the terms of the proposed settlement agreement are considered as a whole and in light of the prevailing law on the issues of overcrowding and prison conditions, the settlement agreement is fair and reasonable. It is unlikely that further litigation of these issues would result in imposing substantially different requirements upon the defendants.

(7) The settlement agreement is in the best interest of those who are subject to it, and there is absolutely no evidence or intimation of collusion between any parties to the agreement. Further, protracted litigation of the issues involved in this lawsuit would not serve the interests of any of the parties hereto.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED:

1. That the proposed Consent Decree is approved and incorporated by reference in this order; and
2. That the complaint is dismissed with prejudice, PROVIDED this court shall retain jurisdiction over this matter for the enforcement of the provisions of the Consent Decree.

**IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF SOUTH CAROLINA COLUMBIA DIVISION**

**GARY WAYNE NELSON, et al., Plaintiffs,**

vs.

**WILLIAM D. LEEKE, Commissioner, South Carolina Department of  
Corrections, and Members of South Carolina Board of Corrections, Defendants.**

**Civil Action No. 82-876-2**

*Consent Decree*

LATOE, United States Magistrate Judge.

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**I. Definitions**

\*3 A. "Plaintiffs" refers to all persons sentenced or confined at present or in the future to the legal custody of the South Carolina Department of Corrections, except those voluntarily confined in designated facilities as defined in South Carolina Code 24-3-20.

B. "Defendants" refers to the present and any future Commissioner and members of the Board of Corrections of the South Carolina Department of Corrections.

C. "Institutions" refers to all buildings, offices and facilities at present and in the future under the control and supervision of the South Carolina Department of Corrections and used to provide housing or services to Plaintiffs.

D. "Temporary structure" refers to any type of enclosed space or facility, of any type of material, in which it is proposed to place any Plaintiffs overnight, and which is not affixed to the ground with a permanent foundation.

E. "Emergency" refers to any sudden unforeseen event which is not within the control or causation of Defendants or any other branch of the South Carolina state government, including but without limitation to riots, fire, and other natural disasters.

F. "Health services" includes services for medical, dental and mental health needs of Plaintiffs.

G. "Segregation", unless otherwise designated, refers to any form of restricted, lock-down confinement, including administrative and disciplinary segregation, investigative segregation, protective custody, death row, mental health units, and maximum security units.

H. "Full-time, meaningful programs" refers to organized, supervised programs, including but not limited to exercise, vocational training, education courses, work assignments, work release and prison industries, which allow opportunity for five hours per day participation and engagement in intellectual or physical activity.

I. "Cubicle" refers to any non-secure housing area characterized by walls that do not reach the ceiling and having open doorways.

J. "Sleeping space" refers to a space set aside for sleeping purposes.

**II. General Principles**

A. The Defendants shall within six (6) months from the date of entry of this Decree submit to this Court a written report setting forth any timetable not included in this Decree, to fully implement the proposals made in the Decree. Plaintiffs shall have sixty (60) days to object to this report.

B. For any plans discussed in this Decree, the parties shall make a reasonable effort to resolve any issue in controversy through negotiation, but if the parties are unable to resolve the controversy through this process the plan shall be submitted to the Court

for a hearing on the issues. In any event, all plans shall be submitted to the Court for approval and, upon approval, shall be incorporated into this Decree by reference.

C. The Court shall retain jurisdiction in this case to ensure that the Decree and all plans incorporated herein are fully implemented.

D. Counsel for Plaintiffs shall have access to and may receive copies of documents which effectuate the implementation of this Decree. Counsel for Plaintiffs shall have access to all Plaintiffs at reasonable times and under reasonable circumstances. Plaintiff's counsel shall have access to all staff and institutions, upon reasonable notice to Defendants' counsel. Defendants' counsel may be present at any meetings between Plaintiffs' counsel and Defendants' staff.

\*4 E. Defendants shall immediately explain the terms of this Decree to all of their agents, servants, representatives, and employees, including institutional staff, correctional officers and other personnel, in order to assure their understanding of the requirements of this decree and the necessity for strict compliance therewith. Defendants shall require strict compliance with this Decree by said persons. Defendants shall require continued training of all staff regarding this Decree.

F. Defendants shall provide continuous notice of this Decree's terms to all members of the Plaintiff class by:

(1) publishing, within ten (10) days of the signing of this Decree by the Court, an agreed-upon synopsis of this Decree in the SCDC publication "The Intercom" and hereafter incorporating the agreed-upon synopsis into all future printings of the *Inmate Guide*;

(2) posting, within ten (10) days of the signing of this Decree by the Court and continuously thereafter, copies of this Decree in all housing units;

(3) making ten copies of this Decree available, within ten (10) days of the signing of this Decree and continuously thereafter, in all institutional libraries; and

(4) providing a copy of this Decree to each Plaintiff, within ten (10) days of the signing of this Decree and continuously thereafter, upon written request by such Plaintiff class member.

G. Members of the Plaintiff class shall have the right to individually submit written objections to the Court, within forty days of the submission of this Decree to the Court, under such terms and conditions as required by the Court.

H. This Decree shall be deemed to serve as settlement of claims for injunctive relief concerning the conditions of confinement discussed herein applicable to more than the individual circumstances of a particular plaintiff class member. This Decree does not affect the right of an individual to pursue individual claims for monetary relief. If a Plaintiff seeks declaratory or injunctive relief, he/she may do so, as long as such lawsuit does not pertain to those conditions of confinement throughout an institution(s) addressed in this Decree. As to conditions of confinement discussed herein, throughout an institution(s), the operation of the prison system at any level at or under the capacities set forth herein and operation of any single institution or housing facility at or under the capacities set forth herein, shall be a defense to any claim for equitable relief regarding overcrowding of any such institutions.

Except as otherwise provided in this paragraph, as to those conditions of confinement, throughout an institution(s) addressed in this Decree, the operation of such institutions in compliance with this Decree shall be a complete defense to any equitable claim based upon such conditions. This Decree shall not resolve any issues involving use of long-term segregation, inmate pay in the future, or increases in costs of hygiene supplies.

**\*5** I. Unless specific provision for extension is otherwise made in this Decree, any timetable proposed in this Decree may be subject to extension by the Court upon a showing of reasonable grounds for such extension by the Defendants so long as the need for delay is not caused by the neglect or dereliction or actions of Defendants. If the Defendants lack resources or funding to meet a requirement set out herein, the Court may grant up to an additional sixty (60) days in which Defendants may obtain funding; however, if a recognized need for additional funding occurs while the General Assembly is not in session, the Court may grant up to sixty (60) days extension from the date the General Assembly convenes. Plaintiffs reserve the right to object in good faith, and oppose any requests for extensions of time by the Defendants.

J. Upon any motion for supplemental relief pertaining to this Decree, that Motion shall take priority and the Court will hear said Motion no later than thirty (30) days after the filing of such Motion and the Court will rule on such Motion no later than forty-five (45) days from completion of the hearing. Such time limits may be extended by the Court in order to substantially further the interests of the parties.

K. If any institution or part thereof is not brought into compliance with the requirements of this Decree and such non-compliance constitutes a substantial threat to the health, safety and welfare of members of the Plaintiff class, such institution(s) or part thereof shall not be used to house Plaintiffs.

L. In the event of an emergency, as defined in Part I—Section E above, which Defendants in good faith believe to require the temporary waiver of any of the provisions of this Decree, Defendants shall notify the Court and Plaintiffs' counsel of the emergency and need for waiver within twenty-four (24) hours of the onset of emergency. Such notice shall identify the emergency, the specific provisions of this Decree which Defendants believe must be temporarily waived, the reason necessitating the waiver, the exhaustion of other alternatives to waiver, and the anticipated duration of the waiver. If Plaintiffs have a good faith disagreement with the proposed waiver or its duration, the controversy shall be submitted to the Court for hearing and determination.

M. The parties agree that this Decree establishes minimum standards by which Defendants shall maintain and operate their institutions and that it is not intended to prevent Defendants from implementing new programs or changes in physical conditions which benefit Plaintiffs; nor is the Decree intended to, and it shall not, have the effect of decreasing or abrogating the rights, programs or conditions which existed prior to this Decree pursuant to Defendants' policies, procedures or other lawsuit settlements; nor to abrogate any substantive rights or procedural protection Plaintiffs may now have or hereafter acquire under state or federal statutes. The parties agree that this Decree represents the entire intent of the parties and shall not be modified except as stated within this Decree. The Defendants shall carry out every provision of this Decree in good faith.

**\*6** N. All parties agree that this action is appropriate for certification as a class action as herein defined, pursuant to Federal Rule of Civil Procedure 23.

O. The parties expressly agree that this Agreement is not an admission of constitutional violations, nor does this Agreement establish constitutional minimum or maximum standards with respect to the claim of “overcrowding”. The parties have entered into this Agreement solely as a means to put a reasonable end to the controversy, to avoid the costs, time and risks which litigation would involve for both parties, and this Agreement should not be construed in any manner as establishing constitutional standards, minimums or maximums or thresholds of constitutional harm to Plaintiffs. Neither this Agreement nor the Judgment that may follow from this Agreement, nor anything contained herein or therein, shall constitute or be construed as evidence or as an admission or adjudication with respect to any fact or conclusion of law with respect to any matter alleged in or arising out of the complaint or of any wrongdoing or misconduct on the part of the Defendants.

P. Except to the extent Defendants agree to be bound by and subject to the enforcement of the specific terms of this Decree, Defendants do not herein waive any defense available to them or any agency or agent of the State of South Carolina now or in the future. In particular, Defendants do not by entering upon this Agreement waive the defense of the Eleventh Amendment or any immunity on behalf of themselves or any agent or agency of the State of South Carolina.

Q. This Decree is solely enforceable by the Plaintiff class and through the Plaintiff class with class remedies.

R. Violation of this Decree shall not serve as the basis of liability of the Defendants to any individual Plaintiff, absent proof of proximate cause and damage.

S. The parties agree that concurrently with the approval of this Decree by the Court, the Court shall enter an Order of Settlement dismissing the Complaint with prejudice and retaining jurisdiction for enforcement of this Decree.

T. This Consent Decree may be modified in the future by mutual and joint petition of the parties or their successors, or upon petition of any party. Said petition shall be made to the Court and approved by the Court, after notice and hearing, by an Order amending the Consent Decree. Any disputed petition for modification shall be reviewed by the Court under the applicable law pertaining to modification of Consent Decrees.

U. No remedial action, including sanctions, shall be taken against the named Defendants in their individual capacities unless the Court specifically finds, following a hearing, that those Defendants, or any of them, have acted in bad faith. For purposes of this paragraph, no Defendant shall be deemed to have acted in bad faith if budgetary constraints are the reason for his or her failure to satisfy the terms of this Decree, so long as that individual has made good faith effort to obtain the necessary funding.

### **III. *Specific Terms of Settlement***

#### **A. *Cell Housing***

\*7 Defendants agree that the following arrangements shall apply to all housing of Plaintiffs:

1. In no event shall a cell or cubicle be used to confine more than two prisoners, except as provided herein.
2. Any Plaintiff confined to a cell more than twelve (12) hours per day shall be single-celled, in a cell containing at least forty (40) square feet of sleeping space in present institutions and fifty (50) square feet of sleeping space in any future institutions. This includes, but is not limited to, Plaintiffs classified as protective custody, mentally ill, or in administrative segregation, investigative segregation or disciplinary segregation. However, Plaintiffs assigned to Protective Custody may voluntarily request and receive a cell-mate for double-celling, subject to the criteria established pursuant to paragraph one (1) of section III M.
3. A Plaintiff in general population who is confined to a cell less than twelve (12) hours per day may be double-celled but shall be provided with at least fifty (50) square feet of sleeping space per person. However, up to one-half of the cells presently used for general population in the following present buildings may be double-celled:

Perry Correctional Institution, (Dorms 1, 2, 3, 4); Central Correctional Institution, (CB-3 Only); Kirkland Correctional Institution, (five of seven presently existing sixty-four-cell dorms); MacDougall Youth Correction Center, (Dorms 1, 2, 3, 4, 5); Women's Correctional Center (five of the seven presently existing forty-eight cell cottages).



If there is available bed space (other than short term) at other institutions of comparable classification, Defendants shall make good faith effort to reasonably and rationally use such bed space, to minimize double-celling at each of the institutions listed above. Not more than one-half of any institution's general population shall be double-celled, except as provided above, unless the double-cells are at least 100 square feet.

4. In the event the Defendants wish to construct new facilities in addition to those institutions listed in Appendix F of this Decree, not already planned or under construction as of the date of this Decree, which vary from the space allocations discussed herein, Defendants shall submit the plans for such facilities to Plaintiffs' counsel and the Court. If Plaintiffs object to the plans, then the Court shall make a determination as to the reasonableness of or necessity for said variance, in light of but not limited to the requirements of this Decree and the totality of the conditions, and shall determine whether or not said variance shall be permitted. The parties agree that the process for variance described in this sub-section applies solely to new construction.

**B. Wards/Cubicles**

1. Each Plaintiff confined to a ward, or cubicle, or to a room in a pre-release or work release center shall be provided with at least forty-five (45) square feet of sleeping space per person, except that Plaintiffs confined in wards at medium/maximum security institutions such as Central Correctional Institution and Manning Correctional Institution shall each be accorded fifty (50) square feet of sleeping space per person. There shall be no double-bunking in the wards.

\*8 2. Each Plaintiff confined to a cubicle less than twelve (12) hours per day may be required to share the cubicle with one other person, but there shall be at least forty-five (45) square feet of sleeping space per person in such cubicles.

3. No future institutions used to house Plaintiffs classified at medium or maximum security levels shall include ward or cubicle-style housing. Any future minimum security institution which includes wards or cubicle-style housing shall house no more than fifty (50) Plaintiffs per ward or cubicle-dorm.

**C. Other Housing**

1. No Plaintiff shall be confined or housed in an area of an institution not designed for or suitable for housing (for example, hallways, dayrooms, classrooms, gyms, storerooms shall not be used for temporary housing or sleeping assignments).

2. No Plaintiff shall be confined in a county or local detention facility, once sentenced to the custody of Defendants, for longer than thirty (30) days, without his/her voluntary, written consent, except pursuant to lawful detainer, lawful summons for trial, or pending lawful extradition, or for temporary detention not exceeding seventy-two (72) hours pending transfer between Defendants' institutions.

**D. Temporary Structures**

1. Temporary structures shall be used for housing Plaintiffs only after Defendants have certified to the Court and Plaintiffs' counsel: (a) all other legislated alternatives which have been considered and used to the extent reasonable (including but not limited to the Prison Overcrowding Powers Act, 1983 Act No. 123, and the Corrections Reform Act, 1981 Act No. 100) and (b) the present need for use of temporary structures.

2. Plaintiffs shall be permitted the opportunity to respond and object to any use of temporary structures and to submit this controversy to the Court for hearing.

3. In the event that temporary structures are used by Defendants to house or confine Plaintiffs, their use shall comply with the following conditions:

- a. The structures shall comply with applicable state and national fire safety standards, including the National Fire Protection Association Code (Document 101, 1981) and National Fire Protection Association Standards 102 and 701.
- b. The structures shall be adequately staffed to provide safety and security to Plaintiffs and to Defendants;
- c. The structures shall comply with American Corrections Association Standard 2-4131 (2nd ed., 1981) relating to provisions of toilets, hot and cold running water, temperature, lighting, ventilation and noise.
- d. Plaintiffs assigned to the structures shall have the same access to dayrooms, activity areas and programs as all other Plaintiffs.
- e. Plaintiffs assigned to the structures shall not be so assigned beyond ninety (90) days, unless Plaintiffs so assigned indicate in writing their voluntary willingness to continue in the assignment.
- f. No double-bunks shall be used in the structures.
- g. At least forty-five (45) square feet of sleeping space shall be provided to each Plaintiff assigned to the structures.
- \*9 h. All other provisions of this Decree shall be applicable to Plaintiffs assigned to the structures.

***E. Phased-In Compliance with Housing Standards***

***1. Statement of Understanding***

The parties acknowledge that the following factors will affect the achievement of compliance with the sleeping space allotments required by this Decree:

- a. Defendants cannot effectively operate institutions which have an actual count of more than approximately ninety-five (95) percent of the required capacity, because of the need for flexibility in having some available space at all institutions at all times.
- b. Based on the sleeping space figures furnished by Defendants and included in Appendix F, the housing units now existing shall house no more than seven thousand ninety-four (7,094) persons and, with planned renovations no more than seven thousand three hundred eighty-five (7,385) persons, within five (5) years of the signing of this Decree by the parties, which will require a reduction in existing institutions, based on June 21, 1984 count figures of eight thousand two hundred sixty-one (8,261) prisoners.
- c. Defendants anticipate an average net increase of thirty (30) to fifty (50) prisoners per month, over the next five years.
- d. Defendants plan to construct at least three (3) new institutions (Lieber, McCormick, New Midlands Reception and Evaluation Center), in order to reduce the present base population of eight thousand two hundred sixty-one (8,261) at existing institutions.
- e. Defendants anticipate that all presently planned new construction and structural increases in the capacities of existing institutions will be completed within thirty-six (36) months of the signing of this Decree by the parties.

f. Plaintiffs are concerned that Plaintiffs not be housed in institutions which do not meet the sleeping space, fire safety, health services, food services, and environmental sanitation standards established in this Decree.

g. Notwithstanding the figures given in subsections 1(b) and 1(d) of this section and in Appendix F, the sleeping space requirements of this Decree, parts IIIA–D shall govern, pursuant to time schedules established in this Decree.

## **2. Compliance Steps**

Therefore, Defendants shall achieve compliance with the space allocations required by this Decree according to the following priorities:

a. All triple-celling and assignment of more than two prisoners to cells and cubicles measuring less than one hundred fifty (150) square feet shall immediately cease. However, present triple-celling may continue at Campbell and Lower Savannah Work Release Centers for eighteen months, in order for the Defendants to find appropriate and necessary space for a comparable number of work release prisoners within that time. Further, all present triple-celling at Northside or Wateree shall end within twelve (12) months from the signing of this Decree by the parties and no additional Plaintiff shall be triple-celled in Northside or Wateree after the signing of this Decree by the parties. The Defendants shall make all reasonable efforts to end all such triple-celling as soon as possible.

\*10 b. Plaintiffs confined to their housing units for more than twelve (12) hours per day shall receive the sleeping space required by this Decree within twelve (12) months of the signing of this Decree by the parties.

c. Plaintiffs assigned to medium or maximum security institutions or housing units shall receive the sleeping space required by this Decree within six (6) months from the completion of Lieber and McCormick but no later than within thirty-six (36) months from the signing of this Decree by the parties and all double-bunking shall be eliminated. Until that time, where double-bunking occurs in medium/maximum security institutions, any double-bunks shall be placed against the walls.

d. All other Plaintiffs, i.e. those not housed in medium or maximum security institutions shall receive the sleeping space required by this Decree within five (5) years of the signing of this Decree by the parties and double-bunks shall be eliminated at that time. In the meantime, any additional double-bunks in the wards shall be placed against the walls.

e. Compliance as outlined in paragraphs (c) and (d) above shall be achieved in the following way:

(1) From the date of the signing of this Decree by the parties, for a period of thirty-six (36) months, prisoner population at each such institution and housing unit may fluctuate above the count established at the date of the signing of this Decree and the maximum count which may be reached within five (5) years of the signing of this Decree, provided that Defendants give Plaintiffs' counsel and the Court notice and proof every six (6) months of:

(a) Compliance with the schedules for construction, renovation, fire safety and environmental sanitation established in Section III–F, III–K and III–R below, and

(b) Accuracy of Defendants' predictions of the overall population increases for that time.

(2) If proof of compliance with (a) and (b) above is not or cannot be provided, then the parties agree that the Court shall order immediate relief, which may include population reductions, release or transfer of prisoners (providing such transfer does not violate other provisions of this Decree), or other appropriate relief, at each of Defendants' institutions which do not meet the standards established in this Decree.

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(3) From the date of three (3) years after the signing of this Decree until five (5) years after the signing of this Decree, the prisoner population at each such institution and housing units as described in (d) above shall be reduced in equal percentage increments of twenty-five (25) percent every six (6) months for such prisoner population over the capacities set forth in this Decree, except that if Defendants provide proof of good cause for a delay in reaching the six (6) month goal at a particular institution, then they may have an additional thirty (30) days in which to reach the required population at that institution.

(4) Defendants shall, to the extent authorised by law and statute make maximum use of community-based alternatives to incarceration, including Special Furloughs and Work Release programs, in order to decrease the number of Plaintiffs incarcerated.

