

- Consent Decrees

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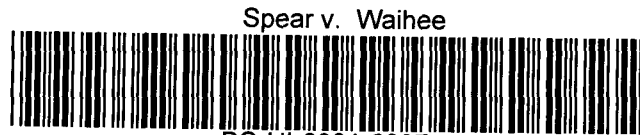
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U.S. DISTRICT COURT
DISTRICT OF HAWAII

MAY 21 1987
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

AGNES SPEAR, et al.,)	CIVIL NO. 84-1104
)	(In Re: Spear Litigation -
Plaintiffs,)	All Cases)
)	
v.)	
)	
JOHN WAIHEE, et al.,)	
)	
Defendants.)	

SUPPLEMENTAL AGREEMENT

The parties hereby agree to the following amendments and additions to the Consent Decree, entered on June 12, 1985 and finally approved by the Court on October 4, 1985 (hereinafter "Consent Decree"), and to the expert panel plans required by the Consent Decree, approved by the Court and accordingly

incorporated by reference into the Consent Decree on February 25, 1986. All provisions of the aforementioned Consent Decree and of the expert plans remain fully applicable and binding upon the parties. This agreement in no way relieves the parties of or increases further their obligations thereunder except insofar as is specified in those provisions set forth below. Some of the provisions set forth below modify and accordingly supersede the corresponding provisions in the Consent Decree and plans but only to the limited extent as set forth herein.

All provisions below apply to both facilities which are the subject matter of this action, the Oahu Community Correctional Center (OCCC), and the Women's Community Correctional Center (WCCC), unless otherwise specified herein. The following terms used herein, "Medical Plan", "Environmental and Food Plan", and "Corrections Plan" refer respectively to the Medical and Mental Health Panel Plan, the Environmental Health and Safety and Food Service Plan, and the Corrections Panel Plan, all approved by the Court on February 25, 1986. The term "Cellblock" refers to the old cellblock at OCCC as known as Block A.

I. Medical and Mental Health Care

(Any paragraph citations below refer to the Medical Plan)

A. The following personnel (or full-time equivalents) shall be hired and provide services by no later than the following dates:

1. March 1, 1987 -

- a. Medical director [¶A.1(c)];
- b. a total of 40 hours per week of coverage by dentist(s) at OCCC [¶A.2(f)];

- c. a dental hygienist at OCCC [¶A.2(b)];
 - d. one accredited records librarian/technician and one records clerk [¶I];
 - e. a total of 100 hours per week of clinical PhD psychologist services [¶A.3(b) as revised per medical panel];
2. March 15, 1987 - a total of 60 hours per week of psychiatrist services [¶A.3(a) as revised per medical panel].

B.. The following requirements per the Medical Plan shall be met by the following dates:

- 1. January 15, 1987 -
 - a. provision of pharmacy service per ¶E;
 - b. emergency plan development and implementation per ¶B - except for the requirement that all personnel with routine inmate contact (except for clerical staff) shall receive requisite first-aid and CPR training, to be accomplished by May 1, 1987;
- 2. Conversion of the medical records per ¶I shall begin by no later than February 1, 1987 and be fully completed by no later than June 1, 1987;
- 3. The renovation of the dental unit with requisite equipment per ¶A.2(e) shall be completed by no later than March 15, 1987;
- 4. A full set of medical and mental health care policies, procedures, and protocols per ¶D shall be developed and fully implemented by no later than April 1, 1987;

5. Effective immediately, all incoming inmates shall receive the requisite admission screenings and health appraisals per ¶¶ (F) and (G). By no later than March 15, 1987, all inmates confined to OCCC and WCCC shall have received their requisite admission screenings and health appraisals;

6. Effective immediately, unit managers shall insure that inmate medical requests from each unit are retrieved and delivered to the medical unit twice daily (including weekends and holidays) until an adequate sick call procedure is fully in place. Residential unit staff shall not screen medical requests. Only medical unit personnel may screen medical requests.

C. Effective immediately, mental health staff shall make daily rounds in any and all segregation units of the two facilities and shall notify immediately the clinical PhD psychologist or a psychiatrist of problems noted. At least once per week a PhD clinical psychologist or a psychiatrist shall make such rounds.

