

EXHIBIT "A"

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)
FITZPATRICK PERRY, <u>et al.</u> ,))
))
Plaintiffs,))
v.))
))
MICHAEL V. FAIR, <u>et al.</u> ,))
))
Defendants.))
_____)

DOCKETED

Civil Action
No. 89-00031-XX
Zobel, J.

CONSENT DECREE

Upon the full and informed consent of the plaintiffs, Fitzpatrick Perry, Guy H. Levia, Frank Ginese, James Lyons, and Joseph Sacco, individually and in their capacity as class representatives, and the defendants John M. Flynn (hereinafter "Sheriff Flynn"), individually and in his capacity as Sheriff of the Worcester County Jail and House of Correction ("Jail"), Paul X. Tivnan, Francis J. Holloway, and John R. Sharry (hereinafter "County Commissioners"), individually and in their capacity as Commissioners of the County of Worcester, in resolution of claims asserted herein by plaintiffs against Sheriff Flynn and the County Commissioners and without any finding of liability or other determination on the merits, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. PRELIMINARY STATEMENT AND IDENTIFICATION OF THE PARTIES

1. This is a civil action brought by five persons housed at the Worcester County Jail and House of Correction individually and as class representatives alleging that the conditions of their confinement in the Jail violate their rights, as well as the rights of all inmates confined therein as guaranteed to them by the Constitution of the United States and by the Constitution and by the general laws of the Commonwealth of Massachusetts.

2. The individual plaintiffs brought this action on behalf of three classes of persons:

- (1) the class of all present and future persons housed at the Worcester County Jail and House of Correction (hereinafter the "Worcester Jail Class");
- (2) the subclass of all persons who are now or may in the future be confined in the Worcester County Jail and House of Correction as pretrial detainees (hereinafter the "Pretrial Detainee Class"); and
- (3) the subclass of all persons who are now or may in the future be confined in the Worcester County Jail and House of Correction as sentenced inmates (hereinafter the "Sentenced Inmate Class").

By Order of this Court dated May 11, 1989, the plaintiffs were certified as representatives of these three classes.

3. The defendants are Michael V. Fair, Commissioner, Department of Correction of the Commonwealth of Massachusetts, Deborah Prothrow-Stith, Commissioner, Department of Public

Health of the Commonwealth of Massachusetts, Paul X. Tivnan, Francis J. Holloway and John R. Sharry, Commissioners of the County of Worcester in the Commonwealth of Massachusetts and John M. Flynn, Sheriff of the Jail.

4. As to defendants Flynn, Tivnan, Holloway and Sharry, this Court has original jurisdiction over Counts I - V of the Complaint pursuant to 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331 and 1343(a)(3). With respect to those same defendants, this Court has pendent jurisdiction over Counts VI - XIII of the Complaint.

5. Throughout this Decree, reference to "inmates" includes pretrial detainees, sentenced inmates, and other persons within the Court's Order dated May 11, 1989. Reference to "full-time" employees means employees who work forty (40) hours in a seven (7) day week.

II. BINDING NATURE OF DECREE.

1. This Decree is binding upon: (1) plaintiffs and the members of the plaintiff classes; (2) John M. Flynn, individually and as Sheriff of the Worcester County Jail and House of Correction, his agents, employees, successors in office and any person or persons acting in concert with him or with his agents, employees, and successors in office; (3) Paul X. Tivnan, individually and as a Commissioner of the County of Worcester in the Commonwealth of Massachusetts, his agents, employees, successors in office and any person or persons acting in concert with him or with his agents, employees, and successors in office;

(4) Francis J. Holloway, individually and as a Commissioner of the County of Worcester in the Commonwealth of Massachusetts, his agents, employees, successors in office and any person or persons acting in concert with him or with his agents, employees, and successors in office; and (5) John R. Sharry, individually and as a Commissioner of the County of Worcester in the Commonwealth of Massachusetts, his agents, employees, successors in office and any person or persons acting in concert with him or with his agents, employees, and successors in office.