**F. Construction and Renovation Schedule**

\*11 1. The schedule for the construction and renovation, required for the Defendants to reach the housing capacities established by the standards stated in this Decree, shall be determined by the following specific dates, for the completion of each of the following tasks as may be necessary, at each of the following institutions:

	CCI	CCI	MCI	WCC	CCI
Institutions:	Guards	Stoney	Lock-up	Dorm	MSC
<i>Tasks</i>					
1) Site Selection	By SCDC	SCDC	SCDC	SCDC	SCDC
2) Land surveys	#	#	#	#	#
3) Soil boring	#	#	#	#	#
4) Purchase prop.	#	#	#	#	#
5) Advertise for A & E firm	#	#	#	#	#
6) Evaluate bids	#	#	#	#	#
7) Select A & E firm	#	#	#	#	#
8) Site drawings completed	#	#	#	#	#
9) Site work completed	#	#	#	#	#
10) Constn. drawings compld.##	#	#	#	#	
11) Solicit constn. bids	#	#	#	#	#
12) Select Constn. Contractor	#	#	#	#	#
13) Begin Constn.	12/15/84	2/18/85	7/1/85	1/15/85	7/1/85
14) Completed	12/15/85	6/30/85	12/30/85	12/31/85	9/30/86

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New	New	New	DCI
Lieber	McCorm.	R & E	Sec.
Compl.	4/16/84	7/23/84	—
Compl.	4/23/84	9/23/84	—
Compl.	5/14/84	9/10/84	—
Compl.	3/13/84	N/A	—
Compl.	6/4/84	11/18/84	—
Compl.	6/25/84	12/9/84	—
Compl.	8/1/84	12/17/84	8/12/85
Compl.	6/14/85	2/27/85	N/A
Compl.	7/15/85	6/10/85	N/A
Compl.	11/4/85	11/25/85	9/2/85
Compl.	1/1/86	12/2/85	9/16/85
Compl.	2/15/86	2/17/86	12/2/85
10/25/84	3/3/86	3/3/86	1/6/86
7/1/86	10/3/87	10/30/87	10/30/87

2. All facilities constructed by or used by Defendants, now and in the future, shall meet Defendants' and Plaintiffs' classification needs and housing facilities shall not be constructed which do not meet such classification needs at the time of construction.

3. Progress reports from the contractors or construction supervisors on each of the projects listed in (1) above shall be provided quarterly to Plaintiffs' counsel. Defendants shall require that for any such report which indicates that a construction project is behind schedule, said report shall also include a plan, for "catching up" and meeting the required construction schedule before the date of the following quarterly report.

**G. Capacities**

\*12 1. Each institution shall have a maximum prescribed population established by the criteria contained in this Decree. In the event Defendants are not able to maintain the required population for any particular institution's housing units at any given time, Defendants may be in non-compliance with the required population no more than five percent (5%) over the required figure in such institutions containing two hundred (200) or more prisoners and no more than ten per cent (10%) over the required figure in institutions containing less than two hundred (200) prisoners, so long as the populations of all of Defendants' institutions do not exceed one hundred percent (100%) of the combined totals of all maximum capacities for such institutions established by this Decree and no individual Plaintiff has been improperly housed for more than sixty (60) days in any one calendar year. Upon notice that an individual Plaintiff has been improperly housed for up to fifty (50) days within one calendar year, Defendants may have up to ten (10) days to correct said Plaintiff's housing. As a general principle, the parties agree that it is not the intent of

this paragraph to authorize the Defendants to continually exceed the capacity established by this Decree at any given institution for an extended period of time, but it is the intent to provide the flexibility required to achieve compliance.

2. If at any point, proof of compliance with paragraph (1) is not or cannot be provided, the Court shall order immediate relief, which may include population reductions including release, or transfer of prisoners or other relief as the Court deems appropriate, at each of Defendants' institutions which do not meet the standards established in this Decree, provided that any such transfers do not violate provisions of this Decree.

3. The sixty-day limitation above shall not be subject to any extension, including as set forth in part II-I of this Decree.

## **H. Staffing**

### **1. Deployment**

a. Within ninety (90) days of the signing of this Decree by the parties, Defendants shall submit a plan to Plaintiffs and the Court for the employment and assignment of adequate numbers of staff, to ensure Plaintiffs reasonable safety and security and compliance with this Decree.

b. If approved, said plan shall be implemented within one (1) year from the signing of this Decree by the parties.

c. In no event shall staff numbers and prisoner/staff ratios at medium and maximum security institutions decrease below the level of January 25, 1983. Defendants agree that adequate deployment of correctional staff shall include assignment of officers to the inside of each ward and cellblock on each shift within medium and maximum security institutions. Defendants agree that post assignments and staffing patterns at all institutions will be created in line with the general principles recommended by the NIC study for all institutions described in (3) below and attached in the Appendix to this Decree. All officers shall be stationed so that they have visual observation or voice contact with all of the Plaintiffs in the given cell-block or ward at all times, except at pre-release centers or work release centers, or during unforeseeable emergencies which would require an officer to temporarily leave his or her post.

\*13 d. Defendants shall not assign or permit prisoners to exercise authority over other prisoners in any aspect of the administration of Defendants' institutions or programs, including the areas of discipline, job assignment, housing assignment, income, access to medical care, access to confidential or institutional information concerning inmates; provided that the foregoing does not preclude the use of prisoner work supervisors at employment within the Department of Corrections who do not discipline, hire, retain, fire, determine, pay or evaluate performance, or the use of clerk runners who do not have access to inmate records.

### **2. Training**

a. Defendants shall provide training to all staff in compliance with the following standards of the American Correctional Association (2nd ed. 1981), Standards 2-4079 through 2-4101, including 1983 revisions by the ACA, provided that, for Sections 2-4090, 2-4091, 2-4092 and 2-4093, Defendants shall have three years to phase-in full compliance with the requirement that employees receive "an additional 40 hours of training each subsequent year of employment":

2-4079. Written policy and procedure provide that the institution's training programs for all employees are specifically planned, coordinated, and supervised by a qualified employee at the supervisory level, and reviewed annually.

**Plyler v. Leeke, Not Reported in F.Supp. (1986)**

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2-4080. The individual coordinating the training and staff development program has received specialized training for that position. At a minimum, full-time training personnel should have completed a 40 hour training-for-trainers course.

2-4081. There is an advisory training committee composed of the institution's training officer and representatives from various institution departments. The committee develops a training plan for the institution, meets at least quarterly to review progress and resolve problems, maintains a written record of its deliberations, and reports to the warden/superintendent. (Revised, 1983)

2-4082. (Deleted, 1983)

2-4083. The institution's training and staff development plan provides for an ongoing formal evaluation of all pre-service, in-service, and specialized training programs, with a written report prepared annually.

2-4084. Library and reference services are available to complement the training and staff development program.

2-4085. The training and staff development program uses the resources of other public and private agencies, private industry, colleges, and libraries.

2-4086. Space and equipment required for the training and staff development program is available.

2-4087. The budget includes funds for reimbursing staff for additional time spent in training or for replacement personnel required when regular personnel are off duty for training purposes.

2-4088. Written policy and procedure provide that all new full-time employees receive 40 hours of orientation/training prior to being independently assigned to a particular job. This orientation/training is to include, at a minimum, orientation to the purpose, goals, policies and procedures of the institution and parent agency; working conditions and regulations; responsibilities and rights of employees; and an overview of the correctional field. Depending upon the employee(s) and the requirements of the particular job, the orientation/training may include some preparatory instruction related to the particular job. There are provisions for acknowledging and giving credit for prior training received.

**\*14** 2-4089. Written policy and procedure provide that all clerical/support employees who have minimal contact with inmates receive an additional 16 hours of training during the first year of employment or within one (1) year after the signing of this Decree by the parties and 16 hours of training each year thereafter. [Modified]

2-4090. Written policy and procedure provide that all support employees who have regular or daily inmate contact receive an additional 40 hours of training during their first year of employment and an additional 40 hours of training each subsequent year of employment.

2-4091. Written policy and procedure provide that all professional specialists employees who have inmate contact receive an additional 40 hours of training each subsequent year of employment.

2-4092. Written policy and procedure provide that all new correctional officers receive an additional 120 hours of training during their first year of employment and an additional 40 hours of training each subsequent year of employment. At a minimum this training covers the following areas:

- a) Security procedures
- b) Supervision of inmates

- c) Use of force regulations and tactics
- d) Report writing
- e) Inmate rules and regulations
- f) Rights and responsibilities of inmates
- g) Fire and emergency procedures
- h) Firearms training
- i) Key control
- j) Interpersonal relations
- k) Social/cultural life styles of the inmate population
- l) Communication skills
- m) First aid

*2-4093.* Written policy and procedure provide that all administrative and managerial staff receive an additional 40 hours of training during their first year of employment, and an additional 40 hours of training each subsequent year of employment. This training covers the following areas, at a minimum: general management and related subjects; labor law; employee-management relations; the interaction of elements of the criminal justice system; and relationships with other service agencies.

*2-4094.* When there is an emergency unit, written policy and procedure provide that all assigned officers have one year of experience as a correctional officer, which includes 160 hours of training, that they receive 40 hours of relevant emergency unit training prior to assignment, which may be part of the first year training (160 hours), and that at least 16 hours of the 40 hours of annual training be specifically related to emergency unit assignment.

*2-4095.* All part-time staff receive formal orientation appropriate to their assignments and additional training as needed.

*2-4096.* Prior to assignment to a post involving possible use of a firearm, all personnel authorized to use firearms receive appropriate firearm training; this training covers the use, safety, care, and constraints involved in the use of firearms. All authorized personnel are required to demonstrate competency on at least an annual basis.

*2-4097.* All personnel authorized to use chemical agents are thoroughly trained in their use and in the treatment of individuals exposed to the chemical agent.

**\*15** *2-4098.* All security personnel are trained in approved methods of self-defense and the use of force as a last resort to control inmates. [Modified]

*2-4099.* Written policy and procedure encourage employees to continue their education.



2-4100. (Deleted, 1983)

2-4101. The institution encourages and provides administrative leave and/or reimbursement for employees attending approved professional meetings, seminars and/or similar work-related activities. (Revised, 1983)

### **3. Recommendations**

a. The report of the staffing study of defendant's institutions conducted by the National Institution of Corrections in January 1984 shall be attached and included in the Appendix to this Decree.

b. Defendants shall submit a plan for the reasonably prompt implementation of all recommendations made in the National Institute of Corrections' study of the staffing in Defendants' institutions, within ninety (90) days of the signing of this Decree by the parties unless Defendants show good cause for finding that particular NIC recommendations are inappropriate. Any disputes shall be submitted to the Court, per Section II of this Decree.

### **I. Health Services**

#### **1. Services**

a. Defendants shall comply with Standards 2-2120 through 2-2134 (as modified) and 2-4271 through 2-4322 of the American Correctional Association (2nd ed., 1981, including 1983 revisions by the ACA), as appropriate. These standards are included as Appendices A and C to this Decree.

b. Defendants shall provide notice to each Plaintiff at the time of his/her admission to Defendants' institutions and in posted notices at each institution, that Plaintiffs shall have access to over-the-counter non-prescription medications such as aspirin, anti-acid and laxatives, during non-sick call hours on weekends and in the evenings.

c. Recognizing the need to enable Plaintiffs to purchase hygiene supplies, Defendants have agreed, beginning with the start of fiscal year 1984-1985 and based on negotiations with Plaintiffs regarding this Decree, to increase each Plaintiff's inmate pay by \$1.00 per pay period. Defendants further agree to provide hygiene supplies (including soap, toothbrush, toothpaste, deodorant, washcloth and towel, shampoo, shaving equipment and personal hygiene products) to each Plaintiff within the Special Learning Unit or to other Plaintiffs whom a Warden determines to require such supplies due to special circumstances at the time of his/her request for such items. Denial of any such individual requests may be the subject of grievance within Defendants' established grievance system.

d. Defendants agree that at least one staff person on each shift at each institution shall be trained in first aid and certified in CPR techniques; that appropriate equipment (including crash carts, ambulances, oxygen and defibrillators) shall be readily available at each of the existing institutions identified by the review and recommendations described in (2) below and at all new institutions except work release centers; that each such institution shall have staff available who are properly trained to utilize such equipment in an emergency, and that all other institutions shall develop and submit a plan for providing emergency medical treatment with outside facilities, within three (3) months from the completion of the study described in (2) below.

\*16 e. Defendants agree that the refusal of health evaluation or health services by any individual Plaintiff, regarding non-life-threatening or non-contagious conditions, shall not be the subject of discipline or punishment or result in confinement in segregation.

### **2. Recommendations**

a. Defendants and Plaintiffs shall agree upon certain medical consultants, at least one of whom shall be a physician and one a mental health and psychological services expert, and the Defendants shall contract with said mutually-agreed-upon medical consultants, for a review of the Defendants' procedures, resources, staff training and staffing for medical emergencies, health services, and mental health and psychological services. The study shall include a review of nine items which were recommended by a previous health care system evaluation but were not adopted by Defendants and consideration of application of the standards regarding mental health services found in Appendix B, as well as other standards deemed appropriate. Defendants shall submit this review to the parties and the Court and, within three (3) months from the completion of the study, shall submit a plan for the reasonably prompt implementation of each of the review's suggested changes.

b. Implementation of these recommendations described in (a) above shall begin on July 1, 1985, except for those recommendations related to critical medical needs. Such critical needs, if any, shall be addressed immediately following the receipt of said recommendations and shall be implemented no later than within one (1) year from the signing of this Decree by the parties.

c. Where necessary, funds appropriated in FY 1984–85 for additional security guards shall be diverted to address such critical medical needs. Any disputes shall be submitted to the Court, per Section II of this Decree.

d. The nine items referred to above, on which the review described in (a) above shall also make recommendations, are as follows:

- (1) Employment of an RN at MSC,
- (2) Attaining membership in the Association of Risk Managers,
- (3) Increasing nurse staffing at the KCI Infirmiry,
- (4) Installing one more X-ray illuminator at the KCI Infirmiry,
- (5) Obtaining portable whirlpool baths,
- (6) Replacing some heart monitors,
- (7) Replacing some beds at the KCI Infirmiry,
- (8) Installing one more ceiling spotlight, for suturing, at the KCI Infirmiry,
- (9) Obtaining portable sitz baths.

## **J. Programs**

### **1. General Population**

a. Defendants shall provide all Plaintiffs assigned to general population with the opportunity for a full-time, meaningful work or program assignment, for not less than five (5) hours per day, five (5) days per week;

b. Defendants shall provide all Plaintiffs assigned to general population with the opportunity for meaningful and appropriate vocational training and Defendants shall not decrease the present level of education courses, including vocational.

\*17 c. Defendants shall continue to offer programs of no less variety, opportunity and state-funding level as those available at the present, as established by the list contained in Appendix D to this Decree. Defendants shall make a good faith effort to maintain those programs which are not supported by state funding appropriated to the South Carolina Department of Corrections.

d. Defendants shall provide access for all Plaintiffs to educational programs at least two evenings per week.

e. Plaintiffs shall be assigned to or offered all work and programs assignments according to an equitable, rational system, which does not discriminate on the basis of race or sex. Consistent with security needs, Defendants recognize the availability of transfers in order to offer full variety of programs to all Plaintiffs.

f. Any Plaintiff who is required to attend any court proceeding shall not suffer any loss of prison industries bonus pay, so long as such absence does not exceed seven (7) calendar days in any calendar year.

## **2. Segregation**

a. Defendants shall provide all Plaintiffs assigned to any form of segregation (including protective custody units) with the opportunity for at least five (5) hours per week, five (5) days per week of actual outdoor exercise (weather permitting) and if future staffing ratios increase, pursuant to the ratio established in Sec. III–H or due to any other cause, Defendants shall reasonably consider and attempt to increase the exercise provided to seven (7) days per week. In the event of an extended period of inclement weather, Defendants shall guarantee make-up days sufficient to provide that the total of hours of outside exercise amounts to at least fifteen (15) hours exercise per month.

b. Defendants shall submit to Plaintiffs' counsel and the Court, within six (6) months from the signing of this Decree, and shall implement, a plan for the reasonably prompt phasing-in of increased programs and out-of-cell time for Plaintiffs who have been in Protective Custody for more than ninety (90) days, until Defendants are providing the opportunity for at least five (5) hours per day on five days per week of full-time, meaningful programs.

c. Defendants shall review all existing regulations pertaining to possession of personal property by Plaintiffs in segregation, and shall develop and submit, within six (6) months from the signing of this Decree by the parties, to the Plaintiffs and the Court, a plan for the rational and uniform provisions of personal property, consistent with safety and security among all populations at all institutions.

## **3. Libraries**

a. Defendants agree that all prison libraries, including law libraries, shall be available to Plaintiffs a minimum of five (5) days per week, including at least two evenings per week for at least three (3) hours after all normal work assignments conclude, for a total of thirty-seven and one-half (37 ½) hours per week.

b. Defendants agree that access to the courts and law libraries shall comply with the requirements set out in *Bounds v. Smith*, 430 U.S. 817 (1976) and Defendants shall submit to the Plaintiffs and the Court, within six (6) months from the signing of this Decree, a comprehensive plan for the provision of such access to all Plaintiffs.

\*18 c. Defendants agree to provide comparable access to all prison libraries, including law libraries, to all Plaintiffs, regardless of custody classification or housing assignment. For those Plaintiffs who are involved in other work or program activities during the operating hours of the institutional library, the Defendants agree to allow said Plaintiffs to obtain a pass to use the law library when one is requested without being penalized for leaving the work or program activity, where such Plaintiffs can demonstrate a court deadline.

d. Within ninety (90) days from the signing of this Decree by the parties, Defendants agree to make complete, current copies of all institutional and departmental policies and procedures available in each institutional library, excluding those policies and procedures which the parties agree pertain to emergency and security provisions.

#### **4. Work Credits**

Defendants agree to make all good faith efforts, including attempting to obtain the passage of any necessary legislation, to provide Earned Work Credits or the equivalent to Plaintiffs for any time spent in vocational training or educational courses, on a basis comparable to Earned Work Credits awarded for work assignments.

#### **5. Grievance Procedure**

a. Within ninety (90) days from the signing of this Decree by the parties, Defendants shall review the presently established time limits for each stage of the SCDC grievance procedure including times by which appeals must be reviewed and determined. Defendants shall establish that the grievance automatically proceeds to the next step of the grievance process when the response to the grievance exceeds the established time limits, unless a continuance for a specific period of time is granted by the grievant. Defendants shall establish and implement procedures for enforcing grievances which are granted and shall implement the SCDC Inmate Grievance Procedure, at all of Defendants' institutions.

b. Complaints that any grievance clerk has not properly pursued, or has improperly refused to pursue a grievance, may be referred by the grievant to Inmate Relations for investigation. Appropriate action shall be taken.

c. Defendants shall include a description of the grievance procedure within all future printings of the *Inmate Guide*.

#### **K. Fire Safety**

1. Defendants shall ensure that each institution which is used to house Plaintiffs is in compliance with the Life Safety Code and Life Safety Code Handbook of the National Fire Protection Association Code 101 ("NFPA") and the Fire Protection Standards of the American Correctional Association, 2-4162 through 2-4175 and related provisions, including the 1983 revision to ACA 2-4163, and including the 1981 edition of 2-4165 ("ACA"). Where the ACA standards and NFPA standards conflict, the NFPA shall govern.

2. Within one (1) year from the signing of this Decree by the parties, Defendants shall submit a schedule relating to each institution, for the reasonably prompt completion of all construction and capital improvements necessary to accomplish said compliance.

**\*19** 3. Said schedules shall include the following improvements, in accord with requirements of NFPA Code 101:

a. All smoke detectors and fire alarms shall be on contract within one (1) year from the signing of this Decree by the parties;

b. Adequate and safe gang door releases, emergency exits and escape ladders shall be on contract within two (2) years from the signing of this Decree;

c. Sprinkler systems and/or smoke evacuation systems (or a combination thereof, whichever gives the greater probability of preserving life) shall be under contract within five (5) years from the signing of this Decree by the parties.

All such contracts shall be reasonably and promptly executed and completed.

**L. Discipline**

Defendants agree that, within thirty (30) days of the signing of this Decree by the parties, Defendants' *Inmate Guide* shall be rewritten and re-distributed to all Plaintiffs, to reflect the following:

1. Each Plaintiff who has been adjudicated and convicted of a violation of institutional rules shall be sentenced to the minimum disciplinary sentence as set out in the *Inmate Guide*, except for those Plaintiffs whose disciplinary offenses have been found to include identified aggravating circumstances; each sentenced Plaintiff shall have his/her sentence reviewed after serving one-third (#) of the sentence and, if there has been no additional disciplinary offense adjudicated, he/she shall be released at that time. This provision shall not preclude initial suspension or probation of sentence.