D. Effective immediately, no mentally ill inmate may be housed in the Holding Unit at OCCC unless such inmate has been found guilty of a misconduct. Effective immediately, no potentially suicidal inmate may be housed in the Holding Unit at OCCC. In the event of the need for a temporary suicide observation or watch, inmates at OCCC may be housed only in an appropriate and safe module room. Any inmate at OCCC or WCCC placed on suicide watch, or who has made a suicide gesture or attempt, shall be evaluated within 24 hours by a clinical PhD psychologist or a psychiatrist. During the period such inmate is

confined to suicide watch, he/she shall not be denied clothing and shall be continuously observed by staff until appropriately hospitalized or taken off of the watch, whichever is required.

E. The following amendments to ¶J(1) shall be made: By no later than April 15, 1987, no mentally ill or disturbed inmate, including those who fall within the definition under the Medical Plan for placement in Corridor B may be housed in the OCCC Cellblock (Block A). Rather, all such persons shall be housed in the module areas in appropriate settings. An adequate number of beds shall be made available in the modules for the housing of all such mentally ill or disturbed inmates.

F. Effective December 15, 1987, all mentally ill or disturbed inmates shall be housed only one inmate per cell, unless, upon screening by a clinical PhD psychologist or a psychiatrist, the inmate is certified to be free of any propensity for violence and has a mental condition which will not be exacerbated by double-celling.

G. Until such time as all mentally ill inmates currently being confined in Corridor B have been reassigned outside of the OCCC Cellblock (as required under ¶E above), all conditions required under ¶J of the Medical Plan shall be strictly complied with in terms of Corridor B housing.

H. Defendants agree to request and to make maximum efforts, employing utmost diligence, to obtain sufficient funding from the 1987 legislature such that by no later than October 1, 1987 each OCCC inmate requiring sex offender treatment as a

condition of parole will receive such treatment within one year of his tentative parole date.

I. Defendants agree to request and to make maximum efforts, employing utmost diligence, to obtain sufficient funding of the 1988 legislature to provide needed mental health facilities for adequately housing and treating mentally ill male and female offenders.

II. Fire Safety

(Any paragraph citations below refer to the Environmental and Food Service Plan)

A. The following fire safety measures [amendments and additions to ¶I.(G)] shall be taken, effective immediately, unless otherwise noted:

1. daily checks of the locking mechanisms on each and every exit in the living units (and recording of same);

2. quarterly checks of all fire extinguishers as to operating condition (with pressure testing of all extinguishers to be completed by June 1, 1987);

3. monthly checks of electronically supervised alarms and weekly checks of battery operated alarms (with quarterly performance tests for same). Checks will be logged;

4. posting of fire evacuation plans in every living unit with training for officers in evacuation procedures;

5. unannounced dry run fire drills performed monthly in each housing unit (and at least quarterly as to each

shift in the unit) with full drills (moving inmates) performed on a random basis each year in each unit;

6. sufficient smoke alarms installed in each living unit, by no later than January 15, 1987.

B. The second exit in the OCCC Holding Unit shall be constructed and available for use by no later than May 1, 1987.

C. The defendants' consent decree coordinator or his designee(s) shall monitor by making random checks every two months in each living unit (and logging same) to ensure that only fire retardant mattresses are being utilized, effective immediately.

D. By no later than February 1, 1987, an initial comprehensive and thorough evaluation of OCCC and WCCC by the Honolulu Fire Department or other qualified and certified inspector, accompanied by a written specific report, shall be made. Periodic inspections (frequency of which to be set by the Environmental panel by no later than February 1, 1987) shall thereafter be conducted by the Fire Department or other qualified and certified inspector and accompanying written reports prepared and submitted to the defendants' and to plaintiffs' counsel.

III. Food Service, Maintenance and Sanitation

(Any paragraph citations below refer to the Environmental and Food Service Plan)

A. Personnel

1. By no later than January 20, 1987, one air conditioner mechanic (or full-time equivalent) shall be hired and

provide services at OCCC, and all food services positions, with the exception of the dietician, shall be filled.

2. By no later than February 15, 1987 one sanitarian [per ¶I(E)] and one dietician [per ¶II A(1)] shall be hired and provide services at OCCC (and at WCCC, where required).

3. By March 1, 1987, the services of two additional janitors for OCCC and one building maintenance worker at WCCC shall be provided.

4. Defendants shall request and make maximum efforts, employing utmost diligence, to obtain funding from the 1987 legislature for the following additional positions: For OCCC, two janitors, two laundry workers, one groundskeeper, and one storekeeper; and for WCCC, three cooks, one building maintenance worker, one laundry worker, and one groundskeeper. In the event such positions are approved, defendants agree to expedite the filling of the positions by no later than October 1, 1987. Temporary and emergency personnel will be recruited to do the work if any delays result pending the civil service process.