2. The term "the Sheriff" as used herein shall refer to Sheriff Flynn and to his successors in office, agents and employees. The term "the County Commissioners" as used herein shall refer to defendants Tivnan, Holloway, and Sharry, and to their successors in office, agents and employees.

3. This Decree shall not be interpreted to prejudice or otherwise restrict plaintiffs' rights to prosecute their claims pending against the other defendants named in the Complaint and to seek and obtain the full legal and equitable remedies to which they are entitled against these or parties other than the Sheriff and the County Commissioners.

4. This Decree shall not be interpreted to restrict, supercede, or otherwise alter the constitutional, statutory or regulatory responsibilities of any of the defendants named in this action.

5. This Decree shall not be interpreted to prejudice or otherwise restrict plaintiffs' rights to seek additional relief from this Court against the Sheriff and County Commissioners to ease the severe overcrowding throughout the Jail and to alleviate conditions of confinement that violate constitutional, statutory or regulatory standards.

III. JAIL'S PHYSICAL PLANT

1. The rated capacity of the Jail is 478 inmates. Both pretrial detainees and sentenced inmates are housed at the Jail. The Jail's present physical plant includes the following discrete and identifiable groupings or blocks of cells:

a. The maximum security facility consists of 4 tiers of 26 cells designed for occupancy by one person. The rated capacity of this area is 104 inmates. There are two showers for each tier. Each cell is approximately 6 feet 3 inches wide and 9 feet long. There is one metal bed, 6'3" x 2'3", affixed to the wall, a sink and toilet, and a small shelf. Most cells also have a second mattress placed on the floor next to the bed. In cells containing a second mattress, there is approximately six (6) square feet of available floor space for each inmate.

b. The Herman Building consists of 4 tiers of 16 cells designed for occupancy by one person. The rated capacity of this area is 64 inmates. There are 2 showers for each

tier. Each cell is approximately 7 feet wide and 8 feet long with an additional 12 square feet by the cell door. There is one metal bed, 6'3" x 2'3", affixed to the wall, a sink and toilet, and a small shelf. Most cells also have a second mattress placed on the floor next to the bed. In cells containing a second mattress, there is approximately six (6) square feet of available floor space for each inmate.

c. The medium security facility consists of 2 tiers of 52 cells designed for occupancy by one person. The rated capacity of this area is 104 inmates. There are 2 showers for each tier. Each cell is approximately 6 feet 2 inches wide and 9 feet 6 inches long. There is one metal bed, 6'3" x 2'3", affixed to the wall, a sink and toilet, and three small shelves.

d. The Deignan Building consists of 4 tiers of 16 cells designed for occupancy by one person. The rated capacity of this area is 64 inmates. Each cell is approximately 7 feet 2 inches wide and 10 feet long. There is one metal bunkbed, 6'8" x 3', a sink and toilet, and a small shelf.

e. The facility known as Mini-5 consists of 18 cells each designed for occupancy by one person. The rated capacity of this area is 36 inmates. Each cell is

approximately 7 feet 2 inches wide and 8 feet 10 inches long. There is one metal bunkbed, 6'8" x 3', a desk 3' x 19", a sink and toilet, and a small shelf.

f. The minimum security facility consists of 27 rooms which house between 2 and 4 persons, and a large room on the third floor which houses 22 people. This facility was designed as quarters for nurses to the nearby hospital. The rated capacity of this area is 80 inmates. The rooms on the first and second floors vary in size between 7'10" x 15'10" to 21'6" x 36'.

g. The Work Release facility consists of 12 rooms designed for occupancy by 44 persons. The rated capacity of this area is 44 inmates. There are 10 showers. Each room is approximately 9 feet 8 inches wide and 24 feet 4 inches long and houses four to six inmates.

h. The County Lockup consists of 7 cells designed for occupancy by one person. The rated capacity of this area is 7 inmates. There are no showers for these cells. Inmates housed in the County Lockup take showers in the Infirmary or Gym. Each cell is approximately 6 feet 3 inches wide and 9 feet long. There is one metal bed, 6'3" x 2'3", affixed to the wall, a sink and toilet, and a small shelf. At times, these cells have had a second mattress placed on the floor next to the bed. In cells

containing a second mattress, there is approximately six (6) square feet of available floor space for each inmate.