2. Where lock-up time is determined to be the appropriate punishment for commission of the following institutional rules violations, the minimum sentence provisions of (1) above do not apply and the maximum sentence shall be no more than thirty (30) days. Except for those Plaintiffs whose commission of the following disciplinary offenses have been found to include identified aggravating circumstances, each sentenced Plaintiff shall have his/her sentence reviewed after serving one-half (½) of the sentence and, if there has been no additional disciplinary offense adjudicated, he/she shall be released at that time. If identified aggravating circumstances have been found, there shall be no such review, but the maximum sentence shall not exceed thirty (30) days. This provision shall not preclude initial suspension or probation of sentence. Any accumulated sentence of over sixty (60) days imposed at one time for multiple offenses shall be reviewed after one-third (#) has been served:

4.8 (L) Refusing to Obey Promptly and Properly a Direct Order

4.8 (M) Out of Place

4.8 (N) Disorderly Conduct or Fighting

4.8 (O) Interfering with the Duties of any Person

4.8 (P) False Identification

4.9 (C) Refusal to Work or Failure to Return to Work

4.9 (D) Abuse of Privileges

4.9 (J) Telephone Abuse

4.9 (K) Obscene Correspondence upon complaint by recipient of the correspondence

\*20 4.9 (L) Disrespect

4.9 (M) Abuse of Institutional Passes

4.9 (N) Excess Money

4.9 (O) Homosexual sexual activity

4.9 (P) Unauthorized Sales and Purchases

3. Aggravating circumstances mentioned in (1) and (2) above shall be identified and defined in the *Inmate Guide*.

4. Any Plaintiff sentenced to administrative or disciplinary segregation for any disciplinary offense and subsequently convicted of an offense listed in (2) above without any identified aggravating circumstances, may thereafter serve up to the remainder of the sentence for the original offense or an additional thirty (30) days on the original, after the date of eligibility for early release, whichever is less, as well as receiving an additional sentence for the subsequent offense.

**M. Classification**

1. The Defendants with assistance from qualified consultants, shall within twelve (12) months from the signing of this Decree develop and submit to Plaintiffs' counsel and the Court a comprehensive classification system for assignment of Plaintiffs to institutions, including criteria for initial classification, reclassification and internal institutional classification. This classification plan shall also contain criteria, procedures and programs for identification and treatment of Plaintiffs with special needs such as drug and alcohol abusers, mentally ill Plaintiffs, mentally retarded Plaintiffs, and protective custody Plaintiffs. The plan shall include provision for its reasonably prompt implementation, and shall include classification procedures which shall separate violent from non-violent prisoners at each institution. Within one (1) year of the signing of this Decree by the parties, the Defendants shall submit a plan for a rational and equitable system of internal classification for making the institutional housing assignments of those Plaintiffs who may be safely double-celled. This classification system shall be based upon the following criteria: prisoner preference (for those Plaintiffs who desire to share a cell), length of time double-celled, age, prior criminal and institutional misconduct, assaultive behavior and mental health history. As a general principle, Plaintiffs who have been double-celled the longest will be given first priority for single celling in the general population, but this principle shall not be deemed to prevail over other factors listed above relating to prisoner safety.

2. Defendants agree that such security classification shall be guided by rational, objective, criteria derived from behavioral observations. Plaintiffs shall not be disqualified from any custody or security classification solely by virtue of any single criteria such as detainers, length of sentence, consecutive sentence, date until parole or the fact of a disciplinary conviction, except that all detainers may be considered as the sole determining factor for no longer than one-hundred-eighty (180) days from the date of the lodging of the detainer. Classification shall be based upon an evaluation of the accumulation of identified, relevant and rational factors and standards. Defendants shall not discriminate in the provision of institutional assignments, programs, services, facilities or housing on the basis of race, religion, sex, creed or national origin except that women and men may be housed in separate institutions.

\*21 3. The classification system employed must be validated.

4. No Plaintiff shall be classified under a more restrictive security designation or confined under more restrictive conditions than is required by legitimate security requirements.

5. Each Plaintiff shall be allowed maximum involvement in the classification process to be implemented under this section, which shall include an opportunity to know in writing the reasons with specification for the classification and an opportunity to respond in person. Each Plaintiff shall be given written notice forty-eight (48) hours prior to the classification hearing and access to those portions of his/her file which are considered by the Classifications Committee, except that mental health or psychiatric records may be withheld. Each Plaintiff shall be carefully screened upon commitment to the Department and shall be regularly evaluated thereafter. Each Plaintiff shall participate in assessing his/her needs and in selecting programs to meet those needs. Classification decisions shall not be based upon confidential information which a Plaintiff has no reasonable opportunity to

rebut, except that confidential information from the community may be considered for determining a custody status which would return that Plaintiff to that community unsupervised. Any Plaintiff who has sought and twice been denied the same classification request by the institutional head shall have the right to appeal such denial through the appropriate *Regional Administrator* with final appeal to the Deputy Commissioner for Operations and each such appeal shall be acted upon within thirty (30) days.

6. The classification (custody and program) of each Plaintiff shall be reviewed at least every six (6) months and Defendants shall make a reasonable, good faith attempt to review the classification of each Plaintiff who is serving a sentence of less than five years at least every ninety (90) days. Reviews shall be based on behavioral observations and analysis over a reasonable time period. Rational criteria and procedures consistent with the other general principles in this agreement shall be developed and implemented with reasonable promptness. Plaintiffs shall be allowed to initiate inquiries regarding their progress, status and programming and such inquiries shall be acted upon within thirty (30) days of the request. If a Plaintiff can demonstrate a substantial error in his review which affects his classification, then the classification officer or counselor shall initiate a new review within thirty (30) days.

7. Plaintiffs may not be required to participate in programs with the exception of work assignments; provided however, that this paragraph shall not prohibit the statutory requirements applicable to members of the Plaintiff class sentenced pursuant to the South Carolina Youthful Offenders Act, 24-19-10, *et seq.*, Code of Laws of South Carolina, 1976.

8. Jobs, program assignments, housing and services shall be distributed in a rational, fair and equitable manner.

## **N. Women's Institution**

### **1. Discipline**

\*22 Defendants agree that all women Plaintiffs shall receive discipline, if any, under equal procedures, conditions, and sentences as men Plaintiffs with comparable institutional offenses.

### **2. Movement**

Defendants agree that all women Plaintiffs shall have freedom of movement equal to that provided to men Plaintiffs at the same level of security.

### **3. Programs**

Defendants agree that all women Plaintiffs shall have opportunity to participate in the same programs, including exercise, dress codes, visitation, vocational training, educational courses, work assignments, pre-release programs, work release and prison industries, equivalent or comparable to the opportunity provided to men Plaintiffs at the same level of security.

## **O. Visitation**

### **1. Contact Visits**

Defendants agree that each Plaintiff shall receive contact visits, unless there has been a written, individualized determination that the Plaintiff constitutes a "substantiated security risk." Such determination may be made by the appropriate supervisor and shall be reviewed by the institutional administrator or his/her designate before the end of the next working day. Any Plaintiff so designated shall have the opportunity to appeal the designation through the Defendants' classification and appeal procedures. Defendants may phase-in such contact visitation at Kirkland, Perry, Maximum Security Center, Dutchman and Cross Anchor to allow time for structural changes, within one (1) year from the signing of this Decree by all parties.

## **2. Scheduling**

Defendants shall provide all Plaintiffs regardless of classification, housing assignment or institutional offenses, equal opportunity for personal visits, except as described herein. However, the scheduling time of visitation for various classifications, institutions, or housing assignments shall remain within Defendants' reasonable administrative discretion. When it can be determined that a visitor legitimately cannot visit during the regularly-scheduled time, special arrangements shall be made on a case-by-case, single-visit basis. Plaintiffs in Protective Custody shall be permitted to receive at least four visits per month, up to two hours in length. Plaintiffs in administrative and disciplinary segregation shall be permitted to receive at least two visits per month up to two hours in length.

## **P. Physical Restraints**

1. No Plaintiff in general population or protective custody shall be shackled or handcuffed or physically restrained while inside an institution unless there has been a written, individualized determination that the prisoner himself constitutes a "substantiated security risk" to himself, other prisoners or staff. For Plaintiffs other than those in general population or protective custody, only handcuffs may be used to physically restrain such Plaintiffs while inside an institution, unless there has been a written, individualized determination that the prisoner himself constitutes a "substantiated security risk" to himself, other prisoners or staff. When transporting prisoners outside the institution, or between institutions, or to medical care or court-related appearances, Defendants may use ankle-shackles, hand-cuffs and belt hand-cuffs ("belly chains"), but all such restraints shall be removed once the prisoner is inside his or her destination and no belt-handcuffs shall be kept on the prisoner unless such destination is a non-secured area or there has been a written individualized determination by a shift supervisor, which is reviewed by the institutional administrator on the next working day, that the prisoner himself constitutes a "substantiated security risk" to other persons in that setting or to themselves. Any Plaintiff so designated shall have the opportunity to appeal such decision of the institutional administrator through the Regional Administrator and to the Deputy Commissioner of Operations. The provisions of this section do not apply to those Plaintiffs in "double-A" custody who are being transported outside their institutions, unless they are designated as "substantiated security risks".

\*23 2. However, Defendants may temporarily use handcuffs when separating Plaintiffs involved in fights or when there is a present threat of violent or physically disruptive activity, for up to one hour or until the Plaintiffs are confined to single cells, whichever is first.

3. Defendants may shackle Plaintiffs assigned to Administrative Segregation or Disciplinary Segregation during transport to their visits, but must unshackle them during the visits, at the request of the visitor, unless the Plaintiff has been designated as a "substantiated security risk" as defined above and such visit is occurring in the physical presence of other Plaintiffs and their visitors. Defendants shall make a reasonable effort to provide unshackled visitation.

4. The use of four-point-restraints (patient immobilization) shall not be used except upon the order of a physician. Four point restraint shall be used only as a last resort to prevent harm or physical danger to self and others. Under no circumstances shall such restraints be applied to enhance security of the facility or prevent escape, or punish the inmate. Restraints shall be used no longer than the condition prevails and the use of restraints beyond a period of four (4) hours must be approved by the chief medical doctor for the Department or his medical staff designee. In addition to review by the prescribing physician, any Plaintiff so restrained shall be the subject of continuous observation during the period of restraint and the need for restraint shall be reevaluated at fifteen (15) minute intervals. A medical and observation log of such evaluations shall be maintained. All use of four point restraints shall be reported to the institutional warden and the Department's legal office and shall comply with all other provisions of this Decree.



5. There shall be no shackling or chaining of any prisoner to any solid object, except as provided in (4) above.

**Q. Food Service**

1. Within six (6) months from the signing of this Decree by the parties, Defendants shall submit to the Plaintiffs and the Court a proposed plan for the provision of food services, including the procedures, equipment and personnel to be used, for those Plaintiffs confined in each form of segregation at each of the Defendants' institutions, in order to ensure the provision of safe, healthful and nutritious food and compliance with the Standards of this Decree.

2. Within ninety (90) days of the signing of this Decree by the parties, all SCDC institutions which provide food service to the Plaintiff class shall be in compliance with the food service standards established by the South Carolina Department of Health and Environmental Control and shall also meet ACA Standards 2-4238 through 2-4254, including 1983 revisions by the ACA and as modified below. Appropriate ACA standards 2-2110 through 2-2119 will be used for pre-release and work release centers, as stated in Appendix E of this Decree.

2-4238. There is documentation that the nationally recommended dietary allowance is reviewed by a registered dietician on at least an annual basis to ensure that the food allowances required for basic nutrition are met. Menu evaluations are conducted at least quarterly by institution food service supervisory staff to verify adherence to the established basic daily servings.

\*24 2-4239. When required by statute, food products that are grown or produced within the system are inspected and approved by the appropriate government agency; there is a distribution system that ensures prompt delivery of foodstuff to institution kitchens.

2-4240. Written policy and procedure require that food service staff develop advanced, planned menus and substantially follow the schedule; and that in the planning and preparation of all meals, food flavor, texture, temperature, appearance and palatability are taken into consideration.

2-4241. At each institution, written policy and procedure provide that special diets as prescribed by appropriate medical or dental personnel shall be provided to Plaintiffs requiring such diets who are assigned to that institution. [Modified]

2-4242. Written policy and procedure shall provide, within six (6) months of the signing of this Decree, special diets for Plaintiffs whose religious beliefs require the adherence to religious dietary laws, and this procedure shall be implemented within one (1) year from the signing of this Decree by all parties. [Modified]

2-4243. A full-time staff member, experienced in food service management, supervises food service operations.

2-4244. Written policy and procedure provide for adequate health protection for all inmates and staff in the institution, and inmates and other persons working in the food service with the following requirements:

(1) By July 1, 1985, a preassignment medical examination of all persons involved in the preparation of food, and periodic examinations thereafter, is conducted to ensure freedom from diarrhea, skin infections and other illnesses transmissible by food or utensils; all are conducted in accordance with local requirements regarding restaurant and food service employees in the community. [Modified]

(2) When the institution's food services are provided by an outside agency or individual, the institution has written verification that the outside provider complies with the state and local regulations regarding food service.

(3) All food handlers are instructed to wash their hands upon reporting to duty and after using toilet facilities. (The parties agree that this provision applies to *all* institutions.)

2-4245. Toilet and wash basin facilities are available to food service personnel and inmates in the vicinity of the food preparation area.

2-4246. There is documentation by an independent, outside source that food service facilities and equipment meet established governmental health and safety codes; corrective action is taken on deficiencies, if any.

2-4247. There are sanitary, temperature-controlled storage facilities for the storage of all foods, except non-refrigerated foods which shall be maintained pursuant to applicable state standards. [Modified.]

2-4248. Written policy and procedure require weekly inspections of all food service areas including dining and food preparation areas, and equipment. Refrigerator and water temperatures are checked on a daily basis by administrative, medical or dietary personnel.

\*25 2-4249. Written policy and procedure provide that meals are served under conditions that minimize regimentation, although there should be direct supervision by staff members.

2-4250. Space is provided for group dining except when security or safety considerations justify otherwise.

2-4251. Written policy requires that at least three meals, of which two are hot meals, are provided at regular meal times during each 24 hour period, with no more than 14 hours between the evening meal and breakfast.

2-4252. Written policy precludes the use of food as a disciplinary measure.

2-4253. Written policy and procedure require that accurate records are maintained of all meals served.

2-4254. The food service operation uses budgeting, purchasing, and accounting practices that include, but are not limited to the following systems:

- (1) Food expenditure cost accounting designed to determine cost per meal per inmate;
- (2) Estimation of food service requirements;
- (3) Purchase of supplies at wholesale prices and under other favorable conditions, when possible;
- (4) Determination of and responsiveness to inmate eating preferences;
- (5) Refrigeration and storage of food, with specific storage periods.

#### **R. Environmental Sanitation**

1. All institutions shall be maintained in compliance with applicable state standards, including those established for jails and prisons by the South Carolina Statutes, and the regulations of the South Carolina Department of Health and Environmental Control including DHEC R. 61-55, and with Standards 2-4130 through 2-4132 and 2-4255 through 2-4270, of the American Correctional Association (2nd ed. 1981), including 1983 revisions, as modified below:

2-4130. Each room or cell has, at a minimum, the following facilities and conditions:

- (1) Sanitation facilities, including access to:
  - (a) Toilet above floor level which is available for use without staff assistance 24 hours a day, and
  - (b) Wash basin with hot and cold running water;
- (2) A bed at above floor level, a chair or stool, a mirror, appropriate writing surfaces upon request, and storage facilities in the cell for personal belongings. All of these items shall be maintained in a reasonably sanitary, good condition. [Modified];
- (3) Natural light;
- (4) Lighting is at least 20 footcandles at desk level and in the personal grooming area. [Modified];
- (5) Circulation is at least 10 cubic feet of outside or re-circulated filtered air per minute per human occupant. [Modified];
- (6) Temperatures are appropriate to maintain health and safety year-round, provided that this Decree shall not require air-conditioning except where medically necessary [Modified]; and
- (7) Reasonable noise levels shall be maintained [Modified].

2-4131. [Modified] Where used, multiple occupancy wards shall house the number of Plaintiffs established by the sleeping space requirements of this Decree, who are screened for suitability to group living prior to admission, subject to the provisions of the section of this Decree relating to classifications. Multiple occupancy rooms have continuous sight or sound observation by staff pursuant to Section III-H of this Decree. Multiple occupancy rooms provide the following facilities and conditions:

- \*26 (1) A minimum floor are of 45 square feet per occupant in the sleeping area, except where otherwise provided in this Decree, and a clear floor to ceiling height of not less than eight feet. [Modified]
- (2) Toilet and shower facilities at a minimum of one operable toilet and shower for every eight occupants;
  - (3) One operable wash basin with hot and cold running water for every six occupants;
  - (4) Single beds only, subject to the provisions of the sections of this Decree pertaining to compliance with housing capacities and with mattresses in sanitary condition;
  - (5) Access to a mirror and a locker or private storage space for each occupant;
  - (6) Natural light;
  - (7) Lighting is at least 20 footcandles at desk level and in the personal grooming area [Modified];
  - (8) Circulation is at least 10 cubic feet of outside or recirculated filtered air per minute per occupant [Modified];

(9) Temperatures meet any applicable State standards and are appropriate to maintain health and safety year-round, provided that this Decree shall not require air-conditioning except where medically necessary [Modified]; and

(10) Reasonable noise levels shall be maintained [Modified].

2-4132. [Modified] When minimum security institutions or minimum security areas within larger institutions provide individual rooms, they provide key control shared by the occupants and staff, or continuous access to toilet and shower facilities and hot and cold running water, including drinking water. Rooms also provide the following facilities and conditions:

(1) Sleeping space as set forth in this Decree;

(2) Furnishings as set forth in 2-4130(2) above;

(3) Natural light;

(4) Lighting at least 20 footcandles at desk level and in the personal grooming area;

(5) Circulation at least 10 cubic feet of outside or recirculated filtered air per minute per occupant;

(6) Temperatures as set forth in 2-4130(6) above; and

(7) Reasonable noise levels shall be maintained. (Revised, 1983) [Modified].

2-4255. Written policy and procedure require weekly sanitation inspections of all institution areas by a designated administrative staff member; at least annual inspections by federal, state, and/or local sanitation, and health officials, or other qualified person(s); and, compliance with all applicable laws and regulations of the governing jurisdiction. There is documentation by an independent, outside source that deficiencies, if any, have been corrected.

2-4256. The institution's potable water source and supply, whether owned and operated by the public water department or the institution, is certified by an independent, outside source to be in compliance with jurisdictional laws and regulations.

2-4257. A written housekeeping plan for all areas of the facility's physical plant provides for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and inmates.

2-4258. The institution provides for the control of vermin and pests.

\*27 2-4259. The institution provides for waste disposal.

2-4260. Written policy and procedure provide for the issue of suitable clothing to all inmates, which is properly fitted, climatically suitable, durable, and presentable.

2-4261. Subject to the provisions of this Decree, written policy and procedure require that articles necessary for maintaining proper personal hygiene are provided to all inmates.

2-4262. Written policy and procedure provide for the issue of special and, when appropriate, protective clothing and equipment to inmates assigned to food service, hospital, farm, garage, institution physical plant maintenance shops, and other special work.

2-4263. Written policy and procedure provide for the issue of suitable, clean bedding, and linen, including two sheets, pillow and pillowcase, one mattress and sufficient blankets to provide comfort under existing temperature controls. There is provision for linen exchange or cleaning, including towels, on at least a weekly basis. (Revised, 1983)

2-4264. Written policy specifies accountability for state-issued inmate clothing and bedding. [Modified]

2-4265. The store of clothing (for that portion of the institution's population who are issued clothing), linen, and bedding exceeds that required for the facility's inmate population.

2-4266. The institution provides for the thorough cleaning and, when necessary, disinfecting of inmate personal clothing before storage or before allowing the inmate to keep and wear personal clothing.

2-4267. An opportunity for cleaning clothes and towels is provided to all inmates a minimum of three times per week, except where institutions provide and allow seven sets of clothing to each prisoner, then said opportunity need only be provided once per week to those prisoners who possess such seven sets of clothing. [Modified]

2-4268. There are sufficient bathing facilities in the housing areas to permit inmates to shower at least three times per week. [Modified]

2-4269. Water for showers is thermostatically controlled to ensure the safety of the inmates.

2-4270. There are hair care services available to inmates which comply with applicable health requirements.

2. Defendants shall prepare a study concerning compliance with the above stated conditions within sixty (60) days from the signing of this Decree by the parties and—as to standards 2-4130, 2-4131 and 2-4132—within seven (7) months from the signing of this Decree by the parties, and shall develop and submit to the parties and the Court both the studies and a plan for the reasonably prompt implementation of each of the above-stated conditions.

3. Defendants shall employ a sufficient number of trained, competent environmental and health inspectors to do the following:

a. make a semi-annual evaluation of each institution;

b. monitor Defendants' compliance at each institution periodically throughout the year, with applicable state codes and the standards identified in Q and R herein;

\*28 c. make said reports to Plaintiffs and the Court; and

d. make follow-up evaluations and reports within three (3) months on any deficiencies and non-compliance found.

