

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

INMATES OF OCCOQUAN, et al., :

Plaintiffs. :

v. :

Civil Action No. 86-2128
(JLG)

MARION S. BARRY, JR., et al., :

Defendants. :

FILED

NOV 20 1997

CONSENT ORDER

NANCY MAYER-WHITTINGTON, CLERK
U.S. DISTRICT COURT

Upon consideration of the Plaintiffs' Motion for the Appointment of a Receiver and Imposition of Fines Regarding Personal Safety, Defendants' Opposition thereto, the findings of the Special Officer in her September 29, 1997 Report on Defendants' Compliance with the Orders Related to Personal Safety ("Report"), which have been adopted by this Court, the exhibits appended thereto, which are hereby admitted into evidence, the agreement of the parties, and the record in this case, the Court finds that the relief set forth herein is narrowly drawn, extends no further than necessary and is the least intrusive means to correct the violations of federal rights established in the Special Officer's Report. The relief will not adversely impact public safety or the operation of the criminal justice system.

The Orders of this Court in this case are, therefore, modified and/or amended as follows:

I. Interim Management Assistance

The Special Officer in consultation with her security expert, shall assemble a team of experts to assist defendants in

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PC-DC-003-017

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implementing the following Court Orders: Section D.1 of the Agreed Plan for Implementation (approved December 21, 1989); Section I of the Second Supplemental Agreed Plan and Consent Order (December 15, 1995); and Section II.B.4 of the Environmental Health and Fire Safety Consent Order (July 22, 1996). This team of experts will work for and report, through the Special Officer, to the Court.

This team of Court experts will be responsible for providing guidance, oversight, training and assistance to defendants and their staff, including but not limited to the interim management team at Occoquan (Warden, Deputy Wardens and the Major), and will help the defendants develop and implement reform initiatives in the areas of security, workforce utilization, classification and safety, maintenance and sanitation. Defendants, including the interim management team, shall cooperate fully with the Court's experts. At any time, the expert team may report, through the Special Officer, problems with the interim management team to the Director of the D.C. Department of Corrections who will in good faith work with the Special Officer to address any problems. Problems which can not be addressed will be brought to the Court's attention by the Special Officer.

Defendants shall bear the costs for these experts and for the services and goods purchased by the experts. The Court's experts shall be provided unrestricted access to all records of the Department of Corrections as necessary to perform their duties, as well as access to all areas of the Occoquan Facility. They shall also be provided with appropriate office space, equipment and

support services.

Within thirty (30) days, the experts shall provide the Special Officer and the parties with an outline of their plans, goals, timetables for achieving these goals and their anticipated on-site work schedules. They shall report to the Special Officer and the parties on a monthly basis concerning their progress and will, no later than March 16, 1998, submit to the Special Officer and the parties a report summarizing the status of their efforts to assist defendants in implementing the above-referenced orders, including their evaluation of the performance of defendants' interim management team. After consideration of this report and any other relevant factors, the parties shall, no later than April 3, 1998, submit to the Court a proposed order which addresses the following 1) whether this expert assistance should continue and 2) other issues raised in the Special Officer's Report which are not addressed herein. Any disagreements concerning this proposed order shall be resolved by the Court.

II. New Adjustment Unit

Defendants shall open the new adjustment unit on or before December 1, 1997. Before opening this unit, the Special Officer and her security expert must review and approve the proposed staffing and post orders for this unit. This unit will be used to house inmates on administrative or disciplinary segregation. In an emergency circumstance in which a protective custody inmate(s) is housed in this unit, he will be separated from segregation inmates and shall remain in the unit no more than 72 hours.

If defendants intend to utilize the old adjustment unit after the new adjustment unit is opened, they will notify plaintiffs and the Special Officer of the intended use.

III. Population

A principal aspect of the interim relief agreed to by the parties is a new population ceiling for the Occoquan Facility that is set forth in the "Population Consent Order", simultaneously filed herewith. Pursuant to 18 U.S.C. § 3626(a)(3), this ceiling must be approved by a three judge court. In the event the population ceiling is not approved by the three judge court, the parties shall evaluate and advise the Court whether the relief set forth herein should be modified and/or supplemented.

Upon entry of an order establishing a population ceiling of 1,400 inmates, defendants shall, until March 31, 1998, maintain no more than 85 beds in each of the following dorms - 1, 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 14 and 15. Dorm 11 shall maintain no more than 100 beds; dorm 5 shall maintain no more than 58 beds; dorms 16, 17 and 18 shall maintain no more than 50 beds per dorm.

Two hundred (200) additional beds shall be removed from the facility on or before March 31, 1998, when the population ceiling is reduced to 1,200 inmates. On or before that date, defendants shall, in consultation with the expert team, reduce the maximum number of beds in the above-referenced dormitories to comply with the population ceiling of 1,200 inmates.

IV. Classification

By March 16, 1998, defendants shall classify all inmates at

the Occoquan Facility, following appropriate classification standards and, to the maximum extent possible, only house at Occoquan inmates who are appropriately classified for that facility. Defendants shall immediately implement a stratification program so as to ensure that all inmates at Occoquan are housed, to the maximum extent possible, according to their custody status.

V. Miscellaneous Provisions

a. The above-referenced provisions are intended to amend and/or modify the Orders referenced in the first paragraph of section I of this Consent Order. To the extent this Consent Order is inconsistent with those orders, this Consent Order shall govern. In all other respects, except as specifically provided otherwise herein, the orders referenced in the first paragraph herein shall remain in effect.


b. The \$300,000 previously deposited by defendants into the Court registry (as required by §III.2 of the Court's order of December 15, 1995 and § III.1 of the Court's order of July 22, 1996) is hereby forfeited due to the defendants' failure to achieve compliance. These funds shall be utilized to improve the conditions for the inmates of Occoquan, as ordered by the Court upon recommendation of the Special Officer.

c. This interim relief is entered without prejudice to Plaintiffs' Motion for Appointment of a Receiver and Imposition of Fines Regarding Personal Safety and plaintiffs' accompanying motion for an order to show cause. The Court hereby defers ruling on these motions until the expert team has had an opportunity to assist the

defendants in remedying the violations documented in the Special Officer's Report or the population ceiling described in §III above has been denied by a three judge court. In the event that the defendants achieve compliance with the Court's orders and the population ceiling is approved and complied with for a reasonable period of time, the plaintiffs will formally withdraw these motions.

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

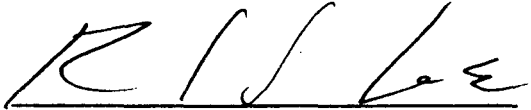
e. Defendants shall pay plaintiffs' counsel their reasonable attorneys' fees and expenses for the filing and prosecution of their motion for appointment of a receiver and imposition of fines and for the monitoring of compliance with the orders of this Court.


UNITED STATES DISTRICT JUDGE

Nov. 20, 1997
Date

Consented to by:

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