2. The Sheriff is hereby enjoined after March 20, 1990 from confining any person in a cell that does not contain a rigidly constructed bed frame or platform raised above the floor for each occupant, a clean, comfortable fire-retardent mattress, a mattress cover or pad, a pillow, a small table and seat, a shelf for the storage of personal belongings, adequate lighting from a 75 watt bulb, a mirror, and a few sturdy hooks for towels and clothing.

3. The Sheriff is hereby enjoined as of the date of this Decree from failing to provide a cot each night to every individual housed at the Jail who has not been provided with a rigidly constructed bed frame or platform raised above the floor.

4. The Sheriff is hereby enjoined from failing or refusing to repair all broken window latches in the Jail by October 31, 1989 so that the windows will close properly.

IV. CONSTRUCTION OF MODULAR UNITS.

1. On July 26, 1988, the Massachusetts Legislature authorized funds for the purchase and construction of certain modular facilities to be placed next to the existing Jail. (See Chapter 208 of 1988). The modular facilities will provide cells

to house an additional 150 county inmates and 150 state inmates. According to Division of Capital Planning and Operations projections, the construction of the modular units which was to be completed by December 27, 1989 is now to be completed for occupation by March 20, 1990. Therefore, the references to a compliance date of March 20, 1990 throughout this Decree is made contingent on the timely construction and occupation of the modular facilities.

2. The Sheriff expressly acknowledges that there is no certainty that the modular facilities will be ready for occupancy on March 20, 1990 and that for any one of a number of reasons such occupancy may be delayed. However, the plaintiffs and the Sheriff have agreed to this Consent Decree with the express understanding that any change in the date of the occupation of the modular units and further delay in obtaining the relief sought by the plaintiffs, even by a single day, may severely damage them. Therefore, the plaintiffs shall be entitled to seek further relief when construction of the modular facilities is behind schedule as determined by Part IV.3.

3. The plaintiffs and the Sheriff have agreed that the construction of the modular units shall be behind schedule if any of the construction deadlines reflected on the July 10, 1989 Construction Schedules for Type I and II cells are not met.

V. JAIL POPULATION.

The Sheriff is hereby enjoined:

1. From failing or refusing to reduce the number of persons confined as pretrial detainees and sentenced inmates in the existing facilities of the Jail as of the date of this Decree in accordance with the following schedule of population caps:

<u>Effective Date</u>	<u>Pretrial Detainees</u>	<u>Sentenced Inmates</u>
Thirty Days after the Date of this Decree	188	471
October 1, 1989	188	453
December 1, 1989	188	440
March 20, 1990	188	290

2. From holding or confining more than 478 total prisoners in the existing facilities of the Jail as of the date of this Decree and from holding or confining in any area of the Jail more inmates than that area's rated capacity at any time after March 20, 1990.

3. From holding or confining more than one inmate in any cell of the existing facilities of the Jail as of the date of this Decree at any time after March 20, 1990. This provision shall not apply to the minimum security facility described in Part III.1.f or to the Work Release facility described in Part III.1.g. In these two areas of the Jail, the Sheriff may confine no more than the rated capacity for each cell or room.

4. From holding or confining at any time after the date of this Decree any inmate in any areas of the existing facilities of the Jail as of the date of this Decree other than those set forth in Part III.1(a)-(h).

VI. ENFORCEMENT OF POPULATION CAPS

Pretrial Detainees

1. If at any time following the imposition of one of the population caps referenced in Part V, the number of pretrial detainees housed at the Jail exceeds the existing cap, Sheriff Flynn shall sufficiently reduce the number of pretrial detainees in his custody to maintain the cap. Under such circumstances, Sheriff Flynn shall be prohibited from accepting into his custody on each day beginning the day after any of the population caps becomes effective no more than one (1) pretrial detainee for every two (2) pretrial detainees who on the previous court day have either been released, transferred from Sheriff Flynn's custody or sentenced to the Jail.