### ***S. Closing of Institutions***

1. Defendants agree that the Annex of the Midlands Reception and Evaluation Center shall be closed within one (1) year from the signing of this Decree by all parties, and that the Midlands Reception and Evaluation Center itself shall be closed within three (3) years from the signing of this Decree by all parties. In the interim, the parties agree as follows:

a. The population at the Annex shall be reduced to comply with the standards enunciated in this Decree within six (6) months from the signing of this Decree by all parties;

b. From July 1, 1985, and thereafter, the population at the Midlands Reception and Evaluation Center itself shall be reduced such that no Plaintiff confined there shall be triple-celled;

c. From August 1, 1986, and thereafter until the institution is closed, the population at Midlands Reception and Evaluation Center itself shall be reduced so that all Plaintiffs confined therein are confined according to the standards enunciated in this Decree;

d. From the signing of this Decree by the parties and thereafter, no Plaintiffs other than the prisoner-staff shall be confined at the Midlands Reception and Evaluation Center or Annex for longer than fourteen (14) days, except those Plaintiffs confined pursuant to South Carolina Code Section 24-19-50(b), and such Plaintiffs shall be housed in single cells in Midlands Reception and Evaluation Center or may be double-celled at Perry Correctional Institution Reception and Evaluation Center (and this provision shall apply to any Plaintiff so confined, within thirty (30) days from the signing of this Decree by the parties);

e. From September 1, 1985 through August 1, 1986, up to fifty cells at the Perry Correctional Institution Reception and Evaluation Center may be triple-celled;

f. From August 1, 1986 until July 1, 1987, Plaintiffs confined at the Perry Correctional Institution Reception and Evaluation Center may be double-celled, but after July 1, 1987 all such Plaintiffs must be single-celled;

g. From the signing of this Decree by the parties until September 1, 1985, no Plaintiffs shall be confined at the Perry Correctional Institution Reception and Evaluation Center for longer than thirty (30) days;

h. From September 1, 1985 and thereafter, no Plaintiffs shall be confined at the Perry Correctional Institution Reception and Evaluation Center for longer than fourteen (14) days;

i. Any Plaintiff confined in a reception and evaluation Center for more than fourteen (14) days shall have the right to the visitation and recreation provided by this Decree.

2. Defendants agree to make all good faith efforts to close Central Correctional Institution, including requesting the closing of Central Correctional Institution in their ten year plan to the legislature, until said institution is closed.

\*29 3. Defendants agree that all lock-down, maximum security use of the Maximum Security Center shall end within one (1) year from the signing of this Decree by the parties.

4. These time limits shall not be subject to any extension, including as set forth in II-I of this Decree.

#### ***T. Effective Date***

1. This Decree is intended to be an agreement between the named Defendants, in their official capacities, and the Plaintiffs, individually and as representatives of the class of all persons described in section I-A of this Decree. Accordingly, this Decree shall not be enforceable unless and until this action is certified by the Court as a class action with plaintiffs as representatives of the aforementioned class.

2. Unless otherwise noted, all provisions of this Decree shall take effect within thirty (30) days of the signing of this Decree by all parties. All parties shall attempt in good faith to obtain judicial approval of this Decree. However, the parties shall not be obligated to continue implementing this Decree if judicial approval is denied.

**U. Compliance**

1. Defendants shall provide Plaintiffs' counsel, the Court, the Budget and Control Board, and each institution library, with detailed quarterly reports and supporting documentation, where appropriate, indicating for each subsection of the Decree whether the Defendants are in compliance or not as to each institution. Such reports shall state the source(s) of the information relied upon (including documents, types of documents, and personnel consulted), and the specific steps taken to achieve compliance. For areas in which the Defendants are not in compliance, the reports shall state and explain the reasons why Defendants are not in compliance, when compliance can be expected and what steps have been taken and will be taken to achieve compliance. This requirement is in addition to other sections of this Decree regarding compliance and enforcement. Reasonable additional or supporting documentation, if needed, shall be furnished to Plaintiffs' counsel upon request, as provided in other sections of this Decree.

2. Defendants shall provide copies of all departmental and institutional manuals, policies and procedures, as they are issued, to Plaintiffs' counsel.

3. Any dispute arising between the parties concerning this Decree may be submitted to the Court. However, either party, in the event of a substantial dispute concerning the Decree or its enforcement, may request the services of a mediator who shall attempt to mediate the dispute prior to submitting the matter to the Court. As used herein, "substantial dispute" shall be deemed to refer to matters neither minor nor isolated. The mediator shall be mutually agreed upon by the parties and shall be subject to dismissal only upon written agreement of the parties or by the Court, upon motion of one of the parties for good cause shown. The parties have agreed that Allen Breed, the former Director of the National Institute of Corrections, shall serve as the mediator to fill this position. The mediator shall make the initial determination as to whether or not a dispute requires his or her involvement. In addition to mediating, the mediator shall attempt to resolve the dispute by making written findings of facts and recommendations to the parties.

**\*30** 4. If the mediator's recommendations are accepted by the parties, they shall be incorporated into this Decree by reference. If the mediator's recommendations are not acceptable to one or both of the parties, either party may submit the controversy to the Court for resolution. In that event, the mediator's written findings of fact and recommendations may be introduced into evidence and the mediator may be called to testify as an expert witness by either party or the Court. In the event that the mediator is not available, does not act within a reasonable time, or if the dispute requires immediate action, either party may submit a dispute directly to the Court.

5. Once a request for the mediator's involvement has been made, the mediator shall have complete, unimpeded and confidential access to all staff, prisoners, institutions and documents relevant to the dispute.

6. The mediator may use assistants or experts where needed. The Defendants shall pay, in a timely manner, reasonable costs and fees of the mediator and any assistants and experts used by the mediator.

7. Ten years after the entry of this Decree, either party may move the court for the abrogation of this decree in whole or in part, upon a showing of satisfactory and sustained compliance with the provisions of this Decree. Subsequently, either party may move the Court for reinstatement of this Decree or any portion thereof, upon a showing of a likelihood of non-compliance.

**V. Costs and Attorneys' Fees**

Defendants shall pay Plaintiffs' counsel all costs and reasonable attorneys' fees incurred during the course of this litigation through the entry of this Decree by the Court and, upon submission of statements, incurred during Plaintiffs' monitoring of enforcement and compliance with this Decree. Plaintiffs' costs and attorneys' fees incurred in the submission of any dispute

to the Court following the entry of this Decree shall be paid by Defendants upon the Court's determination that Plaintiffs are entitled to costs and fees.

#### **IV. APPENDICES**

A. Medical and Health Care Services Standards of the American Correctional Association Standards for Adult Correctional Institutions (2nd edition, 1981), for reference in carrying out the requirements of Part III, Section I of this Decree.

B. Standards for Psychological Services in Adult Jails and Prisons of the American Association of Correctional Psychologists (1979 edition), for reference in carrying out the requirements of Part III, Section I of this Decree.

C. Standards for Adult Community Facilities, American Correctional Association, regarding Health Services.

D. Defendants' Educational Programs available as of January 25, 1984, for reference in carrying out the requirements of Part III, Section J of this Decree.

E. Standards for Adult Community Facilities, American Correctional Association, regarding Food Services.

F. Sleeping Space and capacities of Defendants' Institutions.

G. Report and Recommendations on Staffing, January 1984, by National Institute of Corrections consultant, for reference in carrying out the requirements of Part III, Section H of this Decree.

#### ***APPENDIX A***

##### ***Medical and Health Care Services Standards, of the American Correctional Association Standards for Adult Correctional Institutions (2nd ed., 1981; as revised, 1983).***

\*31 2-4271. The institution has a designated health authority with responsibility for health care services pursuant to a written agreement, contract, or job description. The Health authority may be a physician, health administrator, or health agency. When this authority is other than a physician, final medical judgment rest with a single designated physician.

2-4272. Medical, including psychiatric, and dental matters involving medical judgment are the sole province of the responsible physician and dentist respectively; however, security regulations applicable to facility personnel also apply to health personnel.

2-4273. The health authority meets with the warden/superintendent at least quarterly and submits to him/her annual statistical summaries and quarterly reports on the health care delivery system and health environment.

2-4274. Each policy, procedure, and program in the health care delivery system is reviewed at least annually by the appropriate health care authority and revised if necessary. Each document bears the date of the most recent review or revision and signature of the reviewer.

2-4275. An adequately equipped medical facility, which meets the legal requirements for a licensed general hospital with respect to the services it offers, is available to all inmates.

2-4276. Written policy and procedures provide for infirmary care, to include the following:



- (1) Definition of the scope of infirmary care services available;
- (2) A physician on call 24 hours per day;
- (3) Nursing service under the direction of a physician's assistant or a registered nurse on a full-time basis;
- (4) Health care personnel on duty 24 hours per day;
- (5) All inmates/patients within sight or sound of a staff person;
- (6) A manual of nursing care procedures;
- (7) A separate and complete medical record for each inmate;
- (8) Compliance with applicable state statutes and local licensing requirements.

2-4277. Space, equipment, supplies, and materials for health services are provided and maintained as determined by the health authority.

2-4278. First aid kits are available in designated areas of the facility based on need.

2-4279. Written policy and procedures provide for 24-hour emergency medical and dental care availability as outlined in a written plan which includes arrangements for the following:

- (1) Onsite emergency first aid;
- (2) Emergency evacuation of the inmate from the facility;
- (3) Use of an emergency medical vehicle;
- (4) Use of one or more designated hospital emergency rooms or other appropriate health facilities;
- (5) Emergency on-call physician and dentist services when the emergency health facility is not located in a nearby community;
- (6) Security procedures providing for the immediate transfer of inmates when appropriate.

2-4280. In institutions without full-time, qualified health-trained personnel, a health-trained staff member coordinates the health delivery services in the institution under the joint supervision of the responsible health authority and warden/superintendent.

\*32 2-4281. The institution health authority systematically determines health care personnel requirements in all categories in order to provide inmate access to health care staff and services. (Deleted, 1983)

2-4282. Arrangements are made with health care specialists in advance of need.

2-4283. Written policy and procedure specify the provision of mental health services for inmates in need of such services to include, but not limited to, services provided by qualified mental health professionals who meet educational and licensure/

certification criteria specified by their respective professional discipline, i.e., psychiatric nursing, psychiatry, psychology, and social work.

2-4284. Appropriate state and federal licensure, certification or registration requirements and restrictions apply to personnel who provide health care services to inmates. The duties and responsibilities of such personnel are governed by written job descriptions approved by the health authority. Verification of current credentials and job descriptions are on file in the facility.

2-4285. Written policy and procedure provide that correctional and other personnel are trained to respond to health-related situations within a four minute response time. A training program is established by the responsible health authority in cooperation with the facility administrator, which includes the following:

- (1) Recognition of signs and symptoms, and knowledge of action required in potential emergency situations;
- (2) Administration of first aid and cardiopulmonary resuscitation (CPR);
- (3) Methods of obtaining assistance;
- (4) Signs and symptoms of mental illness, retardation, and chemical dependency;
- (5) Procedures for patient transfers to appropriate medical facilities or health care providers.

2-4286. Treatment by health care personnel other than a physician, dentist, psychologist, optometrist, podiatrist or other independent providers is performed pursuant to written standing or direct orders by personnel authorized by law to give such orders. Nurse practioners and physician's assistants may practice within the limits of applicable laws and regulations.

2-4287. When the institution uses students or interns in health care delivery, written policy and procedure provide for work experience under direct staff supervision, commensurate with their level of training.

2-4288. Written policy provides that inmates are not used for the following duties:

- (1) Performing direct patient care services;
- (2) Scheduling health care appointments;
- (3) Determining access of other inmates to health care services;
- (4) Handling or having access to:
  - (a) Surgical instruments,
  - (b) Syringes,
  - (c) Needles,
  - (d) Medications,
  - (e) Health records,

(5) Operating equipment for which they are not trained.

2-4289. Written policy and procedure require medical screening to be performed by health-trained or qualified health care personnel on all inmates, excluding intrasystem transfers, upon inmates' arrival at the facility with all findings recorded on a printed screening form approved by the health authority. The screening includes at least the following:

**\*33** (1) Inquiry into:

(a) Current illness and health problems, including dental problems, venereal diseases and other infectious diseases,

(b) Dental problems,

(c) Use of alcohol and other drugs which includes types of drugs used, mode of use, amounts used, frequency used, date or time of last use, and a history of problems which may have occurred after ceasing use (e.g., convulsions),

(d) Past and present treatment or hospitalization for mental disturbance or suicide,

(e) Other health problems designated by the responsible physician;

(2) Observation of:

(a) Behavior, which includes state of consciousness, mental status, appearance, conduct, tremor and sweating,

(b) Body deformities, ease of movement, etc.,

(c) Condition of skin, including trauma markings, bruises, lesions, jaundice, rashes and infestations, and needle marks or other indications of drug abuse;

(3) Disposition of inmate:

(a) General population,

(b) General population and prompt referral to appropriate health care service on an emergency basis.

2-4290. Written policy and procedure require medical screening by health-trained or qualified health care personnel immediately upon arrival at the institution for all intrasystem transfers with all findings recorded on a printed screening form approved by the health authority. The screening includes, at a minimum, the following:

(1) Inquiry into:

(a) Whether the inmate is being treated for a medical or dental problem,

(b) Whether the inmate is presently on medication,

(c) Whether the inmate has a current medical or dental complaint;

(2) Observation of:

- (a) General appearance and behavior,
- (b) Physical deformities, evidence of abuse and/or trauma;

(3) Disposition of inmate:

- (a) General population,
- (b) General population and prompt referral to appropriate health care service,
- (c) Referral to appropriate health care service on an emergency basis.

2-4291. Written policy and procedure require that health appraisal for each inmate, excluding intrasystem transfers, is completed within 14 days after arrival at the facility. In the case of an inmate who has documented evidence of a health appraisal within the previous 90 days, a new health appraisal is not required except as determined by the designated health authority. Health appraisal includes the following:

- (1) Review of the earlier receiving screening;
- (2) Collection of additional data to complete the medical, dental, mental health and immunization histories;
- (3) Laboratory and/or diagnostic tests to detect communicable disease, including venereal disease and tuberculosis;
- (4) Recording of height, weight, pulse, blood pressure and temperature;
- (5) Other tests and examinations as appropriate;
- (6) Medical examination, including review of mental and dental status;
- (7) Review of the results of the medical examination, tests, and identification of problems by a physician or other qualified health care personnel, if such is authorized in the medical practice act;
- \*34 (8) Initiation of therapy when appropriate;
- (9) Development and implementation of treatment plan including recommendations concerning housing, job assignment, and program participation.

2-4292. Written policy and procedure for the collection and recording of health appraisal data call for these requirements:

- (1) The process is completed in a uniform manner as determined by the health authority;
- (2) Health history and vital signs are collected by health-trained or qualified health personnel;
- (3) Collection of all other health appraisal data is performed only by qualified health personnel.

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2-4293. Written policy and procedure, approved by the health authority, provide for comprehensive individual mental health evaluation on specially referred inmates by a multidisciplinary mental health team. The evaluation is completed within 14 days after the date of referral, and includes at least the following:

- (1) Review of mental health screening and appraisal data;
- (2) Collection and review of additional data from staff observation, individual diagnostic interviews and tests assessing intellect and coping abilities;
- (3) Compilation of individual's mental health history;
- (4) Development of an overall treatment/management plan with appropriate referral.

2-4294. Written policy and procedure, approved by the appropriate mental health authority, provide for all activities carried out by mental health service personnel.

2-4295. Written policy and procedure require that routine and emergency dental care is provided to each inmate under the direction and supervision of a dentist with appropriate state or federal licensure. The individualized treatment plan includes the following:

- (1) Dental screening, unless completed within the previous six months, conducted on initial intake with instruction on hygiene;
- (2) Dental examinations within three months, supported by x-rays if necessary, based on information from intake screening;
- (3) A defined charting system which identifies the oral health condition and specifies the priorities of treatment by category;
- (4) Consultation with referral to recognized specialists in dentistry.

2-4296. Inmates who are severely disturbed and/or mentally retarded are referred for placement in either appropriate noncorrectional facilities or in specially designated units for handling this type of individual.

2-4297. Transfers which result in inmates being placed in other non-correctional institutions or in special units within the facility, which are specifically designated for the care and treatment of the severely mentally ill or retarded, follow due process procedures as specified in law prior to the move being effected. In emergency situations, a hearing is held as soon as possible after transfer.

2-4298. Written policy requires that except in emergency situations there shall be joint consultation between the warden/superintendent and the responsible physician or their designees prior to taking action regarding the identified mentally ill or retarded patients in the following areas:

- \*35 (1) Housing assignments;
- (2) Program assignments;
- (3) Disciplinary measures;
- (4) Transfers to other institutions.

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When an emergency action has been required, this consultation occurs as soon as possible, but no later than on the next work day so as to review the appropriateness of the action.

2-4299. Written policy and procedure require continuity of care from admission to discharge from the facility, including referral to community care when indicated.

2-4300. Written policy and procedure provide for unimpeded access to health care and for a system for processing complaints regarding health care. These policies are communicated orally and in writing to the inmates upon arrival in the facility and are put in a language clearly understood by each inmate.

2-4301. Written policy and procedure require that sick call, conducted by a physician and/or other qualified health personnel, is available to each inmate, at a minimum, as follows:

- (1) In facilities of less than 100 inmates, sick call is held one day per week at a minimum;
- (2) In facilities of 100 to 300 inmates, sick call is held three days per week at a minimum;
- (3) In facilities of over 300 inmates, sick call is held four days per week at a minimum;
- (4) If an inmate's custody status precludes attendance at sick call, arrangements are made to provide sick call services in the place of the inmate's detention.

2-4302. Written policy and procedure specify the conditions for periodic health examinations for inmates.

2-4303. Written policy and procedure provide that a program of health education is provided to inmates of the facility.

2-4304. Written policy and procedure provide for a special health program for inmates requiring close medical supervision. A written, individual treatment plan, which includes directions to health care and other personnel regarding their roles in the care and supervision of these patients, is developed for each inmate by the appropriate physician, dentist, or qualified mental health practitioner.

2-4305. Written policy and procedure make available chronic and convalescent care to inmates of the facility.

2-4306. Written policy and procedure require that gradual detoxification from alcohol, opiates, hypnotics, other stimulants, and sedative hypnotic drugs is effected as follows:

- (1) When performed at the facility, it is under medical supervision; and
- (2) When not performed in the facility, arrangements are made for it to be conducted in a hospital or community detoxification center.

2-4307. Written policy and procedure guide the clinical management of chemically dependent inmates with the following requirements:

- (1) Diagnosis of chemical dependency by a physician;

(2) Determination by a physician as to whether an individual requires nonpharmacologically or pharmacologically supported care;

(3) Individualized treatment plans which are developed and implemented by a multidisciplinary team;

**\*36** (4) Referrals to specified community resources upon release when appropriate.

*2-4308.* Written policy and procedure require that medical and dental prostheses and orthodontic devices are provided when the health of the inmate/patient would otherwise be adversely affected, as determined by the responsible physician or dentist.

*2-4309.* Written policy and procedure govern the use of elective surgery.

*2-4310.* Written policy and procedure require that patients who need health care beyond the resources available in the facility, as determined by the responsible physician, are transferred under appropriate security provisions to a facility where such care is available.

*2-4311.* Written policy and procedure provide that prior to transfer to another facility, or other substantial travel, either the inmates or their records be evaluated by health care personnel to assess suitability for travel. When travel is approved, pertinent data, including medication, other treatment or special requirements for observation and management during travel, are documented in a manner readily accessible and easily understood by transportation staff, or others who may be called upon to attend inmates during travel and upon reception at the receiving institution. Medications or other special treatment required enroute along with specific written instructions for administration, are furnished to transportation staff.

*2-4312.* Written policy and procedure govern the use of restraints for medical and psychiatric purposes.

*2-4313.* Written policy and procedure provide that all informed consent standards in the jurisdiction are observed and documented for inmate care. In the case of minors, the informed consent of parent, guardian or legal custodian applies when required by law. When health care is rendered against the patient's will, it is in accord with state and federal laws and regulations.

*2-4314.* Written policy prohibits the use of inmates for medical, pharmaceutical, or cosmetic experiments. This policy does not preclude individual treatment of an inmate based on his or her need for a specific medical procedure which is not generally available.

*2-4315.* Written policy and procedure specify the process by which those individuals so designated by the inmate are notified in case of serious illness or injury. Permission for notification is obtained from the inmate prior to need, if possible.

*2-4316.* Written policy and procedure specify actions to be taken in the event of an inmate death.

*2-4317.* Written policy and procedure provide for the proper management of pharmaceuticals, and addresses the following subjects:

(1) A formulary specifically developed for the facility;

(2) Prescription practices which require that:

(a) Psychotropic medications are prescribed only when clinically indicated as one facet of a program of therapy,

- (b) “Stop order” time periods are required for all medications,
- \*37 (c) The prescribing provider reevaluates a prescription prior to its renewal;
- (3) Procedures for medication receipt, storage, dispensing and administration or distribution;
- (4) Maximum security storage and periodic inventory of all controlled substances, syringes and needles;
- (5) Dispensing of medicine in conformance with appropriate federal and state law;
- (6) Administration of medication which is carried out by persons properly trained and under the supervision of the health authority and facility administrator or designee;
- (7) Accountability for administering or distributing medications in a timely manner, according to physician orders.

2-4318. The health record file contains the following items:

- (1) The completed receiving screening form;
- (2) Health appraisal data forms;
- (3) All findings, diagnoses, treatments, dispositions;
- (4) Prescribed medications and their administration;
- (5) Laboratory, x-ray and diagnostic studies;
- (6) Signature and title of documentor;
- (7) Consent and refusal forms;
- (8) Release of information forms;
- (9) Place, date, and time of health encounters;
- (10) Health service reports, e.g., dental, mental health and consultations;
- (11) Treatment plan, including nursing care plan;
- (12) Progress notes;
- (13) Discharge summary of hospitalization and other termination summaries.

