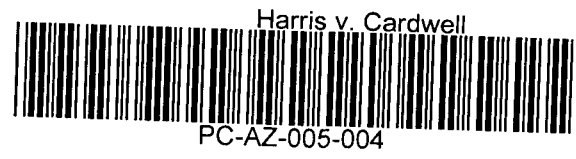


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UNITED STATES DISTRICT COURT
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

MUNI FRED HARRIS, et al.,)	
)	
Plaintiffs,)	NO. CIV 75-185 PHX CAM
)	
vs.)	
)	
HAROLD J. CARDWELL, et al.,)	
)	
Defendants,)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Amicus Curiae.)	

This matter having come on for hearing on April 24, 1979, regarding issues in the area of prison inmate population and delivery of medical care at the Arizona State Prison, and the Court having fully considered all the evidence, argument and memoranda presented by the parties, the Court finds and concludes as follows:

I. PRISON POPULATION

A. Findings of Fact

1. As this Court has previously found, overcrowding at the Arizona State Prison violates the plaintiffs' constitutional rights under the eighth amendment. (See Order of September 2, 1977).

2. Overcrowding at the Arizona State Prison has resulted in a number of maximum security inmates being double celled or placed in dormitory housing.

2 3. Double celling and placement of maximum security
3 inmates in dormitory housing creates dangers for inmates and
4 prison employees alike, and increases the possibility of in-
5 mates being assaulted, raped, physically harmed and even killed.

6 4. On May 3, 1978, 177 double cells and three maxi-
7 mum security dormitories were still in existence at Arizona
8 State Prison.

9 5. Defendants have agreed to eliminate double cell-
10 ing, first setting a goal of February 1, 1979, later seeking
11 and obtaining court approval to modify that goal to August 31,
12 1979.

13 B. Conclusions of Law

14 Courts may act to correct violations of the Constitu-
15 tion that exist in prison institutions, including being empow-
16 ered to tailor relief to eliminate individual violations.

17 II. MEDICAL CARE

18 A. Findings of Fact

19 1. On May 18, 1978, Plaintiffs filed a motion for
20 preliminary injunction alleging denial of medical services.

21 2. A partial settlement on the delivery of health and
22 medical care was reached by the parties on June 22, 1978.

23 3. Through good faith efforts by the State, a number
24 of improvements have been effected at Arizona State Prison
25 during the period of June 1978 through April 1979. Among the
26 most significant are:

27 a. the Defendants' recognition that medical care
28 is paramount over security;

29 b. the hiring of Dr. Ian Loudon as Deputy Direct-
30 or for Health Services for the Department of Corrections;

31 c. contracting with Pinal County Hospital for the
32 treatment of emergency cases;

d. the development of a unit does system;

2 e. addition of a registered nurse in the
3 infirmary.

4 4. Despite the improvements, there still exists a
5 number of deficiencies in the delivery of medical care at the
6 Arizona State Prison. These deficiencies are:

- 7 a. inadequate medical charting;
- 8 b. lack of quality control;
- 9 c. some poor prescription practices in dispensing
10 medicines;
- 11 d. improper eye care;
- 12 e. deficiencies in physician protocol and stand-
13 ing orders;
- 14 f. some evidence of a lack of quality physician
15 care.

16 5. The deficiencies in the delivery of medical ser-
17 vices resulted in a total lack of continuity in the care and
18 treatment of inmates. This lack of continuity constitutes an
19 extreme danger to the health and safety of the inmates and, on
20 some occasions, has resulted in inmates receiving inadequate
21 treatment.

22 6. The State of Arizona, acting in good faith, has
23 submitted a plan which, with one exception, if successfully
24 and timely implemented, would solve the medical care delivery
25 problems at the Arizona State Prison.

26 7. The one deficiency not fully addressed by defen-
27 dants' plan is quality physician care. At present, inmates are
28 not always receiving quality physician care. This lack of
29 quality care, unless corrected by more adequate supervision
30 and controls, poses a clear and present danger to the inmate's
31 overall health and, in some instances, his life which could
32 result in a violation of defendants' eighth amendment rights.

B. Conclusions of Law

2 1. Denial of proper medical care violates a state
3 prisoner's eighth amendment rights.

4 2. The normal reluctance, grounded in considerations
5 of judicial restraint, to interfere in the day-to-day adminis-
6 tration of a state prison cannot be applied in litigation
7 challenging medical conditions.

8 IT IS ORDERED that

9 A. the population limits previously set by this Court
10 should remain in effect;

11 B. all double celling shall be eliminated at such time
12 as cell block No. 6 comes on line and, in any event, not later
13 than September 30, 1979. If it appears that the State will not
14 be able to meet this deadline, the Court shall be notified
15 and be given the reasons in writing on or before September 21,
16 1979;

17 C. all dormitories housing maximum security prisoners
18 shall be eliminated at such time as cell block No. 5 comes on
19 line and, in any event, not later than November 30, 1979. If
20 it appears that the State cannot meet this deadline or there
21 are reasons for exceptions, the Court shall be notified in
22 writing not later than November 23, 1979;

23 D. at such time as cell block No. 6 becomes operational,
24 the population limits at the prison shall be increased by the
25 single cell capacity of cell block No. 6 less the number of
26 double cells provided for in the current population limits;

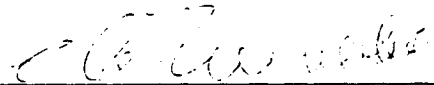
27 E. at such time as cell block No. 5 becomes operational,
28 the population limits at the prison shall be increased by the
29 single cell capacity of cell block No. 5 less the number of
30 dormitory spaces, within the historical prison site, provided
31 for in the current population limits.
32

F. notice is given that a hearing will be held on September 21, 1979, at 9:30 a.m. in Courtroom 2, United States Court-
house, Phoenix, Arizona, to determine the extent of defendants' compliance with the above order. The State shall submit to counsel for Plaintiffs, Amicus Curiae, and the Court, on or before September 7, 1979, a memorandum setting forth the extent of any non-compliance with this order, if any, whether projected or otherwise. This time may also be used to take up any other matters for which the Court's participation is necessary. Counsel are urged, however, to resolve their differences out of court if at all possible.

G. the defendants will continue to reduce the population of the Arizona State Prison while providing needed programs at the prison as set forth in Defendants' detailed plan attached hereto as Exhibit A, except as noted above;

H. the defendants continue to improve the delivery of health services at the Arizona State Prison as set forth in Defendants' plan attached hereto as Exhibit B.

DATED AT PHOENIX this 23 day of May 1979.


C. A. MUECKE
United States District Judge

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