2. After the pretrial detainee population at the Jail has been reduced to within the population cap, the pretrial detainee population shall be maintained at or below the existing cap. If necessary, in order to maintain the population within the cap, Sheriff Flynn shall be prohibited from receiving into his custody anymore than one (1) pretrial detainee for every one (1) pretrial detainee who on the previous court day has been released, transferred from Sheriff Flynn's custody, sentenced to

the Jail, or otherwise no longer housed at the Jail. Such prohibition shall be effective only where necessary to maintain the pretrial detainee population at or below the relevant population cap.

Sentenced Inmates

3. If at 7:00 a.m. on any weekday the number of sentenced inmates housed at the Jail exceeds the then existing cap, the Sheriff shall, by 7:00 p.m. that evening, release those sentenced inmates who have served at least fifty (50%) percent of a sentence ordered to be served by a Trial or Superior Court of the Commonwealth in order of those closest to the completion of their sentences.

4. If the actions taken pursuant to Paragraph 4 above will not reduce the sentenced inmate population to within the cap, the Sheriff shall, by 7:00 p.m. that evening, release those sentenced inmates who have served at least thirty-three (33%) percent of a sentence ordered to be served by a Trial or Superior Court of the Commonwealth in order of those closest to the completion of their sentences.

5. Notwithstanding Paragraphs 4 and 5 above, offenders sentenced to the Jail for violations of Mass. Gen. L. ch. 265, §§ 13F and 13B (indecent assault and battery), 15A, 15B, 18-18B (armed assault), or 22-24B (rape); or Mass. Gen. L. ch. 272, §§ 35 or 35A (unnatural and lascivious acts) -- including persons sentenced for attempting to commit these statutory offenses

-- or for trafficking in a Class A or Class B substance shall not be eligible for release under this Decree.

VII. COUNTY LOCKUP CELLS.

1. The Sheriff is hereby enjoined as of March 20, 1990 from using the County Lockup cells for any purpose other than: (1) as a temporary holding facility for persons newly admitted to the Jail; or (2) as disciplinary cells to house inmates after they have been sanctioned by a disciplinary board. The Sheriff may also use the County Lockup cells for purposes of administrative segregation not to exceed thirty (30) days unless the Court orders the County Lockup cells not to be used for such purposes.

2. The Sheriff is hereby enjoined as of March 20, 1990 from confining any persons in any of the County Lockup cells unless: (1) each cell is provided with artificial illumination of at least 100 foot candles at desk level; (2) an automatic fire alarm system is in continuous working condition; (3) each cell is visually inspected by a correctional officer once an hour between 6:00 p.m. and 6:00 a.m. and each inspection is recorded in writing; and (4) the plumbing system for the cells will be properly maintained such that waste is not caused to be backed up into the cells or the area immediately adjacent to those cells.

3. With respect to their use as temporary holding cells, the Sheriff is permitted to confine persons in the County

Lockup cells only until they can be properly classified to appropriate housing units. In no case shall persons be housed in the County Lockup cells for more than twenty-four (24) hours or to the next business day, whichever is later.

4. With respect to their use as disciplinary cells, the Sheriff is permitted to confine persons in the County Lockup cells only in compliance with 103 C.M.R. 943.00.

VIII. CONFINEMENT OF PRETRIAL DETAINEES.

The Sheriff is hereby enjoined:

1. From failing or refusing to classify each pretrial detainee individually upon his admission to the Jail. The Sheriff shall within thirty (30) days from the date of this Decree draft a modified objective point-based classification system for pretrial detainees. Under this classification system, a pretrial detainee shall not be presumed to be a maximum security risk. A detainee may be classified as maximum security risks only if there exist certain specific objective criteria to justify such classification. The classification system shall take into consideration the detainee's age, educational background, employment background, outstanding warrants, history of institutional violence, escape history, prior felony convictions, prior disciplinary reports, and a criterion for the Sheriff's subjective determination. Such subjective determination shall be given no greater weight than that assigned to any other single criterion. The classification system shall contain provisions for a periodic review and appeal.