The method of recording entries in the records, the form and format of the records, and the procedures for their maintenance and safekeeping are approved by the health authority.

2-4319. Written policy and procedure uphold the principle of confidentiality of the health record and support these requirements:



- (1) The active health record is maintained separately from the confinement record;
- (2) Access to the health record is controlled by the health authority;
- (3) The health authority shares with the superintendent/warden information regarding an inmate's medical management, security, and ability to participate in programs.

2-4320. Written policy and procedure regarding the transfer of health records require that:

- (1) Summaries, originals, or copies of the health record accompany the inmate to the facility to which he/she is transferred; and,
- (2) Health record information is also transmitted to specific and designated physicians or medical facilities in the community upon the written authorization of the inmate.

2-4321. Written policy and procedure require that inactive health record files are retained as permanent records in compliance with legal requirements of the jurisdiction.

2-4322. Psychotropic drugs, such as antipsychotics, anti-depressants and drugs requiring parenteral administration are prescribed only by a physician or authorized health provider by agreement with the physician, following a physical examination of the inmate by the health provider, and are administered by the responsible physician, qualified health personnel, or health-trained personnel under the direction of the health authority.

## ***APPENDIX B***

### **STANDARDS FOR PSYCHOLOGY SERVICES IN ADULT JAILS AND PRISONS, OF THE AMERICAN ASSOCIATION OF**

#### ***CORRECTIONAL PSYCHOLOGISTS***

**(September 1979 edition)**

\*38 01. The mission of psychological services and the work of its personnel is governed by a current written statement of objectives and job descriptions approved by the facility's administration in conformity with professional guidelines established by the American Psychological Association (and the headquarters staff person responsible for psychology services in multi-institution systems).

02. All aspects of psychological services conform to applicable state and federal laws and regulations. Specifically, state licensure and/or certification requirements are applicable and verification of these credentials is on file in the facility (or in multi-institutional systems at the central headquarters level).

03. At the facility (and in multi-institutional systems at the headquarters level) there is at least one person responsible for psychological services who has a doctorate degree from a regionally accredited university or professional school in a program that is primarily psychological, and who also has appropriate training experience.

NOTE: For the purpose of transition, persons who meet *all* the following criteria on or before the date of adoption of these following criteria on or before the date of adoption of these standards shall also be considered qualified psychologists:

(a) A masters degree from a program primarily psychological in content from a regionally accredited university or professional school;

(b) appropriate training and experience;

(c) a license or certificate in the state in which they practice, conferred by a state board of psychological examiners, or the endorsement of the state psychological association through voluntary certification.

04. There is a current formal table of organization which shows psychological services as a separate entity and details lines of authority in the chain of command. Such an organizational chart exists and is implemented at the institutional (and in multi-institutional systems at the central headquarters level) level and shows a full and qualified psychiatrist as the individual person responsible in a prison setting for overseeing psychological services and in a jail setting this individual may be less than full time.

05. The psychologists, and the staff activities for which these individuals are responsible, have professional autonomy regarding psychological services, within the constraints of appropriate security regulations applicable to all institutional personnel, such regulations being in conformity with the written directives of institutions and/or headquarters.

06. When psychological services are provided in the facility, adequate space, equipment, supplies, funds and materials, as determined by the chief psychologist (in accord with headquarters directives in multi-institution systems) are provided for the delivery of those services. There also will be adequate secretarial support.

07. At least monthly, administrative meetings are held which include the chief psychologist and the facility administrator (and, preferably, other institutional heads of departments) in order to provide a forum for general discussion, including the operation of psychological services.

\*39 08. There is a periodic report (at least quarterly) on the psychological services delivery system and an annual summary, both provided to the facility's administration and other interested management personnel in the system. In addition to workload figures, this report includes a narrative concerning issues of importance.

09. The quality of psychological services are reviewed at least annually and the results reported in writing. The chief psychologist is responsible for overseeing this internal quality assurance program at the institutional level (pursuant to policies and procedures established at a headquarters level in multi-institution systems).

10. A formal documented annual review (with subsequent report to the facility's chief executive and copies to the chief psychologist and other appropriate headquarters staff) is conducted by an outside agent to monitor conformity to these standards and established policies.

11. The facility has a designated qualified psychologist with responsibility for the organization and operation of psychological services pursuant to a current written agreement, contract, or job description; Similar documentation exists describing the duties of other psychological services personnel.

12. The ratio of staff to inmates is at least one full time psychologist for every 200–250 prisoners. In specialized units (e.g., drug treatment) the minimally acceptable ratio is one full time psychologist for every 100–125 inmates. Additionally, staff shall be reflective of ethnic, racial and linguistic characteristics of their clients, to the degree possible.

- (a) Average daily population less than ten—psychologist on call
- (b) Average daily population between 10 and 75—contract psychologist in facility at least 8 hours per week
- (c) Average daily population between 76 and 125—contract psychologist in facility at least 16 hours per week
- (d) Average daily population over 125—at least one full-time psychologist

13. A written plan, approved by the chief psychologist, exists and is implemented (in accordance with headquarters policies, in multi-facility systems) and requires psychology staff to receive orientation training and regular continuing education appropriate to their activities. Documentation of these training experiences will be maintained.

14. All psychological examinations, treatments and procedures affected by the principle of informed consent in the jurisdiction are likewise observed for inmate care. (In the case of minors, the informed consent of parent, guardian, or legal custodian applies where required by law.)

15. Written policies and procedures exist and are implemented which outline the provision of involuntary treatment in accordance with state and federal laws and regulations applicable to the jurisdiction. These are approved by the chief psychologist and are in conformity with professional ethics and principles promulgated by the American Psychological Association (and the policies established by headquarters staff in a multi-facility system). The decision to apply such techniques shall be documented and based on (or, if time pressure precludes this, followed by) interdisciplinary review. Psychologists refuse to participate in practices inconsistent with legal, moral and ethical standards regarding the treatment of clients.

\*40 16. A written policy exists and is implemented which outlines the degree to which confidentiality of information can be assured.

17. Psychologists shall limit their functioning to their demonstrated areas of professional competence.

18. Psychologists function as members of multi-disciplinary decision-making teams. Psychological resources are used only for psychologically appropriate treatment.

19. Written standard operating procedures approved by the chief psychologist (and in accordance with headquarters guidelines in a multi-facility system) exist and are implemented for all activities carried out by psychological services personnel.

20. At least one person per shift within sight or sound of all inmates, has training in receiving screening, including the recognition of symptoms of mental disturbance most common to the facility.

21. At the time of admission to the facility, inmates receive a written communication explaining the procedures for gaining access to psychological and mental health services.

22. There is a written, implemented policy approved by the chief psychologist (and in accordance with headquarters guidelines in a multifacility system) regarding access to psychological services for (1) postadmission inmates with emergency problems and for (2) daily referrals of nonemergency problems covering both scheduled and unscheduled care.

23. Receiving screening is performed on all inmates upon admission to facility before being placed in the general population or housing area. The findings are recorded on a printed screening form. Inmates identified as having mental problems are referred

for a more comprehensive inquiry into: (1) past and present history of mental disturbance, and (2) current mental state, including behavioral observations.

24. In a prison setting, all newly committed inmates with sentences over one year shall be given a psychological evaluation within one month of admission. Such routine evaluations are brief and include (but are not necessarily limited to) behavioral observation, a records review, group testing to screen for emotional and intellectual abnormalities, and a written report of initial findings; referral for more intensive, individual assessment is made when appropriate.

25. Collection of psychological evaluation data is performed only by psychological services staff personnel or facility staff trained by them. Review of and written reports based on the results of the examination, testing and developing a plan of treatment is done by, or under the supervision of, a qualified psychologist. All such information is recorded on data forms approved by the chief psychologist and in accordance with headquarters policy in multi-facility systems. At no time is the responsibility for test administration, scoring or the filing of psychological data given to inmate workers.

26. The individual assessment of all inmates referred for a special comprehensive psychological appraisal is completed within 14 days after the date of the referral. As applied in a jail, this includes:

- \*41 (a) Reviewing earlier screening information.
- (b) Contacting prior psychotherapists or the individual's family physician regarding any history of mental symptomology.
- (c) Conducting an extensive diagnostic interview.
- (d) Writing and filing a brief report,
- (e) If evidence of mental disturbance is found, placing the individual in a separate area where closer supervision is possible and either
- (f) Referring the individual to an appropriate mental health resource or to his or her family physician (if indicated and when release is imminent), or
- (g) Beginning appropriate care in the jail by staff members of the psychological and or psychiatric services.

This standard as applied in a prison setting includes:

- (a) Reviewing earlier screening information and psychological evaluation data.
- (b) Collecting and reviewing any additional data to complete the individual's mental health history.
- (c) Collecting behavior data from observations by correctional staff.
- (d) Administering tests which assess levels of cognitive and emotional functioning and the adequacy of coping mechanisms.
- (e) Writing a report describing the results of the assessment procedures, including an outline of a recommended plan of treatment which mentions any indication by the inmate of a desire for help.
- (f) Communicating results to referral source and

(g) Writing and filing a report of findings and recommendations.

27. Crisis evaluations should be conducted as soon as possible, but not later than 24 hours after the staff member has been notified subsequently. A report of the session(s) is written and appropriately filed.

28. Diagnostic and treatment services are provided to inmates of the facility as part of the institution's total program.

29. If mental disturbance is identified in pretrial and/or presentenced detainee the court and/or the inmate's attorney are notified according to a written policy or procedure approved by the facility's chief executive (in conformity with headquarters directives in a multifacility system). Such notifications are documented.

30. Inmates awaiting emergency evaluation and/or treatment are housed in a specially designated area with close-staff or trained-volunteer supervision and sufficient security to protect these individuals.

31. A written treatment plan exists for all inmates requiring psychological services. This is developed by a psychologist in collaboration with other personnel and includes directions for non-psychological services personnel regarding their roles in the care and supervision of these prisoners.

32. Acute, chronic and convalescent care are provided to inmates at the facility, or, if inappropriate due to resource constraints, by referring such individuals to a more appropriate institution.

33. Prison systems will have their own resources for handling severely disturbed inmates, either in a separate facility or specially designated unit(s).

34. Transfers which result in inmates being placed in either facilities (or special units within institutions) which are specifically designated for the care and treatment of the severely mentally disturbed shall follow due process procedures as specified in state/federal statutes, prior to the move being effected.

\*42 35. There are written and implemented policy and procedure which require that the responsible psychologist be consulted prior to taking the following actions with respect to emotionally disturbed inmates: housing assignment changes, program assignment changes, disciplinary sanctions, transfers in and out of the facility.

36. Inmates who are mentally retarded are referred to available resources according to a written plan approved by the chief psychologist (and in accordance with headquarters policy in multi-facility systems).

37. Only those treatment methodologies accepted by the state psychology community (and not specifically prohibited by headquarters policies in multi-institutional systems) are employed in the facility. Further, the facility will provide a multiplicity of appropriate programs.

38. There is a written, implemented procedure which provides for the orderly discharge of inmate clients from treatment. It includes (but is not limited to) the writing and filing of a treatment summary report within one month after treatment terminates.

39. There are written, implemented policies and procedures which require psychological services personnel to ensure that provisions are made for post-release follow-up care where appropriate.

40. There are implemented written policy and procedures which require formal evaluation of the effectiveness of psychological services treatment programs.

41. A written policy exists and is implemented outlining the purposes and procedures for hiring contract, part-time and consultant staff and it requires these individuals to participate in an appropriate documented orientation session conducted by the chief psychologist.

42. The psychological services staff coordinates and consults on a regular basis with: the facility's advisory committee (if any), appropriate headquarters staff in multi-institutional systems, and with other professional administrative, and technical groups both within and outside the facility.

43. The psychological services staff coordinates and consults with other facility staff regarding referrals and care of inmates.

44. Written standard operating procedures are implemented which provide for and require psychological services to participate in training facility staff with respect to the following: types of potential psychological emergency situations, signs and symptoms of various mental disturbances, procedures for making referrals to psychological services and program areas (i.e., drug treatment, counseling).

45. Psychological services personnel utilize volunteers in a variety of programs under the supervision of the chief psychologist. The implemented written policies and procedures include a system for selection, training and for specifying term of service, level of supervision, definition of tasks, responsibilities, and level of authority. Documentation is required which will indicate the volunteer has participated in an appropriate orientation session conducted by the chief psychologist.

\*43 46. The psychological services staff participate in the preparation and implementation of facility-wide planning, e.g., the institution's master plan, facility design, disaster plan and so on.

47. There is written, implemented policy approved by the chief psychologist (which, in multi-facility systems, is in accordance with headquarters directives) that specifies which psychological reports are placed in the inmate's central file. Additionally, it specifies which reports materials are maintained in other secured files.

48. Psychological files containing test and interview data on pretrial detainees are destroyed if the individual involved is subsequently adjudicated as being "not guilty."

49. The psychological record (excluding raw data) is part of the inmate's central file. It contains the completed receiving screening form, all findings, diagnoses, treatments, dispositions, and terminations from long or short-term psychological treatment. The uniform method of recording entries and the the form and format of the psychological record are approved by the chief psychologist (and in conformity with headquarters policy in multi-facility systems).

50. Psychological test protocols and other "raw data" are maintained separately from the confinement record, are kept in a secured file controlled by the chief psychologist, and are not made available to untrained laymen or to any inmate.

51. Written authorization by the inmate is necessary for transfer of psychological record information to any third party, unless otherwise provided for by law or administrative regulation having the force and effect of law.

52. The inmate client in a therapeutic relationship is made aware of what is being reported to any decision-making third party and is given the opportunity to refute the information contained in such reports.

53. Implemented, written policies and procedures approved by the chief psychologist and in conformity with headquarters policy in multi-institutional systems require the transfer of psychological records and summaries within a multi-facility system whenever an inmate is transferred.

54. When mentally disturbed inmates are transferred, the least restrictive restraints should be used, consistent with the client's current mental state and background, to maintain human dignity. If the individual is to be transported to another facility, the prisoner's record arrives at the receiving institution either before or with the inmate, and the individual is accompanied by a trained staff member.

55. Psychological services personnel are encouraged, and opportunities are provided, to conduct applied and or basic research which will improve the delivery of psychological services and contribute to the development of theory and practice as relates to correctional psychology.

56. Psychological research in correctional facilities should conform to the ethical standards proposed by the National Commission for the Protection of Human Subjects.

\*44 57. Written procedures exist and are implemented for processing research proposals. These are in accordance with institutional policies (and with headquarters policies in multi-facility systems) and, at a minimum, require prior approval by a research advisory committee before any study is undertaken. Psychological services are represented (preferably by the chief psychologist) on that committee.

## ***APPENDIX C***

### ***MEDICAL CARE AND HEALTH SERVICES STANDARDS***

#### ***OF THE AMERICAN CORRECTIONAL ASSOCIATION STANDARDS***

##### ***FOR ADULT COMMUNITY FACILITIES***

2-2120. The facility has a written agreement with a licensed general hospital, clinic or physician to provide residents with routine medical services.

2-2121. The facility has a written agreement with a licensed general hospital, clinic, or physician to provide emergency services on a 24-hour a day basis.

2-2122. The facility provides access to dental care and mental health care. (Modified).

2-2123. State licensing and certification requirements apply to health care personnel working in the facility to the same extent as they apply to equivalent personnel in the community.

2-2124. At least one staff member present on each shift of the residential facility is trained in emergency first aid procedures, including cardio-pulmonary resuscitation.

2-2125. The facility has written emergency medical back-up plans which are communicated to all employees and residents.

2-2126. The facility has available at all times first aid equipment approved by a recognized health authority.

2-2127. Written policy and procedure provide that the facility implements an inventory system of first aid supplies and equipment, and continually replenishes the supply.

2-2128. Each newly admitted resident undergoes a medical examination within 14 days of admission unless there is documentation that the resident has had an examination within three (3) months prior to admission to the facility. (Modified)

2-2129. At the time of a resident's admission, staff inquire about any physical problems which might require medical attention.

2-2130. Written policy and procedure provide for the medical examination of any employee or resident suspected of having a communicable disease or a debilitating condition, such as diabetes, heart disease, or epilepsy.

2-2131. When a urine surveillance program is in effect, there is a written policy for the collection of samples and interpretation of results.

2-2132. There is a written policy regarding the possession and use of controlled substances, prescribed medications, and over-the-counter drugs. The policy stipulates that prescribed medications are administered according to the directions of the prescribing physician.

2-2133. There is written policy and procedure which specify that records of all medications distributed by facility staff are maintained and audited monthly, and include the date, time and name of the resident receiving medication, and the name of staff distributing it.

\*45 2-2134. Written policy and procedure provide for the prompt notification of resident's next of kin in case of serious illness, surgery, death or injury. Any death in the program is reported immediately to the proper officials.

#### ***APPENDIX D***

The parties shall submit an agreed-upon list of programs (educational and vocational) to the Court, for incorporation in this Decree, within thirty (30) days from the signing of this Decree by the parties.

#### ***APPENDIX E***

#### ***FOOD SERVICE STANDARDS OF THE AMERICAN CORRECTIONAL ASSOCIATION***

#### ***FOR ADULT COMMUNITY FACILITIES***

2-2110. When the facility contracts for food service, a registered dietician or physician annually approves the nutritional value of the contractor's menu.

2-2111. When the facility constructs for food service, the contractor complies with all sanitation and health codes enacted by state or local authorities.

2-2112. When food service is provided at the facility, food service staff develop advanced planned menus and follow the schedule.



2-2113. When food service is provided at the facility, the advanced planned menus are reviewed and approved by a registered dietician or physician.

2-2114. When food service is provided at the facility, there is a single menu for staff and clients.

2-2115. When food service is provided at the facility, special diets are prepared which meet the medical needs of residents.

2-2116. When food service is provided at the facility, provisions are made to meet the religious dietary needs of residents.

2-2117. When food service is provided at the facility, it complies with all sanitation and health codes enacted by state or local authorities.

2-2118. When food service is provided at the facility, all foods are properly stored at the completion of each meal.

2-2119. When food service is provided at the facility, the kitchen and dining area are ventilated, properly furnished, and clean.

#### *APPENDIX F*

##### *SLEEPING SPACE AND CAPACITIES OF DEFENDANTS' INSTITUTIONS*

<i>Institution</i>	<i>Space</i>	<i>N./S &amp; R Space</i>	<i>N. Capacity</i>	<i>6/21/84 Pop.</i>	<i>10/1/84 Pop</i>
Blue Ridge P.R. Center			164	174	172
Pre-Release Dorm	2400 sq. ft.	53/45.28 sq. ft.			
Work-Release Dorm	5000 sq. ft.	111/45.05 sq. ft.			
Catawba W.R. Center			96	83	75
Wards 1-7	647 sq. ft.	77/58.80 sq. ft.	( 7)		
Ward 8	825 sq. ft.	15/55.0 sq. ft.			
Drivers' Ward	207 sq. ft.	4/51.8 sq. ft.			
Cross Anchor C.I.			528	483	457
Dorms 1-5	100 sq/48 rm.	480/50.0 sq. ft.	(96)		
Admin.Seg.	80.50/48 rm.	48/80.5 sq. ft.			
Dutchman C.I.			528	488	451
Dorms 1-5	100 sq/48 rm.	480/50.0 sq. ft.	(96)		
Admin.Seg.	80.50/48 rm.	48/80.5 sq. ft.			
Givens Youth C.C.			70	121	104
Dorm A	66.0 sq/15 cu.	15/66.0 sq. ft.			

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Dorm B	58.5 sq/15 cu.	15/58.5 sq. ft.			
Dorm C	63.9 sq/12 cu.	12/63.9 sq. ft.			
Dorm D	60.7 sq/12 cu.	12/60.7 sq. ft.			
Dorm E	74.4 sq/14 cu.	14/74.4 sq. ft.			
Staff Room	152.25 sq. ft.	2/76.13 sq. ft.			
Greenwood C.C.			63	92	90
Ward A	1115 sq. ft.	24/46.46 sq. ft.			
Ward B	1100 sq. ft.	24/45.83 sq. ft.			
Ward C	692 sq. ft.	15/46.13 sq. ft.			
Livesay W.R. Center			96	94	93
Dorms A & B	90 sq/24 cu.	96/45.0 sq. ft.	(48)		
Northside C.C.			175	265	247
Dorms 1-3	90.25 sq/24 cu	144/45.13 sq. ft.	(48)		
Ward 1	1420 sq. ft.	31/45.81 sq. ft.			
NEW McCormick C.I.			600*	0	0
Med.Sec.	73.0 sq/504	504/73.0 sq. ft.			
Lock-Up	80.0 sq/96	96/80.0 sq. ft.			
Perry C.I.			768	950	1021
Dorms 1-4	60.5 sq/96 rm.	192/60.5	(48)		
		384/30.25	(96)		
Dorms A & B (R & E)	80.5 sq/48 rm.	96/80.5	(48)		
Dorms C & D (seg)	80.5 sq/48 rm.	96/80.5	(48)		
Aiken Youth C.C.			253	232	242
Dorm 1	3774 sq. ft.	83/45.47 sq. ft.			
Dorms 2, 3, 5	1931 sq. ft.	126/45.98 sq. ft.	(42)		
Dorm 4	997 sq. ft.	22/45.32 sq. ft.			
Dorm 6	992 sq. ft.	22/45.09 sq. ft.			