B. Semi-annual complete Department of Health inspections of all satellite food areas at OCCC and WCCC with written reports and follow-up inspections and corrective action reports, as well as quarterly kitchen inspections with reports and follow-up inspections and reports, shall be provided henceforth.

C. Random satellite food inspections by the OCCC sanitarian or compliance inspector shall be conducted in the Cellblock two times per week, and in each module, the Holding

Unit, and annex building three times per month (with written reports accompanying each inspection), effective immediately.

D. Uniform daily check lists for each living unit for purposes of monitoring of housekeeping, food, and fire and safety provisions shall be completed and implemented in each unit, effective immediately.

E. One hour safety checks per ¶I H(2) of the Environmental Plan shall be strictly performed and logged, effective immediately.

F. Effective immediately, all inmates confined to Corridor C in OCCC will be provided meals in the Cellblock dining area. All non-disciplinary status inmates in the Holding Unit shall be provided meals in the dayroom area outside of their cells, effective immediately.

G. All plumbing fixtures in the Cellblock and all air conditioning units in the modules shall be checked daily. Any item in a state of disrepair shall be fixed within 24 hours or sooner except in extraordinary cases that will be documented and reported to the parties.

IV. Corrections

(Any paragraph citations below refer to the Corrections Plan)

A. The following personnel (or full-time equivalents) shall be hired and provide services by no later than the following dates:

1. January 15, 1987 - one grievance officer for OCCC [¶VII C(2)]; and

2. February 15, 1987 - one training officer at OCCC [¶I B(2)].

B. A training plan per ¶I A(2) shall be developed by February 1, 1987 and fully implemented by May 1, 1987.

C. A classification plan shall be developed and full implementation of a classification system for felons begun by no later than April 15, 1987 per ¶III. A. All such inmates shall be so classified by no later than December 31, 1987. A classification plan for pretrial inmates (the jail population) per ¶III A shall be developed by April 1, 1987 and implemented by no later than May 1, 1987, and all pretrial inmates shall be classified by July 15, 1987.

D. In order to ensure consistent, orderly, and safe operations in the Holding Unit at OCCC, one staff person (a captain, lieutenant, or unit manager) shall be assigned full responsibility (performing tasks comparable to a unit manager) for the operation of the unit, including responsibility for all shifts. The assigned person will take all appropriate action to ensure the protection of inmates.

E. An activity plan shall be developed by defendants and its implementation begun, to meet all specific requirements of ¶IV (A), by no later than April 1, 1987. The plan shall be incorporated by reference into the Consent Decree, upon approval by the Corrections panel. The defendants shall utilize the assistance of outside expert consultants in order to devise a meaningful effective plan.

F. The opportunity for full-time meaningful structured activity (defined as seven hours per day per inmate in structured work programs, correctional industries, school or recreation) for sentenced felons in the general population shall be provided by the following dates and to the following extent, at a minimum:

1. February 1, 1987 - 70% of said population;
2. June 1, 1987 - 80% of said population;
3. December 31, 1987 - 90% of said population;

Recreational activity may account for no more than two hours per day per inmate.

G. By January 15, 1987, each pretrial inmate staying over 45 days and sentenced misdemeanants in the general population as well as inmates in protective custody shall have the opportunity to receive two hours of structured meaningful activity per day per inmate (as defined and restricted in I. below).

H. By April 15, 1987, each pretrial inmate staying over 45 days or sentenced misdemeanants in the general population as well as inmates in protective custody shall have the opportunity to receive three hours of structured meaningful activity per day per inmate (as defined and restricted in I. below).

I. By June 15, 1987, 95% of pretrial inmates staying over 45 days and sentenced misdemeanants in the general population as well as inmates in protective custody shall have the opportunity to receive five hours per day per inmate of structured meaningful activity (including structured work programs, correctional industries, school, recreation, and

structured meaningful programming, and library, but excluding visitation, medical visits, and court). Library may account for no more than one hour per day per inmate and recreation for no more than two hours per day.

J. Effective immediately, inmates will not be restricted from applying for any activities and programs, including work or school, as a result of past misconducts. In the event an inmate loses his particular program slot because of major infraction, he may immediately reapply or apply for another slot and shall be considered for same.

K. All general population sentenced felons in OCCC (whether in the modules, the Cellblock, the Annex or Block B) shall be granted the same access to programs, work and school.