2. From failing or refusing to provide each pretrial inmate with a complete physical examination upon his admission to the Jail in accordance with 105 C.M.R. 205.100 through 205.499.

3. From holding or confining after March 20, 1990 any inmate who is a pretrial detainee in any cell or in any unsubdivided tier of cells with an inmate who is not a pretrial detainee.

4. From failing or refusing after March 20, 1990 to allow pretrial detainees who are not individually classified as maximum security risks to have contact visits.

5. From failing or refusing to provide the pretrial detainees housed in the Jail with adequate social services. In order adequately to provide such services, the Sheriff shall employ, at a minimum, three (3) full-time social workers for the pretrial detainees, each with a Bachelor of Science degree in social work, effective as of the date of this Decree, or no later than December 1, 1989. At least one of these social workers shall be fluent in written and spoken Spanish. To procure the services of a social worker fluent in written and spoken Spanish, the Sheriff shall, at a minimum, list the position with certain agencies and placement services to be identified by the plaintiffs. The listing shall fully describe the salary and benefits, the educational requirements, the job responsibilities, and the requirement that the applicant be fluent in

written and spoken Spanish and such listing shall be maintained for at least three months.

IX. ADMISSION.

The Sheriff is hereby enjoined:

1. From stripping, searching, or medically examining inmates upon admission to the Jail except in privacy with those corrections personnel whose presence is essential for security reasons.

2. Refusing or failing to rewrite and update the information handbook provided to all persons upon admission into the Jail. The Sheriff shall within thirty (30) days from the date of this Decree draft a proposed information handbook. The handbook shall include relevant information in English and Spanish on the following subjects: (a) admission of new inmates to the facility; (b) rules and regulations of the facility; (c) issuance of clothing and personal hygiene items; (d) assignment to housing units; (e) booking and sentence computations; (f) maintenance of inmate records; (g) classification procedures; (h) social services; (i) telephone calls; (j) consultation with attorneys; (k) legal services; (l) furlough program; (m) medical and dental services, including sick-call; (n) exercise and recreation programs; (o) transfers to other facilities; (p) work, education and training release programs; (q) visiting procedures; (r) mail procedures; (s) computation of good time credits; (t) procedures for

searching cells occupied by inmates; (u) disciplinary procedures; (v) grievance procedures; and (w) fire, emergency and evacuation plans. The Sheriff shall provide a copy of the handbook to every inmate presently housed within the Jail and to each person upon admission to the Jail.

X. ACCESS TO THE COURTS.

The Sheriff is hereby enjoined:

1. From failing to provide the persons housed in the Jail with adequate access to legal materials. In order adequately to provide such access, the Sheriff shall, at a minimum, employ, effective as of the date of this Decree, or no later than December 1, 1989: two (2) full-time permanent Attorneys who have been admitted to practice law in Massachusetts, and one (1) full-time paralegal who has successfully completed a four-year college course or has successfully completed a paralegal program in order to assist pretrial detainees and sentenced inmates in their requests for legal aid. The paralegal and at least one of these attorneys shall be fluent in written and spoken Spanish. To procure the services of an attorney and a paralegal fluent in written and spoken Spanish, the Sheriff shall, at a minimum, list the positions with certain agencies and placement services identified by the plaintiffs. The listing shall fully describe the salary and benefits, the educational requirements, the job responsibilities, and the requirement that the applicant be fluent in written and spoken

Spanish and such listings shall be maintained for at least three months.

2. From failing or refusing to provide the persons housed in the Jail with adequate library services. In order adequately to provide such services, the Sheriff shall employ, effective as of the date of this Decree, or no later than March 20, 1990, one (1) full-time permanent Librarian.