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CCI			1165	1118	1168
CB-1	41.12/255c.	255/41.12 sq. ft.			
CB-2	53.74/108c.	108/53.74 sq. ft.			
CB-3	56.36/108c.	54/56.36 sq. ft.	(162)		
		108/28.18	sq. ft.		
Wards 1-10	2710 sq. ft.	540/50.19 sq. ft.	(54)		
Ward 11	5885.70 sq.	100/58.85 sq.ft.			
RENOV. CCI Guards Qtr.s			66*		0
	168.0sq/5c.	10/84.0 sq. ft.	(2)		
	336.0sq/8c.	56/48.0 sq. ft.	(7)		
RENOV. CCI Stoney Bldg.			48*	0	0
	161.0sq/18c.	36/80.5 sq. ft.	(2)		
	85.17sq/12	12/85.17	sq. ft.		
RENOV. MSC			77*	0	0
	54.0sq/59c.	59/54.0 sq. ft.			
	84.0sq/18c.	18/84.0 sq. ft.			
Campbell W.R. Center			100	164	165
East & West Wings	90.0/24rm.	100/45.0 sq. ft.	(50)		
Goodman C.I.			187	232	264
Bldg. 1	59.02/49cu.	49/59.02 sq. ft.			
Bldg. 2	53.05/42cu.	42/53.05 sq. ft.			
Bldg. 3	52.90/46cu.	46/52.9 sq. ft.			
Bldg. 4	58.90/50cu.	50/58.9 sq. ft.			
Kirkland C.I.			608	805	789
Two Dorms	67.4/64rm.	128/67.4 sq. ft.	(64)		
Five GP Dorms	67.4/64rm.	160/67.4 sq. ft.	(32)		
		320/33.7 sq. ft.	(64)		
psych. unit	83.0/96rm.	96/83.0 sq. ft.			

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Lower Savannah W.R. Center			59	58	73
Dorm A	777.0 sq.	17/45.71 sq. ft.			
Dorm B	467.0 sq.	10/46.70 sq. ft.			
Dorms C & D	545.0 sq.	24/45.42 sq. ft.	(12)		
Dorm E	131.0 sq.	2/65.5 sq. ft.			
Dorm F	272.0 sq.	6/45.33 sq. ft.			
Manning C.I.			364	498	500
Wards 1-6	2797.5 sq.	330/50.86 sq. ft.	(55)		
Trusty Area	161.0/12rm.	24/80.50 sq. ft.			
Cell Block	54.0/10c.	10/54.0 sq. ft.			
RENOV. cell block	? /10c.	10/? sq. ft.	10*		
Maximum Security Center			0*	73	75
Admin.Seg.	54.0/59c.	59/54.0 sq. ft.			
Admin.Sep.	84.0/18c.	18/84.0 sq. ft.			
Midlands R & E			0*	194	183
A-D Blocks	35.0/8 cells	32/35.0 sq. ft.	(8)		
E & F Blocks	48.0/6c.	12/48.0 sq. ft.	(6)		
G & H Blocks	42.0/3c.	6/42.0 sq. ft.	(3)		
Trusty Area	48.2/7cu.	7/48.2 sq. ft.			
Annex	144.0/10c.	20/72.0 sq. ft.			
Stevenson C.I.			127?	132	142
?					
FORMER Admin.Seg.	648 sq. ft.	12/54.0 sq. ft.			
State Park C.I.			158?	125	141
Work Release Area	126-306/14 rm.	87-63 sq ft	(76)		
Women's Ger.	173-307/4 rm	76.25-86.5	(12)		
Men's Ger. (occ.)	143-316/19 rm	65.0-101.5	(54)		

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Men's Ger. (unocc)	184-328/6 rm	82.0-99.5	(16)		
Men's Ger. (constn)	16-314/23 rm	65.0-101.5	(64)*		
Men's Ger. (constn)	? sq ft/12 cu?		(24)?*		
Holding cells	?sq ft/2		(2)?*		
Walden C.I.			160	229	228
Ward A	499 sq. ft.	11/45.36 sq. ft.			
Ward B	1601 sq. ft.	35/45.74 sq. ft.			
Ward C	1195 sq. ft.	26/45.96 sq. ft.			
Ward D	1652 sq. ft.	36/45.88 sq. ft.			
Dorm 1	100 sq/26 rm.	52/50.0 sq. ft.			
Wateree River C.I.			486	615	611
Wards 1-6	2231 sq. ft.	294/45.53 sq. ft.	(49)		
Dorms 1 & 2	100 sq/48 rm.	192/50.0 sq. ft.	(96)		
Watkins P.R. Center			144	127	109
Dorms 1-3	90 sq/24 rm.	144/45.0 sq. ft.	(48)		
Women's Corr. Center			233	307	287
Five GP Cottages	83 sq/24 rm.	60/83.0 sq. ft.	(12)		
		120/41.5 sq. ft.	(24)		
Two Cottages	83 sq/24 rm.	48/83.0 sq. ft.	(24)		
Detention	74 sq/5cells	5/74.0 sq. ft.			
NEW WOMEN'S DORM			96*	0	0
	100sq/48 rm.	96/50.0 sq. ft.			
NEW R & E			192*	?	?
	80.0 sq/192 c.	192/80.0 sq. ft.			
Coastal W.R. Center			158	112	117
Dorm 1	89.9 sq/27 cu.	54/44.95 sq. ft.	(62)		
	102.2 sq/4 cu.	8/51.10 sq. ft.			

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Dorms 2 & 3	90 sq./24 rm.	96/45.0 sq. ft.	(48)		
NEW LIEBER C.I.			696 *	0	0
Med.Sec.	73 sq/504 c.	504/73.0 sq. ft.			
Lock-Up	80 sq/96c.	96/80.0 sq. ft.			
R & E	80 sq/96c.	96/80.0 sq. ft.			
MacDougall Youth C.C.			354	400	381
Dorms 1, 2, 3, 5	80 sq/48 rm.	96/80.0 sq. ft.	(24)		
		192/40.0 sq. ft.	(48)		
Dorm 4	80 sq/44 rm.	22/80.0 sq. ft.			
		44/40.0 sq. ft.			
Palmer W.R. Center			50	90	92?
(one dorm)	72.25 sq/50 cu.	50/72.25 sq. ft.			
TOTAL:		present buildings	7094	8261	
		renovations	291 *		
		new buildings	1584 *		

***APPENDIX G***

***REPORT AND RECOMMENDATIONS ON***

***STAFFING, JANUARY 1984, BY THE***

***NATIONAL INSTITUTE OF CORRECTIONS***

**JAMES D. HENDERSON**

**CORRECTIONAL CONSULTANT**

**1401 South 16th Street**

**Leavenworth, Kansas 66048**

(913) 682-0183

\*46 February 4, 1984

Mr. William D. Leeke, Commissioner  
South Carolina Department of Corrections  
4444 Broad River Road  
P.O. Box 21787  
Columbia, South Carolina 29221

Dear Bill,

Inclosed is the report on my recent staffing analysis conducted in your Department. I sincerely appreciate the cooperation and responsiveness of everyone representing the Department of Corrections.

If there are any questions regarding this study, I would be pleased to respond to them. It was good to see you and look forward to seeing you in San Antonio at the A.C.A. Conference.

Sincerely,

/s/ J.D. HENDERSON

N.I.C. Consultant

**DEPARTMENT OF CORRECTIONS**

**SOUTH CAROLINA**

**NIC TA83-402**

**BY**

**NIC CONSULTANT**

**JAMES D. HENDERSON**

**JANUARY 16-20, 1984**

**U.S. Department of Justice**

**National Institute of Corrections**

**Washington, D.C. 20534**

NIC T/A # 83-402

This technical assistance activity was funded by the Prisons Division of the National Institute of Corrections. The Institute is a federal agency established to provide assistance to strengthen state and local correctional agencies by creating more effective, humane, safe, and just correctional services.

The resource person(s) who provided the on-site technical assistance did so on a contractual basis, at the request of the South Carolina Department of Corrections and through the coordination of the National Institute of Corrections. The direct on-site assistance and this subsequent report are intended to assist the South Carolina Department of Corrections to address the issue(s) outlined in the original request and in efforts to enhance the effectiveness of the agency.

The contents of this document reflect the views of Mr. James D. Henderson. The contents do not necessarily reflect the official views or policy of the National Institute of Corrections.

DEPARTMENT OF CORRECTIONS

SOUTH CAROLINA

NIC TA 83-402

***CIRCUMSTANCES THAT LED TO THE TECHNICAL ASSISTANCE REQUEST***

The present administration of the South Carolina Department of Corrections requested National Institute of Corrections that a staffing review be conducted at a sampling of five institutions identified by the Department. The staffing assessment is connected to the Nelson Suit and is also for the purpose of assisting the Department of Corrections in preparing a report to the Legislature in early February.

Ms. Mary Lou Commiso, NIC Technical Assistance Manager, contracted the consultant in late November and arrangements were made for the technical assistance to occur during the week of January 16-20, 1984. The time allotted to the project was restrictive, however, Ms. Commiso was able to arrange for advance materials to be made available to the consultant which were valuable in preparing for the study. Those materials consisted of plot plans, current staffing information, special programs requiring additional staffing, etc. and these materials were forwarded through the efforts of Mr. Dave Belding, Legal Counsel.

\*47 Mr. Stephen Ney, National Prison Project and Ms. Cristine Freeman, Southern Prison Coalition contacted the consultant and suggested attention also be directed to the following areas: (1) Use of inmates (Ward Keepers); (2) Staff coverage of inmates permitting sound or visual supervision; (3) Out of cell activity for protective custody inmates (3rd shift); (4) Staff required if restraints were not utilized in protective custody escort; (5) Staffing required if inmates in segregation were permitted open visiting; and, (6) Exercise schedules in segregation.

The consultant will address these issues with staffing implications, but will not comment on administrative or management prerogatives. Ms. Freeman requested permission to accompany the consultant on portions of the staffing analysis. After contacting Mr. Bill Wilkey, NIC Prison Chief, the decision was made to limit this study to the consultant and those knowledgeable of operations current staffing at the institutions. Legal Counsel of the South Carolina Department of Corrections were not involved in the on-site studies.



**METHODOLOGY**

The consultant collected the needed data to establish the relief factor. The South Carolina Department computes the relief factor on a department-wide basis. The relief factor is the figure used to determine the number of personnel to staff all functions required on a 365 day, 24 hour basis. The relief factor computation is reflected on the following page.

**SHIFT RELIEF FACTOR**

CURRENT DATA

CY 1983

1. Number of days per year that the agency is closed: i.e., no services offered.	0
2. Number of agency work days per year equals 365.	365
3. Number of regular days off per employee per year (usually 52 weeks/yr x 2 days off/week) = 104.	104.00
4. Number of vacation days off per employee per year.	10.17
5. Number of holidays off per employee per year.	12.00
6. Number of sick days off per employee per year (should be actual average for the jail staff).	7.46
7. Number of other days off per employee per year (this includes time off for injury on the job, filling vacancies, military leave, funeral leave, unexcused absences, disciplinary time off, special assignments, etc.	5.61
8. Number of training days per year	11.83
9. Total number of days off per employee per year equals (c) + (d) + (e) + (f) + (g) + (h)	151.07
10. Number of actual work days per employee per year equals 365-(i)	213.93
11. Lunches and breaks (j) x .0625 down time factor	13.37
12. Actual work days 1-year (j)-(k)	200.56
13. Shift relief factor = (b) ÷ ( )	1.82

(Number of employees for 1 sight hour shift, 5 days a week)

365 days x 24 hours per day = 8,760 hours per year

200.56 days x 8 hours per day = 1,604,48 hours

$8,760 \div 1,604.48 = 5.45$  employees for 24 hour coverage

7 Day Post One Shift	1.82 Relief Factor
5 Day Post One Shift	1.3 Relief Factor
2 Day Post One Shift	.51 Relief Factor

\*48 On arriving in South Carolina the consultant met with Commissioner William Leeke and his Executive Staff. During the week he also met with the below listed staff of the South Carolina Department of Corrections.

Mr. Bill Leeke	Commissioner
Mr. Hugh Clements	Deputy Commissioner, Administration
Mr. Charles Leath	Deputy Commissioner, Operations
Mr. Paul Weldon	Deputy Commissioner, Programs
Mr. Doug Catoe	Assistant Deputy Commissioner, Institutions
Mr. Jim Harvey	Regional Administrator, Midlands Region
Mr. Larry Batson	Legal Advisor
Mr. Dave Belding	Legal Counsel
Mr. Joe Martin	Director of Security
Mr. James Aiken	Warden, Central Correctional Institution
Mr. William Weston	Chief Correctional Supervisor, C.C.I.
Mr. Fred Thompson	Chief Correctional Supervisor, Maximum Security Center
Mr. John Carmichael	Warden, Wateree River Correctional Institution
Mr. Ricky Harrison	Associate Warden, Wateree River Correctional Institution
Mr. Robert W. Donlin	Warden, Womens' Correctional Center
Mr. Glenn T. Davis	Warden, Dutchman Correctional Institution
Mr. Bob Rice	Associate Warden, Dutchman Correctional Institution
Mr. Jerry Maxwell	Chief Correctional Supervisor, Dutchman Correctional Institution
Mr. Frank Horton	Warden, Perry Correctional Institution
Mr. Doug Taylor	Associate Warden, Perry Correctional Institution
Mr. Claude Gilliam	Chief Correctional Supervisor, Perry Correctional Institution

The five institutions selected for the staffing analysis were the Central Correctional Institution, Wateree Correctional Institution, Womens' Correctional Center, Dutchman Correctional Institution, and the Perry Correctional Institution. The consultant added the Maximum Security Unit of Central Correctional Institution to this analysis.

Commissioner Leeke assigned Mr. Joe Martin, Director of Security, to coordinate the visits to the various facilities. His knowledge, experience and expertise were invaluable to the consultant throughout the technical assistance project.

### ***GENERAL***

During the week the consultant reviewed staffing rosters, selected post orders, and staffing proposals prepared by prison administrators for submission to the Central Office. Also, the Organizational Charts for the Department of Corrections and individual institutions were reviewed.

Physical plant, security levels, mission, programs, and special management inmates were factors considered in arriving at staffing recommendations.

At each facility Mr. Martin and the consultant, accompanied by the Warden and other staff members, thoroughly toured the institutions. Random interviews with staff and inmates were held. Programs and operations were observed. At the conclusion the consultant developed staffing recommendations and offered suggestions for alternative approaches to manpower utilization and roster management. These will be discussed in the *RECOMMENDATION* section of this report.

### ***THE NELSON SUIT***

\*49 The staffing as recommended will comply with Mr. Ney's concerns in staff coverage of living units and permitting additional exercise in segregation.

Ward Keepers' roles have diminished and key staff members deny they have any authority over other inmates. There are, however, some symptoms of a minimal role. The mini-canteens in quarters operated by the Ward Keepers (a legalized loan business), the maintenance of the bed assignment log and the unlocked quarters door of the Ward Keeper are indicators that this tradition has not been completely eliminated. There are very positive signs that administrators are making every effort to direct staff at operational levels that Ward Keepers are responsible only for sanitation and house keeping of the general area in quarters. Each individual is responsible for his own area.

The out-of-cell activity for protective custody inmates on the 3rd shift must remain a management decision. It presents many ramifications that effect operational security. The 3rd shift traditionally has the least staff and other services would be impractical. There are other alternatives more effective and more realistic which were discussed with appropriate staff.

To handcuff or not to handcuff inmates and controlled visiting are management decisions. Staff would be available if contact visiting were authorized. There would be a need for physical plant modifications to permit this, but the consultant would not recommend discontinuing all controlled visitation.

The following staffing analyses are designed for the institutions designated. It is the consultant's opinion that the assignments as designated would provide adequate supervision internally and on the perimeter. Program additions and institution utilization could very well impact these staffing levels. For example, if unit management becomes a reality in the Department, a reassessment of positions would be required.

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The staffing levels of minimum security are richer than a traditional minimum security facility. The mission of these institutions has been altered because of overcrowding and higher level security designations made there. It is unusual for a minimum security facility to have a perimeter detection system, razor ribbon, perimeter patrols, and housing unit control rooms. Also, only four inmates are permitted to work outside the perimeter. The staffing will correspond to present utilization of these facilities. Following are the consultant's staffing recommendations.

***CENTRAL CORRECTIONAL INSTITUTION***

<b>Seven Day Post</b>	<b>Early</b>	<b>Late</b>	<b>3rd Shift</b>	<b>1st Shift</b>	<b>2nd Shift</b>
Shift Supervisor			1		1
Cell Block # 1 (Gate)			1	1	1
Cell Block # 1 (PC)			1	1	1
Cell Block # 1 (AS)			1	1	1
Cell Block # 1 Floors 1–2–3			1	1	1
Cell Block # 1 (Activities)				2	2
Cell Block # 2 (Gate)				1	1
Cell Block # 2 (Ranges)			2	2	2
Cell Block # 2 (Shakedown)				1	
Cell Block # 2 (Activities)				2	
Cell Block # 2 (Cage)			1		1
Cell Block # 3			1	2	2
Wards 1–10			10	10	10
Ward 11			1	1	2
Building # 4 Tunnel Key					
Officer			1	2	2
Kitchen Officer	1	1			
Dining Room Officer	1	1			
Hospital Officer			1	1	1
Admission/Orientation				1	1

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Transitional Unit	1	1	1
Stoney Building	1	1	1
Vehicle Gate	1	1	1
Towers # 1-# 6	6	6	6
Central Control	1	2	2
Corridor Gate	1	1	1
Small Recreation Field		1	
Control Booth	1	1	1
Tunnel Door		1	
Visiting Room Shakedown		1	
Hospital Security		1	
Activities Officers		2	2
	2	2	34
		48	44

Total seven day post = 130

130 x 1.82 Relief Factor = 236.6 positions

***CENTRAL CORRECTIONAL INSTITUTION***

Five Day Post	Early	Late	3rd	1st	2nd
			Shift	Shift	Shift
Deputy Warden (Security)				1	
Chief Correctional Supervisor				2	
Operations Supervisor				1	
Cell Block # 1 Supervisor				1	
Building # 4 Supervisor				1	
Yard Supervisor				1	
Training Supervisor				1	
Inside Front Gate Supervisor				1	
Cell Block # 2 Supervisor					1

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Assistant Supervisor CB # 1		1	
Building # 4 Assistant Supervisor		1	
Assistant Supervisor CB # 2		2	
Assistant Supervisor (Cafeteria)		1	
Assistant Supervisor (Inside Front Gate)		1	
Assistant Supervisor	2		2
Assistant Supervisor (Personnel)		1	
Assistant Supervisor (Transportation)		1	
Assistant Supervisor (Training)		2	
Assistant Supervisor (Yard)		2	
Assistant Supervisor (Fire Marshal)		1	
Assistant Supervisor (Central Control)		1	
Chapel		1	
Rear Gate		2	
Library		1	
School		1	
Visiting Room		1	
Personnel Office		1	
Count Officer		1	
Operations Officer		4	
Transportation Officer		3	
Commissary Officer		1	
Truck Escort		1	
Property Control		1	
Prison Industry		1	
Maintenance		3	
Laundry		1	

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Prison Industry (Gate)			2	
			2	48
				3

Total five day post = 53

53 x 1.3 Relief Factor = 68.9 Positions

***CENTRAL CORRECTIONAL INSTITUTION***

Two Day Post	Early	Late	3rd Shift	1st Shift	2nd Shift
O/B Visiting Gate				1	
Visiting Room				1	
Visiting Room (Gate)				1	
Post # 10 (Visiting)				1	
				4	

Total two day post = 4

4 x .51 Relief Factor = 2.04 Positions

7 Day Posts	236.6
5 Day Posts	68.9
2 Day Posts	2.04

307.54 or 308 recommended authorized security complement

***MAXIMUM SECURITY CENTER CENTRAL CORRECTIONAL INSTITUTION***

Seven Day Post	Early	Late	3rd Shift	1st Shift	2nd Shift
Gate			1	1	1
Cat Walk			1	1	1
Recreation				1	
Key Control				1	1
Ranges			1	2	1

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3                      6                      4

Total seven day post = 13

13 x 1.82 Relief Factor = 23.66 Positions

			3rd	1st	2nd
Five Day Post	Early	Late	Shift	Shift	Shift
Chief Correctional Supervisor				1	
Supervisor			1	1	1
Assistant Supervisors			1	3	1
Canteen/Transfers				1	
Legal Library				1	
			2	7	2

Total five day post = 11

11 x 1.3 Relief Factor = 14.3

7 Days Posts

5 Days Posts

3rd 1st 2ndSeven Day Post Early Late Shift Shift Shift-----  
 Gate 1 1 1Cat Walk 1 1 1Recreation 1Key Control 1 1Ranges 1 2 1 ----- 3 6  
 4Total seven day post = 1313 x 1.82 Relief Factor = 23.66 Positions 3rd 1st 2ndFive Day Post Early Late Shift  
 Shift Shift-----Chief Correctional Supervisor 1Supervisor 1 1  
 1Assistant Supervisors 1 3 1Canteen/Transfers 1Legal Library 1 ----- 2 7 2Total five day  
 post = 1111 x 1.3 Relief Factor = 14.37 Days Posts 23.665 Days Posts 14.3 ----- 37.96 or 38 recommended authorized  
 complement.