3. From failing or refusing to permit the plaintiffs from maintaining law library satellites in one or more Day Rooms adjacent to those cells housing pretrial detainees or sentenced inmates. The law library satellites shall contain legal materials selected and maintained by the plaintiffs.

XI. MEDICAL CARE AND TREATMENT.

The Sheriff is hereby enjoined:

1. From failing to provide the persons housed in the Jail with adequate medical care. In order adequately to provide such care, the Sheriff shall, at a minimum, employ, effective as of the date of this Decree, or no later than September 1, 1989: six (6) full-time Registered Nurses, and one full-time (1) medical clerk. The Registered Nurses and medical clerk shall be submitted as permanent positions in the budget of the Sheriff's fiscal year 1991 budget. The Sheriff shall utilize those individuals so as to provide sixteen (16) hour daily staffing of the Jail by at least two (2) Registered Nurses during the week and by at least one (1) Registered Nurse during the weekend and on

holidays. The Registered Nurses and medical clerk referenced above shall be responsible only for the medical care of persons housed in the Jail facilities currently existing.

2. From failing to provide the persons housed in the Jail with adequate dental care. In order adequately to provide such care, the Sheriff shall in good faith seek to employ, effective as of the date of this Decree, the services of one or more dentists for at least thirty hours each week. In any event, such dental care shall be provided no later than December 1, 1989. This dentist shall be responsible only for the dental care of persons housed in the Jail facilities currently existing.

3. From failing or refusing to enter a contract within ninety (90) days from the date of this Decree with a third-party provider for the provision of an intensive drug treatment program. The intensive program shall be made available, on an ongoing basis, to a minimum of 30-50 sentenced inmates and 15-25 pretrial detainees. The ratio of counselors provided by the third-party provider to participants in the intensive program shall be no less than 1:16. The third-party provider shall have the initial discretion to determine which sentenced inmates and pretrial detainees will be permitted to participate in the intensive program. The Sheriff shall retain the right to deny participation to an inmate for if in his opinion such participation compromises institutional security or places in danger or

jeopardy the well-being of the participant or other inmates. In any instance where the Sheriff has denied participation, he shall specify his reasons for doing so in writing to the third-party provider who shall inform the inmate. A copy of said writing shall be placed in the inmate's file. Otherwise, inmate access to the intensive program shall not be dependent on the classification or housing status of the sentenced inmate or pretrial detainee, and shall be entirely on a voluntary basis. Each person admitted into the intensive program shall participate for a minimum of thirty (30) days to a maximum of ninety (90) days at the discretion of the third-party provider. The intensive program shall provide to each person participating, at a minimum, one (1) hour per week of individual counselling, five (5) hours per week of group counselling, and AIDS counselling. Participation in the intensive program shall entitle sentenced inmates to receive good time credits pursuant to Mass. Gen. L. ch. 127, § 129D. Participation in the intensive program shall not prejudice in any way the inmate's entitlement to participate in other educational, vocational or work programs. Finally, the Sheriff is enjoined from contracting with any third-party provider that does not maintain a network of community based components in the Worcester County area including an outpatient program and a residential program.

4. From failing or refusing to maintain the intensive drug treatment program required by Part XI.3 for at least two

(2) years from the date such services are first provided. At the end of that period, such services may be provided by the Sheriff directly. However, if the Plaintiffs can demonstrate that the Sheriff is not able to adequately provide such services, they shall continue to be provided by a third-party provider.

XII. VISITATION RIGHTS

The Sheriff is hereby enjoined:

1. From failing or refusing to allow after March 20, 1990 any sentenced inmate or pretrial detainee who has not been individually classified as a maximum security risk or in disciplinary lock-up to have contact visitations while being housed in the Jail. The Sheriff shall provide for each such person at least three visiting periods per week, with at least one period on a weekday evening, and at least one period on the weekend. The Sheriff shall not be required to provide each inmate with a visitation period on a weekday evening until after March 20, 1990. The visiting periods shall be at least two hours in length. Individual visits shall be at least one hour's duration as long as the visit can be completed in the visiting period.