			3rd	1st	2nd
Seven Day Posts	Early	Late	Shift	Shift	Shift
Shift Supervisor			1	1	1
Assistant Supervisor			1	2	1
Cottages 1-2-3-6-7			5	5	5
Cottage 4			1	2	1
Detention			1	1	1



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Transportation			1	
Control Center		1	1	1
Yard Officers		1	2	2
Cottage 5		1	1	1
Cafeteria			1	1
Cottage 2			1	1
			<hr/>	
			12	18
				15

Total seven day post = 45

45 x 1.82 Relief Factor = 81.9 Positions

Five Day Posts	Early	Late	3rd	1st	2nd
			Shift	Shift	Shift
Chief Correctional Supervisor				1	
Record Office				1	
Mail Room				1	
Transportation				1	
Apparel Plant (PI)				1	
School				1	1
				<hr/>	
				6	1

Total five day post = 7

7 x 1.3 Relief Factor = 9.1 Positions

7 Day Posts 45 x 1.82 Relief Factor =

5 Day Posts 7 x 1.3 Relief Factor =

3rd 1st 2nd Five Day Posts Early Late Shift Shift Shift-----  
 Chief Correctional Supervisor 1 Record Office 1 Mail Room 1 Transportation 1 Apparel Plant (PI) 1 School 1 1  
 ----- 6 1 Total five day post = 77 x 1.3 Relief Factor = 9.1 Positions 7 Day Posts 45 x 1.82  
 Relief Factor = 81.95 Day Posts 7 x 1.3 Relief Factor = 9.1 91.0 Security positions are recommended for authorized complement.

**WATEREE RIVER CORRECTIONAL INSTITUTION**

***MINIMUM SECURITY***

Seven Day Posts	Early	Late	3rd Shift	1st Shift	2nd Shift
Correctional Supervisor			1	1	1
Assistant Shift Supervisor			1	1	1
Operations Office				1	
Operations/Activities					1
Control Center			1	1	1
Shakedown				1	1
Tunnel (South) (Quarters)			1	1	1
Tunnel (North) (Quarters)			1	1	1
Tunnel (Center) (Quarters)			1	1	1
Cafeteria				1	1
Transportation				1	1
Back Gate Officer			1	1	1
Front Gate			1	1	1
Yard Patrol			1		
Building Detail				1	
Dormitory # 1			1	1	1
Dormitory # 2			1	1	1
			11	15	14

Total seven day posts = 40

40 x 1.82 Relief Factor = 72.8 Positions

***WATEREE RIVER CORRECTIONAL INSTITUTION***

***MINIMUM SECURITY***

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			3rd	1st	2nd
Five Day Posts	Early	Late	Shift	Shift	Shift
Chief Correctional Supervisor				1	
Operations Supervisor				1	
Training Officer				1	
Inmate Payroll				1	
				1	

Total five day posts = 4

4 x 1.3 Relief Factor = 5.2 Positions

***WATEREE RIVER CORRECTIONAL INSTITUTION***

***MINIMUM SECURITY***

			3rd	1st	2nd
Two Day Posts	Early	Late	Shift	Shift	Shift
Visiting Building				1	
Family Visiting Center				1	
				2	

Total two day posts = 2

2 x .51 Relief Factor = 1.02

7 Day Posts 40 x 1.82 Relief Factor = 72.8

5 Day Posts 4 x 1.3 Relief Factor = 5.2

2 Day Posts 2 x .51 Relief Factor = 1.02

79.02

or 79 security positions are recommended for authorized complement.

***DUTCHMAN CORRECTIONAL INSTITUTION***

3rd 1st 2nd

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Seven Day Posts	Early	Late	Shift	Shift	Shift
Shift Supervisor			1	1	1
Shift Assistant Supervisor			1	1	1
Control Center			1	1	1
Gate Officer/Perimeter			1	1	1
Visiting Room				1	
P1 through P5 (Quarters)			5	5	5
Victor # 1 (Perimeter)			1	1	1
Victor # 2 (Perimeter)			1	1	1
A/S Wing			1	3	2
Cafeteria				1	
Yard Patrol				1	2
Segregation Control			1	1	1
			13	18	16

Total seven day posts = 47

47 x 1.82 Relief Factor = 85.54 Positions

***DUTCHMAN CORRECTIONAL INSTITUTION***

Five Day Posts	Early	Late	3rd Shift	1st Shift	2nd Shift
Chief Correctional Supervisor				1	
Operations Supervisor				1	
Transportation Supervisor				1	
Transportation Assistant Supervisor				1	
Operations Assistant Supervisor				1	
Segregation Assistant Supervisor				1	
Training Officer				1	
Programs Officer				1	

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Transportation	1
Education Building/	
Patrol	1
Maintenance Shop	1
A/S Segregation-Visiting	1
	<hr/> 12

Total five day posts = 12

12 x 1.3 Relief Factor = 15.6

***DUTCHMAN CORRECTIONAL INSTITUTION***

			3rd	1st	2nd
Two Day Posts	Early	Late	Shift	Shift	Shift
Gate				2	
Visiting Room				1	
Outside Visit				1	
				<hr/> 4	

Total two day posts = 4

4 x .51 Relief Factor = 2.04

7 Day Posts 47 x 1.82 Relief Factor = 85.54

5 Day Posts 12 x 1.3 Relief Factor = 15.6

2 Day Posts 4 x .51 Relief Factor = 2.04

103.18

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or 103 security positions are recommended for authorized complement.

***PERRY CORRECTIONAL INSTITUTION***

***MEDIUM SECURITY***

3rd                      1st                      2nd

**Plyler v. Leeke, Not Reported in F.Supp. (1986)**

Seven Day Posts	Early	Late	Shift	Shift	Shift
Correctional Supervisor			1	1	1
Assistant Supervisors			1	1	1
Delta (Perimeter Patrols)			4	4	4
Front Gate	1	1	1	1	1
Lobby				1	
Visitation				1	
Shakedown (Visiting)				1	
Main Control			2	2	2
Cafeteria	1	1			
Dormitories Control			4	4	4
Yard Officers			4	4	4
Yard Tower				1	
Dormitory (Inside)			4	4	8
	2	2	21	25	25

Total seven day post = 75

7.5 x 1.82 Relief Factor = 136.5 Positions

***PERRY CORRECTIONAL INSTITUTION***

***MEDIUM SECURITY***

Five Day Posts	Early	Late	3rd Shift	1st Shift	2nd Shift
Chief Corrections Supervisor (Medium)				1	
Chief Corrections Supervisor (Medium)				1	
Operations Supervisor				1	
Transportation Supervisor				1	
Training Supervisor				1	

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Armory	1
Operations	1
Programs Building	1
Education	1
Prison Industries	1
Tool Control	1
Grounds Supervisor	1
Disciplinary Clerk	1
Contraband	1
Transportation	6
Visiting Coordinator	1
Property	1
Sewage Treatment	1
Dormitory Officer	1
Vehicle Maintenance	2
Legal Library	1
Escort	1
<hr/>	
	28

Total five day posts = 28

28 x 1.3 Relief Factor = 36.4 Positions

***PERRY CORRECTIONAL INSTITUTION MEDIUM SECURITY***

			3rd	1st	2nd
Two Day Posts	Early	Late	Shift	Shift	Shift
<hr/>					
Transportation				2	
Visiting Room				1	
Front Gate				1	

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Lobby	1
	5

Total two day posts = 5

5 x .51 Relief Factor = 2.5 Positions

7 Day Posts =

5 Day Posts =

2 Day Posts =

3rd 1st 2ndTwo Day Posts Early Late Shift Shift Shift-----  
 Transportation 2Visiting Room 1Front Gate 1Lobby 1 ----- 5Total two day  
 posts = 55 x .51 Relief Factor = 2.5 Positions7 Day Posts = 136.55 Day Posts = 36.42 Day Posts = 2.5 ----- 175.4 or 175  
 positions recommended as authorized security complement.

***PERRY CORRECTIONAL INSTITUTION MAXIMUM SECURITY***

Seven Day Posts	Early	Late	3rd	1st	2nd
			Shift	Shift	Shift
Shift Supervisor			1		1
Assistant Supervisor			3		3
A Dormitory (PC–Youth)					
Control Center				1	1 1
Wing Officers				1	3 1
B Dormitory (R & E)					
Control Center				1	1 1
SWing Officers				1	3 1
C Dormitory (AS)					
Control Center				1	1 1
Wing Officers				1	4 2
D Dormitory (Long Term Maximum)					
Control Center				1	1 1
Wing Officers				1	3 2



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Reception & Evaluation

Control Center

1

1

1

12

21

14

Total seven day posts = 49

49 x 1.82 Relief Factor = 89.18 Positions

3rd 1st 2nd Seven Day Posts Early Late Shift Shift Shift-----Shift Supervisor  
 1 1 1 Assistant Supervisor 3 3 3A Dormitory (PC Youth) Control Center 1 1 1 Wing Officers 1 3 1B Dormitory (R  
 & E) Control Center 1 1 1 Wing Officers 1 3 1C Dormitory (AS) Control Center 1 1 1 Wing Officers 1 4 2D  
 Dormitory (Long Term Maximum) Control Center 1 1 1 Wing Officers 1 3 2 Reception & Evaluation Control Center 1  
 ----- 1 1 12 21 14 Total seven day posts = 49 49 x 1.82 Relief Factor = 89.18  
 Positions

***PERRY CORRECTIONAL INSTITUTION***

***MAXIMUM SECURITY***

Five Day Posts	Early	Late	3rd Shift	1st Shift	2nd Shift
Chief Corrections Supervisor				1	
Assistant Supervisor (R & E)				1	
Processing Officers				7	
Visiting Room (Contact)				3	
Visiting Escort (Contact)				1	
				13	

Total five day posts = 13

13 x 1.3 Relief Factor = 16.9 Positions

7 Day Posts 49 x 1.82 Relief Factor = 89.18

5 Day Posts 13 x 1.3 Relief Factor = 16.9

106.08 or 106 security positions are recommended for authorized complement.

Perry Medium Security \$175

Perry Maximum Security 106

281 Total positions recommended for authorized complement.

RECAPITULATION

	Present Authorized Security Staff	Recommended Authorized Security Staff	Total Recommended Increase
Central Correctional Institution	255	308	53
Maximum Security (CCI)	30	38	8
Women's Correctional Institution	66	91	25
Wateree River Correctional Institution	51	79	28
Dutchman Correctional Institution	83	103	20
Perry Correctional Institution	224	281	57
TOTAL RECOMMENDED			191 INCREASE

RECAPITULATION Present Recommended Total Authorized Authorized Recommended Security Staff Security Staff Increase  
 -----Central Correctional Institution 255 308 53Maximum Security (CCI) 30 38 8Women's  
 Correctional Institution 66 91 25Wateree River Correctional Institution 51 79 28Dutchman Correctional Institution 83 103  
 20Perry Correctional Institution 224 281 57 ----- TOTAL RECOMMENDED 191 INCREASE

**SPECIFIC RECOMMENDATIONS**

**I. RECOMMENDATION**

\*50 Develop centralized system of roster management throughout the Department of Corrections.

*DISCUSSION:* Roster and security staff management is fragmented. Security staff are assigned to shifts and zones rather than a centralized position control system. This does not permit maximum utilization of positions nor is it cost effective. The consultant was advised that State Personnel Regulations do not permit shift-to-shift reassignments and as a result ineffective

staff management was apparent. For example, one shift or zone could have excessive staff available and yet another shift could have reduced or insufficient staffing.

**II. RECOMMENDATION**

Discontinue use of Control Centers in medium and minimum security housing units.

*DISCUSSION:* Housing Control Centers in regular units are an ineffective utilization of personnel. It defeats the healthy interaction of staff and inmates and only serves as a false sense of security for staff. Personnel cannot properly supervise or utilize their interpersonal skills in their day-to-day contact with inmates.

**III. RECOMMENDATION**

Roster assignments should accurately reflect preponderance of duties.

*DISCUSSION:* Many roster assignments do not reflect actual duties. Because of staff shortages, managers have established posts that do not reflect actual responsibilities. The consultant discussed this with each administrator at each critique.

**IV. RECOMMENDATION**

Increase supervisory relief positions.

*DISCUSSION:* Supervisory staff have traditionally been assigned on a five-day post basis. Full supervisory personnel positions are critical for relief. The consultant included this factor in establishing recommended complements.

**V. RECOMMENDATION**

Eliminate Ward Keepers' traditional role.

*Discussion:* The officials of the South Carolina Department of Corrections have already directed efforts in correcting this tradition. Inadequate staffing probably created this inmate status assignment, but it will soon be part of the history. Ward Keepers' roles in maintaining bed carts and mini-canteens are questionable roles. One inmate should never have authority or supervisory responsibility over another. These are clearly staff roles.

**VI. RECOMMENDATION**

Establish annual leave/vacation schedules.

*DISCUSSION:* Equal numbers of staff on vacation schedules are required for effective roster management. The relief factor can only be an effective management and cost effective instrument when organized schedules are maintained. Leave/vacation schedules must be organized over a 12 month period for proper utilization of staff.

**VII. RECOMMENDATION**

Conduct staffing analysis of other institutions in the system.

*DISCUSSION:* The current staffing levels at institutions covered in this report are inadequate. There were not sufficient positions to effectively carry out functions as outlined on security rosters. Some security posts were vacated or assignment inconsistently manned because of staffing levels. Reviews of all institutions by Mr. Joe Martin of the South Carolina Department of Corrections would further identify staffing requirements.

\*51 The Wardens and staff at all institutions were extremely cooperative and helpful. The time frame for conducting these staffing proposals was very limited and without the assistance of Mr. Martin and the administrators, the study would have been impossible.

The consultant believes the staffing levels recommended are consistent with other facilities around the country and will establish proper security coverage for operations and programs.

**V. Signatures**

The following parties certify that they have read the foregoing Consent Decree and that it is an accurate record of their agreement in this action:

/s/Steve Ney

American Civil Liberties Union

National Prison Project

1346 Connecticut Av., N.W.

Suite 1031

Washington, D.C. 20036

(202) 331-0500

/s/W. Gaston Fairey

Fairey & Parise

P.O. Box 1637

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/s/Christine A. Freeman

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(404) 688-1202, for plaintiffs.

/s/Larry Batson

General Counsel

South Carolina Department

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/s/Kenneth P. Woodington

Senior Ass't Attorney General

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((803) 758-8667, for defendants.

/s/Loretta Sanders, Prisoner

Women's Correctional Center

/s/Harry H. Plyler, Prisoner

Campbell Work Release Center

/s/Philip H. Therrien, Prisoner

Central Correctional Institution, counsel for plaintiffs.

/s/William D. Leeke, Commissioner

S.C. Department of Corrections

/s/Eugene N. Zeigler, Chairman

S.C. Board of Corrections

/s/Goetz B. Eaton, Vice Chairman

S.C. Board of Corrections, Counsel for defendants.

**Defendants**

**/s/Norman Kirkland, Secretary**

**S.C. Board of Corrections**

**/s/Charles C. Moore, Member**

**S.C. Board of Corrections**

**/s/Clarence E. Watkins, Member**

**S.C. Board of Corrections**

**/s/Betty M. Condon, Member**

**S.C. Board of Corrections**

**Plaintiffs**

**/s/Jasper Buchanan, Prisoner**

**Central Correctional Institution**

**/s/Ernie DuBeau, Prisoner**

**Walden Correctional Institution**

**/s/Michael A. Godwin, Prisoner**

**Kirkland Correctional Institution**

**/s/Lawrence Abdul Ali, Prisoner**

**Kirkland Correctional Institution**

**/s/Dennis Underwood, Prisoner**

**Kirkland Correctional Institution**

**/s/Suzanne Owens, Prisoner**

**Women's Correctional Center**

*/s/Charles V. Waters, Prisoner*

**Goodman Correctional Institution**

*/s/Murph Salter, Prisoner*

**Goodman Correctional Institution**

*/s/C. Patrick Leopold, Prisoner*

**Stevenson Correctional Institution**

*/s/Robert F. Diaz, Prisoner*

**Wateree River Correctional Institution**

*/s/Kevin H. Griffin, Prisoner*

**Wateree River Correctional Institution**

*/s/Billy Rice, Prisoner*

**Wateree River Correctional Institution**

*/s/Bobby D. Bolin,*

**Cross Anchor Correctional Institution**

*/s/Stewart R. Buchanan,*

**Dutchman Correctional Institution**

*/s/Billie Joe Foster,*

**Dutchman Correctional Institution**

**/s/Barry Chappelle,**

**Perry Correctional Institution**

**/s/Calvin R. Mattison,**

**Perry Correctional Institution**

**/s/Tyrone Cooper,**

**Perry Correctional Institution**

***APPENDIX 2***

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF SOUTH CAROLINA**

**COLUMBIA DIVISION**

**Harry Plyler, et al. (formerly) Gary Wayne Nelson, et al.), Plaintiffs,**

**vs.**

**William D. Leeke, Commissioner, South Carolina Department of Corrections,  
and Members of the South Carolina Board of Corrections, Defendants.**

**Civil Action No. 82-876-2**

***SUPPLEMENTAL AGREEMENT***

**\*52** NOW COME the parties to this lawsuit by and through their undersigned attorneys and present to this Court the following amendments and additions to the proposed Consent Decree signed by the parties on January 8, 1985.

1. At the end of Paragraph 3 in Section U on page 67 of the Consent Decree, add the following paragraph:



Should Alan Breed no longer be able to serve as mediator pursuant to provisions of this Decree, the parties will submit to the Court another mutually agreed upon mediator. If the parties are unable to agree upon a mediator, each party shall submit to the Court two (2) names with resumes for consideration of the Court for appointment of a mediator. The Court will exercise its independent judgment in naming any future mediator if the parties are unable to mutually agree.

2. In Section J, Page 8, amend the entire paragraph to read as follows:

Upon any motion for supplemental relief pertaining to this Decree, the Court may exercise its discretion to advance such motion before all others pending before it and give it such expeditious handling as it deems appropriate.

3. On Page 11 at the end of General Principles section, add the following:

V. In the event that either party submits to the Court a controversy concerning the enforcement, interpretation or implimentation of this Decree, the standard of review by the Court shall be the intent of the parties as set forth in this Decree, but if the intent of the parties cannot be determined by the Court from the Decree, the Court shall have the power and discretion to fashion such relief as disposes of all issues raised in such controversy in a manner consistent with the other provisions of the settlement.

Made this the 1st day of November, 1985, in Columbia, South Carolina.

/s/W. Gaston Fairey

Fairey & Parise, P.A.

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Columbia, South Carolina 29202

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Attorneys for the Plaintiffs.

/s/Kenneth P. Woodington

Senior Assistant Attorney General

Attorney General's Office for The State of South Carolina

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Larry C. Batson

Legal Advisor

Department of Corrections

Post office Box 21787

Columbia, South Carolina

29221-1787

Attorneys for the Defendants.

***APPENDIX 3***

**UNITED STATES DISTRICT COURT**

**DISTRICT OF SOUTH CAROLINA**

**UNITED STATES COURTHOUSE**

**COLUMBIA 29202**

**PHONE 803-765-5424**

**JUNE 6, 1985**

CHARLES W. GAMBRELL

UNITED STATES MAGISTRATE

The Honorable C. Weston Houck

United States District Judge

Post Office Box 2260

Florence, South Carolina 29503

**Re: *Nelson, et al., v. Leeke, et al.***

**Civil Action No. 82-876-2**

**[Class Action]**

\*53 Dear Judge Houck:

The time for filing comments on the proposed consent decree in the above prison conditions case expired on May 30, 1985. On that date, six prisoners had submitted comments of objections. One prisoner (Harry E. Lewis) missed the deadline, and his comments ("Complaint") were filed on June 3, 1985. The Clerk's office sent the file to me, and I have carefully reviewed all the material filed in response to the Notice you ordered posted and published by your Order filed on March 27, 1985.

Jasper Buchanan, an inmate at Kirkland, and Robert Gibson, an inmate at Goodman, each submitted two separate statements of objections. Other prisoners who have commented are Robert Williams (at Wateree), John Sims (at the Youth Center in Aiken), Patrick C. Lynn (at Enoree), and Franklin J. Loftis and Harry E. Lewis (both at Central). One of Buchanan's two filings is signed by sixty-one other Kirkland inmates, so if these additional signers intended to endorse Buchanan as their spokesman, you have sixty-eight prison inmates who have responded to the proposed consent decree. To the best of my knowledge, no member of the so-called general public has filed any comments.

I will attempt to outline for you the comments contained in the material received from these prisoners. Several matters discussed by them relate to purely personal alleged grievances, as you will see. With only one possible exception, I do not believe that any of the comments would justify calling any of these prisoners to any hearing you propose to have, but counsel for the class-plaintiffs and the defendants may disagree. [I am sending Messrs. Fairey, Woodington, and Batson copies of this letter, and asking Mr. Fairey to distribute the extra copies he will receive to all other attorneys representing the plaintiffs. Unless you direct otherwise, copies of this letter will not go to the prison inmates whose comments have been filed.] The possible exception is a matter of whether toxic materials are being used under unsafe conditions on job sites at two prison institutions. The proposed decree touches on work assignments, but it does not encompass any particular standards for work safety that might be enforced by federal or state agencies.

***Jasper Buchanan***

In his comments filed on April 11, 1985, Buchanan asks to be appointed as a representative of a class so he can personally appear and argue his opposition to the proposed decree. He protests general housing conditions at Central and at Kirkland, and he expresses his objection to his transfer from Central to Kirkland. Buchanan does raise one new matter. He states that "hazardous toxic material" is present at both institutions. He does not define the nature of such material, but he seems to be claiming he was transferred from Central to Kirkland because he blew the whistle about the presence of the hazardous material at Central.

In his comments filed on April 19, 1985, Buchanan fixes the locations of the allegedly hazardous material as the plants of the Prison Industries at both Central and Kirkland Institutions. He states that “difference kinds” [*sic*] of what he describes as “Hazardous toxic waste Liquid Material” are on the sites, and that the proposed decree should be addressed to this issue so it can be resolved.

\*54 Buchanan then generally criticizes conditions at Central, but his comments largely relate to matters the consent decree adequately addresses. Buchanan claims the disciplinary and classification procedures at the South Carolina Department of Corrections (SCDC) impede favorable parole releases, an impediment he equates with “double jeopardy.” He also argues that prisoners whose funds are placed in the trust fund account of SCDC should draw interest on their deposits, but there is no constitutional requirement for this to be done. He then contends that the SCDC grievance procedures whereunder complaints by inmates against correctional personnel are aired fail to produce meaningful results, and he is generally critical of the sanitation measures employed at the Central cafeteria.

#### ***Robert Williams***

Robert Williams, a Wateree inmate, contends that “programs” and the legal research facilities at Wateree are inadequate. He does not again refer to what “programs” he has in mind, but he suggests in a purported copy of a letter he sent to attorney Christine A. Freeman on April 1, 1985, that his friend, inmate Gerald Martin, would file about a matter he discussed with her other than access to a law library. [Martin has not filed any comments about the proposed decree.]

Williams, who was a prolific writwriter when he was earlier confined in a South Carolina prison, see, *e.g.*, *Williams v. Leeke*, 584 F.2d 1336 (4th Cir.1978), *cert. denied*, 442 U.S. 911 (1979), contends that he faces untried charges in Charleston County, and has a direct appeal of his forgery conviction pending before the South Carolina Supreme Court. He writes that he is “participating in said appeal per *Farretta v. California [sic]*, 422 U.S. 806 (1975),” but he does not know the docket number of his appeal. He claims a right under *Bounds v. Smith*, 430 U.S. 817 (1977), to be sent to a prison unit that has an adequate law library. Attached to his objections is a letter Williams received from attorney Larry C. Batson, dated April 4, 1985, in which Mr. Batson said the Warden at Wateree was being asked to arrange for Williams to be sent to either Central or Kirkland (which have law libraries) to complete his legal research. Williams contended that as of April 15, 1985, the transfer had not been effected.

#### ***Robert Gibson***

Robert Gibson, a Goodman inmate, has seemingly interpreted the Notice about the proposed consent decree as a license to voice his long pent-up resentment over the way Goodman is operated. He first submitted a statement containing a lengthy narrative of criticisms, which was filed on April 29, 1985. He followed this up with another (“Notice of Compromise Agreement”), filed on May 6, 1985, which contains various general criticisms of the proposed settlement agreement.

Gibson's objections can be said to bear upon discipline and security, housekeeping by inmates, recreation, food service, canteen operations, fire safety measures, job assignments for inmates, inmate mail, and the classification of inmates. His objections to the consent decree provisions are rather vague, and he states the United States Government should take over and operate SCDC.

\*55 Gibson is highly critical of correctional personnel for being too lenient in enforcing rules about noise, gambling, and housekeeping in the living areas at Goodman. He believes officials are too permissive in overlooking cooking utensils and food in living areas, blaring television sets and radios, “bootleg” canteens operated by unauthorized inmates, and inattentive correctional officers who allegedly spend their time on duty watches reading magazines and listening to radios and tape players.

This inmate believes he should be permitted to fish in the Broad River, and not be confined to fishing in a pond set aside for use by inmates. He also wants seating arrangements in the cafeteria revised to permit small numbers of inmates to dine in quieter and more intimate surroundings than the existing dining arrangements will permit. He contends that cafeteria workers steal food, and that inmates who are authorized by dietary requirements to receive canned beverages sell the beverages to others. He wants the clandestine thievery and illegal sales to be terminated by effective correctional action so the profits of the official SCDC canteen operations (which are earmarked for the inmates' welfare) will not be diminished because of the illegal competition.

Gibson also wants inmate mail to not be handled by inmates other than addressees of such mail. He urges that correctional officers should require strict compliance with safety rules governing the use of hobby materials in living areas. He implies that careless and inattentive officers allow the illegal consumption of alcohol and drugs by prisoners, and permit gambling to flourish, and he does not believe the proposed decree contains strong enough provisions for the enforcement of disciplinary rules against offenders who exploit correctional apathy and/or indifference. He expresses nonspecific and general opposition to proposed inmate population goals and correctional officer quotas, as well as the SCDC classification proposals, and he argues that favoritism is shown when prison job assignments are handed out to inmates. He does not relate the alleged favoritism to religion, race, or sex.

***John Sims***

The comments of this prisoner, filed on May 7, 1985, are not responsive at all to the Notice about the proposed consent decree. Therefore, the comments may be disregarded.

***Patrick C. Lynn***

This Enoree inmate complains only about a disciplinary proceeding in which he was allegedly deprived of an opportunity to be confronted by his "accuser." He contends that the schedule of disciplinary procedures set out in the SCDC publication distributed to inmates [The Inmate Guide] is unfair. Since the comments filed on May 22, 1985 do not respond properly to the Notice, Lynn's objections may also be disregarded.

***Franklin J. Loftis***

This Central Institution inmate protests existing over-crowding at CCI. He wants correctional officers stationed inside all living areas around the clock. He believes there should be required:

- \*56 (1) More complete health facilities;
- (2) More adequate dining facilities;
- (3) A quiet area where inmates can do legal research and typing;
- (4) Regular fire drills and more fire prevention measures;
- (5) Guards on duty at all times in all living areas;
- (6) Stronger disciplinary action against all troublemakers;

- (7) Better pest control measures;
- (8) Better plumbing facilities;
- (9) A larger soap allotment for showers;
- (10) Frequent unannounced shakedowns to look for foodstuffs stolen from cafeteria;
- (11) A closing of both the R & E Center (immediately) and CCI;
- (12) Oversight by United States Government of all measures provided for by the consent decree.

A close reading of this inmate's "Comment and Complaint," filed on May 29, 1985, will reveal that he is not satisfied generally with the proposed consent decree. However, his list of demands are addressed by the consent decree, for the most part, and to the extent that his list contains matters not contemplated by that decree, he wants changes that are not mandated by the Constitution under cases decided by the United States Supreme Court and the United States Court of Appeals for the Fourth Circuit. For these reasons, Loftis's comments would not justify his presence at any hearing set by the court.

#### ***Harry E. Lewis***

The "Complaint" of Lewis is the invited comment earlier mentioned that was filed out of time (on June 3, 1985, but not even dated until after the deadline expired). However, even if the prisoner had responded seasonably to the Notice, the response would not be persuasive as to the need for a hearing. Contrary to inmate Loftis, Lewis does *not* want officers locked inside closed wards. He also wants ward-keepers and authorized ward canteens to be retained. He dislikes the SCDC system of classifying inmates, and states that he does not want to be compelled to leave Central Institution against his own wishes. No liberty interest, however, would prevent orderly transfers under the proposed decree. Lewis also protests lockdowns at night, and he believes that inmates should be allowed a daily early evening period of free visitation with other inmates all over the CCI compound, but security considerations would obviously take precedence over this wish.

#### ***Comments of Magistrate***

Several matters mentioned by the commenting inmates are matters that are not subject to resolution in a class action, either by a consent decree or by an unsolicited fiat. These matters would remain possible subjects of individual cases prisoners can bring under 42 U.S.C. § 1983 to seek redress individually. Other matters which are so general and vague as to be largely meaningless should be ignored, for the Notice approved in your Order required greater specificity than the general objections employ.

Inmates Buchanan and Williams, both of whom have tried in the past to be "jailhouse lawyers," may have misconstrued judicial tolerance of writwriting in the past as a license for them to serve as lay advocates. No such license exists, as you know. Buchanan cannot represent others in this case. *Oxendine v. Williams*, 509 F.2d 1405, 1407 (4th Cir.1975). If the concern of Buchanan about allegedly toxic materials being used by the Prison Industries under unsafe conditions is a matter you feel this class action should embrace, the attorneys representing the plaintiffs-classes are wholly competent to explore that issue. See *United States v. Lucas*, No. 83-1540 (4th Cir., May 31, 1985), where the Court of Appeals stated [in a Sixth Amendment context], "The Constitution does not provide the right of representation by a lay person." If you have not seen the eight cases from six districts that were decided out in Texas in 1976 by Judge Garza that go into a right of lay representation in both criminal and civil cases, as affected by 28 U.S.C. § 1654, you may want to scan them. The cases are reported as *Turner v. American Bar Association*, 407 F.Supp.

**Plyler v. Leeke, Not Reported in F.Supp. (1986)**

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451, two of which were appealed and affirmed in *Taylor v. Montgomery*, 539 F.2d 715 (7th Cir.1976), and in *Pilla v. American Bar Association*, 542 F.2d 56 (8th Cir.1976). Judge Garza's discussion of the counsel question is at 407 F.Supp. 475–499.

\*57 Although Robert Williams does not make his status clear where he says he is “participating” in his direct appeal under *Faretta*, if he has appellate counsel, nothing in *Bounds v. Smith* mandates that he have access on demand to a law library. See *Williams v. Leeke*, cited earlier. If he has *waived* counsel, either for an appeal or on any untried charges, he has no right to demand access to a law library. See *United States v. Chatman*, 584 F.2d 1358, 1360 (4th Cir.1978). In any event, since the SCDC Legal Advisor has told Williams arrangements have been made for him to go to a prison that has an adequate law library, all Williams needs to do to assure compliance with the legal officer's request is contact him, and if an error has occurred in not transferring Williams, that error will be corrected forthwith.

If any recipients of copies of this letter feel that the foregoing comments are in error, I am suggesting that they write directly to you, with a copy of each such letter to me, so as to save time.

If I can add a parenthetical comment, since inmate Nelson has been transferred away from South Carolina, I believe the style of this case should be changed. You will notice a motion to this effect was filed on March 27, 1985, signed by Mr. Fairey and Mr. Batson. If you want a proposed Order to accomplish this, please let me know. In the meantime, I will await further instructions from you if you want me to do anything else on this case that might possibly assist you.

Respectfully,

/s/Charles W. Gambrell

United States Magistrate

CWG:jw

See next page for copies

cc:

John W. Williams, Esquire

Clerk, United States District Court

District of South Carolina

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*APPENDIX 4*

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF SOUTH CAROLINA**

**COLUMBIA DIVISION**

**Harry Plyler, et al. (formerly Gary Wayne Nelson, et al.), Plaintiffs,**

**vs.**

**William D. Leeke, Commissioner, South Carolina Department of Corrections,  
and Members of the South Carolina Board of Corrections, Defendants.**

**Civil Action No. 82-876-2**

***STIPULATIONS OF FACT***

NOW COME the parties in this case and present to this Honorable Court the following stipulations of fact as they relate to this lawsuit.

1. On May 5, 1982, a Complaint was filed in the District Court of South Carolina entitled Gary Wayne Nelson versus William D. Leeke, Commissioner, South Carolina Department of Corrections and Members of the South Carolina Board of Corrections. The Complaint alleged that the South Carolina Department of Corrections' institutions were overcrowded and that the conditions of incarceration violated the Eighth Amendment to the United States Constitution.



**\*58** 2. On June 23, 1982, the Defendants, through their attorneys, filed a Motion to Dismiss and a Motion to Make More Definite and Certain as to the Complaint filed by Mr. Nelson on May 5, 1982.

3. On August 4, 1982, the Plaintiff filed an amended Complaint alleging similar allegations as in the original Complaint by designating his lawsuit as a class action.

4. The Plaintiff requested the assistance of the American Civil Liberties Union of South Carolina who agreed to assist him in his class action and the ACLU of South Carolina asked Attorney W. Gaston Fairey to act as local counsel. Mr. Fairey was co-counsel with Stephen Ney of the National Prison Project of the ACLU of Washington, D.C., and Ms. Christine Freeman of the Southern Prisoners Defense Committee of Atlanta, Georgia. Ms. Freeman and Mr. Ney had been assisting the Plaintiffs for a period of time in preparation of the suit.

5. On October 28, 1982, a meeting was held between the parties to discuss the pending lawsuit.

6. On April 28, 1983, a second meeting was held between the parties at which time it was agreed that the parties would enter into settlement negotiations to determine if there was a possibility of reaching a compromise agreement in the lawsuit.

7. In May of 1983, the Budget and Control Board of South Carolina authorized the South Carolina Department of Corrections (hereinafter SCDC) and the State Attorney General's Office to enter into negotiations with the Plaintiffs to explore the possibility of settlement.

8. Subsequently, in May of 1983, the General Assembly of South Carolina passed a concurrent resolution authorizing SCDC and the South Carolina Attorney General's Office to engage in settlement negotiations with the Plaintiffs. (See Appendix A).

9. Between June of 1983 and February 10, 1984, there were eight (8) settlement negotiation meetings which resulted in an Agreement in Principle which was reached at a meeting on February 10, 1984.

10. Subsequently, SCDC and the Attorney General's Office presented the terms of the proposed Agreement in Principle to a session of the Budget and Control Board, the Speaker of the House and other key Legislators.

11. The Board passed a resolution recommending the South Carolina General Assembly approve the settlement in principle reached by the parties. A similar presentation was made to legislative staff members of various committees which would be involved in the implementation of any settlement.

12. As part of the 1984–1985 General Appropriations Act, the General Assembly concluded as follows:

a. A lawsuit, captioned *Nelson, et al. v. Leeke, et al.*, (Civil Action Number 82–876–2), is presently pending in the United States District Court for the District of South Carolina involving all institutions of the SCDC, and the parties have entered into extensive negotiations involving the settlement of this lawsuit. The General Assembly has, by concurrent Resolution H.3054 (May 12, 1983), approved negotiation of the settlement of this lawsuit and has expressed its intention to implement by legislation and appropriation a reasonably expeditious settlement of the issues. The parties have reached a proposed settlement of the lawsuit and the named Defendants are unable to affect the settlement without the support and authorization of the General Assembly.

**\*59** b. The General Assembly finds that the proposed consent agreement, agreed to in principle by the SCDC in February of 1984, is in the best interest of the State of South Carolina, and the named Defendants in the lawsuit are authorized to enter into the proposed consent agreement.

c. The General Assembly further finds that it is presently necessary to authorize a portion of the additional capital financing by providing funds through Part IV of this Act (supplemental appropriations from surplus). The funding will provide in part for the construction necessary to meet the most immediate future needs which will arise under the standards set forth in the proposed consent agreement. The General Assembly recognizes, however, that projected prison population growth, coupled with the mandatory nature of the consent agreement, will require that the General Assembly provide substantial additional funding in the near future or provide other remedies in the near future for escalating prison populations. (See Appendix B).

d. In the same Act, the General Assembly appropriated \$16 million for capital improvements and \$5,299,452.00 Dollars of additional operating expenses necessary to comply with the proposed settlement agreement.

13. In addition, the General Assembly enacted a Bond Bill (R574) in which the General Assembly reiterated its finding that the proposed settlement agreement was in the best interest of the State and authorized the issuance of \$44 million in capital improvement bonds to comply with the terms of the proposed settlement.

14. Between July of 1984 and January 6, 1985, there were approximately thirteen (13) meetings between the parties to refine the terms and to settle issues as to interpretation and specific provisions to be contained in the final agreement.

15. On January 8, 1985, at a meeting of the SCDC Board, the members of the Board signed the proposed Consent Decree. Subsequently, the parties to the lawsuit, through their attorneys, also signed the Decree, along with Commissioner William D. Leeke, and twenty-six (26) representatives of the Plaintiff class representing various institutions from around the State of South Carolina.

16. Pursuant to a motion of both parties, the Court, on February 7, 1985, issued an Order certifying the class pursuant to Rule 23 of the Federal Rules of Civil Procedure. In so ordering, the Court found that the class "shall be comprised of adult prisoners committed to the South Carolina Department of Corrections, those who are presently committed to the Department, or those who would be committed to the Department in the future."

17. On March 6, 1985, a hearing was held before the Honorable Charles W. Gambrell, United States Magistrate. This status hearing was to discuss the manner of notice to be provided to the Plaintiff class and to the public-at-large. Subsequent to this hearing, the Magistrate made a recommendation to the Court that the Consent Decree be presented to and reviewed by the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure.

\*60 18. On March 26, 1985, the Court signed an Order directing that the proposed settlement be posted in an appropriate manner and that notice be given to the public-at-large as to the proposed settlement agreement. Pursuant to this Order, notice was provided to all Plaintiff class members as provided by the Consent Decree and the Order of the Court of March 26, 1985, and public notice was made through *The State* newspaper for four (4) consecutive weeks commencing on March 30, 1985, and continuing until April 20, 1985. (See Appendix C). The comment period continued until May 30, 1985.

19. Attorneys for the Plaintiff class, subsequent to the notice of the proposed settlement, went to each of the institutions affected by the settlement and had announced open meetings for any Plaintiff who desired to attend and ask questions or make complaints about the proposed settlement. As the Plaintiffs' attorneys met with the individual Plaintiffs in the individual institutions, there would be meetings between the attorneys for the parties to discuss complaints and suggestions made by the Plaintiff members and various changes were made in the Decree or in the implementation of the Decree to deal with concerns of the individual Plaintiffs.

20. During the course of negotiations, the parties agreed to various studies to be conducted as to:

- a. Security staffing, and
- b. Delivery of medical services and mental health.

21. Additionally, the Plaintiffs' attorneys consulted with various experts to deal with problems pertaining to classification, sanitation, food services and general correctional management problems. The findings of these experts were, to some extent, relied upon by both parties.

22. Pursuant to the consent agreement, the Defendants have, to date, filed two (2) timely reports detailing their compliance with the terms of the Consent Decree. The Plaintiffs have, in addition, filed one (1) response to the first compliance report and there have been various meetings between the parties to discuss the report and issues raised during the initial compliance.

23. During the notice period, various objections were received by the Clerk of Court which were reviewed by Magistrate Gambrell. (See Magistrate Gambrell's report of June 6, 1985). Subsequent to the notification of the Plaintiffs' attorneys of the objections, each of the individual Plaintiffs was contacted by the Plaintiffs' attorneys and their objections were discussed.

This the \_\_\_\_ day of January, 1986, in Columbia, South Carolina.

/s/W. Gaston Fairey

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- 1 The Consent Decree submitted in February 1985 was modified in three particulars by a supplemental agreement signed on November 1, 1985. (See Appendix 2). Any reference in this order to the Consent Decree includes the supplemental agreement.
- 2 Defendant William D. Leeke signed the Consent Decree in his individual capacity and as a representative of the defendant SCDC of which he is commissioner. *See* S.C.Code Ann. §§ 24-1-100 and -130. All members of the Board of Corrections, except the governor, who is an *ex officio* member thereof, also signed the Consent Decree. Their signatures are representative of the Board itself and of the SCDC, which the Board governs. *See* S.C.Code Ann. §§ 24-1-40 and -130.
- 3 The Consent Decree is signed by twenty-one (21) members of the plaintiff class from eleven different institutions within the SCDC. These signatories include all ten plaintiffs named as representatives of the class in the amended style of the action filed on March 27, 1985. The court is informed by counsel for the plaintiffs that the other members of the plaintiff class who signed the Consent Decree are individuals selected by the inmates at the respective institutions to be their spokes-persons *vis-a-vis* the plaintiffs' attorneys. However, the SCDC has not recognized these spokespersons as having any specific authority.
- The signatures of the defendants and of the representative members of the class convince the court that there has been a meeting of the minds of the parties on the settlement agreement. The signatures of certain other members of the class, though they may be unofficial spokespersons for the inmates, are mere icing on the cake. It is the court's duty to protect the interests of the unnamed members of the class, *see* FED.R.CIV.P. 23(e), and the court believes it has done so in approving the settlement agreement.