2. From causing any sentenced inmate or pretrial detainee to undergo a strip search or body cavity search following a non-contact visit where no reasonable suspicion particular to that person exists to justify a such a search. Where such suspicion exists, it shall be recorded in writing by the officer

within twenty-four (24) hours after his or her observation. A copy of the report shall be permanently maintained by the Sheriff in the file of the sentenced inmate or pretrial detainee. Failure to record such suspicion as set forth above shall constitute a conclusive presumption of the lack of such suspicion.

XIII. PROGRAMS, ACTIVITIES AND INMATE JOBS.

1. The Sheriff is hereby enjoined from the date of this Decree from failing or refusing to provide all sentenced inmates, except those confined in disciplinary isolation, with equal access to organized programs and activities outside of their cells or their tiers or Day Rooms for at least twenty five (25) hours each week. "Organized programs and activities" as used in this provision includes inmate jobs, duties or employment, counselling, drug therapy, and educational and vocational training programs.

2. The satisfactory performance or participation in an approved (1) employment program; (2) educational or vocational training program; or (3) other activity, entitles a sentenced inmate to deductions from his sentence. A sentenced inmate is entitled to a deduction from his sentence of no more than two and one-half (2 1/2) days a month for participation in one or more programs or activities in each of the three categories of activities referred to above. Any one inmate may receive deductions of no more than seven and one-half (7 1/2) days each month

for such participation. Where an approved program or activity is not available to a sentenced inmate who would otherwise qualify for such program or activity, the Sheriff is hereby enjoined from the date of this Decree from failing or refusing to credit each such sentenced inmate with two and one-half (2 1/2) days good time credits each month for each such program as though the inmate had participated in the program or activity. An inmate shall be entitled to receive good time credits under this provision only if there is no program or activity available to him in one of the three categories described above. Where, in his discretion, the Sheriff has awarded less than two and one-half (2 1/2) days good time credits to every inmate actually participating in a program, the non-participating inmates shall be awarded the greatest amount of good time credit actually awarded to any inmate that month.

XIV. FOOD SERVICES.

The Sheriff is hereby enjoined:

1. From failing or refusing to provide persons housed in the Jail a balanced, nutritionally adequate diet which shall include daily portions of meat or other protein, milk products, vegetables, fruits, and bread, cereal or other starches.

XV. LAUNDRY.

The Sheriff is hereby enjoined:

1. From failing or refusing to provide inmates with two clean sheets, a clean pillowcase, two towels, and a washcloth each week.

2. From failing or refusing to launder each mattress cover at least every three months.

XVI. SUBMISSION OF PLAN.

1. Defendant shall file detailed Compliance Reports at two-month intervals during the first 12 months after the date of this Decree, and every six months thereafter for the next two years. Where a provision of this Decree requires fulfillment of its mandate by a date certain, defendant shall, within five (5) days after that date certain, file a statement with this Court certifying compliance.

2. Where no specific dates are set forth in this Decree, compliance by defendant shall be thirty (30) days from the date of entry of this Decree.

3. Corrections staff, inmate programs, and the expenses for the day to day care and custody of inmates as of the date of this Decree, and except where supplemented or added to by any provision of this Decree, shall be maintained at the least at the levels existing as of the date of this Decree.

4. If at any time, the Court finds that the Sheriff has not carried out the terms of this Decree or has not made a good

faith effort to comply with this Decree, the Court may grant such relief as it deems appropriate in the circumstances; provided, however, that the Court shall not find the Sheriff in contempt unless it determines that his failure to comply with this Decree has been willful and contumacious.

5. The Sheriff is not presently aware of any reason why any of the terms of this Decree cannot be satisfied within the time limits described herein.

XVII. ATTORNEY'S FEES.

This Decree provides substantial benefits to the plaintiffs and the plaintiff classes and an award by this Court of reasonable attorneys fees and expenses is warranted by 42 U.S.C. § 1988. The Sheriff shall pay to Choate, Hall & Stewart for services rendered in their representation of the plaintiffs and of the plaintiff classes reasonable attorney's fees and expenses in an amount to be determined by the Court.

XVIII. NOTICE TO CLASS AND CONTINUING JURISDICTION.

1. This Decree shall become effective on the date of entry upon conditional approval of this Court. By September 8, 1989, Sheriff Flynn shall provide notice to the classes by permanently posting one copy of this Decree in each of the following locations: each of the Day Rooms, the contact and noncontact visiting rooms, in the receiving area in the Jail's library or school, and in the Jail's infirmary. A copy of this

Decree shall be provided to every corrections officer employed by the Jail. Notice to the classes not presently incarcerated in the Jail shall be made by publishing such notice in the Worcester Telegram & Gazette and the Fitchburg Sentinel on September 1, 1989 and September 8, 1989.

2. Members of the plaintiff classes shall have the right to submit written comments and/or objections to this Court by September 29, 1989. Written comments and/or objections should be addressed to

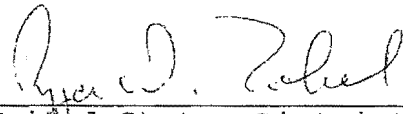
Douglas W. Salvesen, Esq.
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, Massachusetts 02109

After consideration of such comments, the Court shall, if warranted and after a hearing to be held October 6, 1989, enter final approval of the Decree.

3. This Court specifically retains jurisdiction over this matter to insure compliance and to issue additional orders as may be required in the interests of justice.

IT IS SO ORDERED.

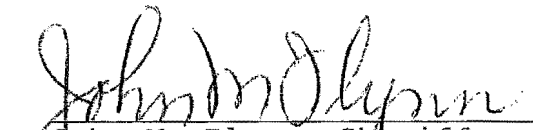
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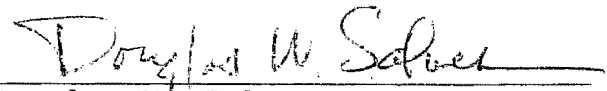

United States District Judge
10/6/89

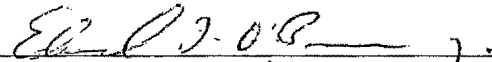
The undersigned agree to the entry of this Decree.

For Defendant Flynn:

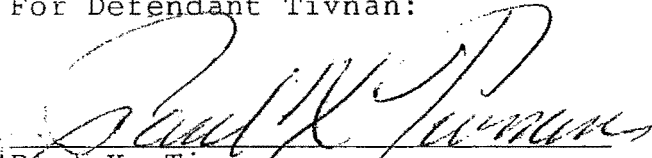
For Plaintiffs,
FITZPATRICK PERRY, GUY H. LEVIA,
FRANK GINESE, JAMES LYONS, and
JOSEPH SACCO, Individually and on
Behalf of the Classes They
Represent:


John M. Flynn, Sheriff
Worcester County Jail
and House of Correction
Date: August 29, 1989


Douglas W. Salvesen
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53 State Street
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Date: August 29, 1989

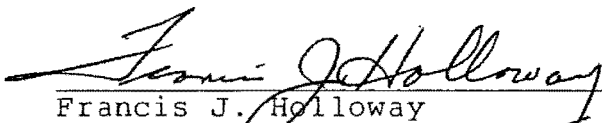

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For Defendant Tivnan:



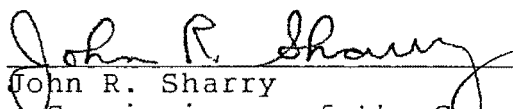
Paul X. Tivnan,
Commissioner of the County of
Worcester in the Commonwealth
of Massachusetts
Date: August 29, 1989

For Defendant Holloway:



Francis J. Holloway
Commissioner of the County of
Worcester in the Commonwealth
of Massachusetts
Date: August 29, 1989

For Defendant Sharry:



John R. Sharry
Commissioner of the County of
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