L. Defendants shall make maximum efforts, employing utmost diligence, to accomplish the following by February 1, 1987: To expand all facility worklines for sentenced felons; to create school programs in double shifts for all inmates; to create additional facility worklines to provide maintenance, sanitation and repairs (especially in the Cellblock) for jail inmates; and to expand therapy and volunteer programs, especially for Cellblock inmates, including evening activities. By February 1, 1987, defendants shall, at a minimum, maintain and operate all worklines at full strength, shall add 21 additional spaces for inmates on the Food Service workline, and shall double-shift the school program.

M. Effective immediately, non-disciplinary inmates in the Holding Unit shall be provided one extra hour of recreation

per day, in addition to the services of the recreational library. The opportunity to participate in educational programs and other structured meaningful programs in their unit, outside of their cells, for at least two hours per day shall be provided by no later than March 1, 1987.

V. DU/ISO at WCCC

A. The Detention Unit (DU) at WCCC shall be completely renovated and fully approved by the corrections panel for safe use by February 15, 1987. All physical features shall be designed to provide safe and adequate housing. No more than four inmates, one inmate per cell, may be confined in the DU. The outside wooden door of the unit shall be removed prior to use DU for housing of any kind. The Detention Unit may not be used for housing until completely renovated and approved by the panel for safe use.

B. By no later than April 1, 1987, the area known as "ISO" at WCCC shall be fully renovated and shall fully meet the approval of the environmental and corrections panels to include a permanent toilet and sink in each cell.

C. By no later than the date of the signing of this agreement by the parties, safe and appropriate locking mechanisms on each cell door in ISO shall be installed and the outside solid door removed and replaced with an open gate door to allow for sight and sound requirements.

D. In no event shall the population in ISO exceed three inmates, one per cell. Until ISO is fully renovated, as

described above in ¶B and ¶C, no inmate shall be locked in an ISO cell.

E. A detailed plan for the intended use of both the renovated ISO unit and the DU shall be submitted to and approved by the Corrections Panel and incorporated herein by reference, by no later than January 15, 1987.

F. Security checks shall be made and recorded by an officer at least every one-half hour in the DU/ISO unit, effective immediately.

VI. Population

(All paragraph citations below refer to the Corrections Plan unless otherwise specified)

OCCC

A. Per the requirements of ¶V A(2), a written short term population reduction plan for OCCC and WCCC with goals and specific timetables (covering the period February 1987 until December 1987) shall be developed and implemented by February 1, 1987. A written longer term systemic population reduction and management plan for OCCC and WCCC, including an array of alternatives to incarceration (covering the period June 1987 until January 1990), shall be developed and implementation begun per the requirements of ¶V A(2), by July 1, 1987.

B. A specific comprehensive plan for the demolition of the OCCC Cellblock, incorporating plans for its interim use and for its replacement (if any) shall be fully developed and implemented by no later than February 1, 1987. Defendants shall request and make maximum efforts, employing utmost diligence, to

obtain from the 1987 legislature the funding for new construction in lieu of the Cellblock.

C. 1. By no later than April 15, 1987, the newly constructed building in the OCCC annex shall house only inmates who are assigned to and participating in full-time (at least seven hours per day) community service, furlough programs, or a limited number (14) of full-time worklines. Per the Corrections Panel, the capacity shall be 114 but only so long as the unit is used for housing, as described herein.

2. Defendants shall make maximum efforts, employing utmost diligence, to reach and maintain the full capacity of 114 by no later than April 15, 1987. Accordingly, defendants shall immediately initiate a case by case review of all sentenced felons to determine their eligibility for community service or furlough status. By February 1, 1987, custody classification criteria used to determine eligibility for community service and furlough status shall be reviewed and if necessary modified by Corrections Panel experts Pat McManus and Jerry Enimoto to assure that the criteria does not unreasonably limit as extensive a use of community service as possible in keeping with public safety and sound correctional practices. Defendants shall report to the Corrections Panel experts on February 15, March 15, and April 1, 1987 as to the number of inmates who have been screened and are eligible to be housed in the newly constructed building in the Annex by April 15, 1987.

D. By no later than January 15, 1987:

1. There shall be no fewer than 47 inmates participating in furlough programs at any given time at OCCC.

2. All inmates in the annex complex shall be assigned to and participating in community service, furlough programs, or full-time worklines (full-time worklines not to exceed 34 as of April 15, 1987).

3. All spaces in the community residential programs for OCCC and WCCC inmates shall be utilized.

E. As an interim population capacity, until ¶II B(1) of the Consent Decree is met, by no later than April 15, 1987, the population of the OCCC Cellblock (excluding Corridor C) shall not exceed 420. Corridor C may be used for disciplinary segregation not to exceed a capacity of 15.

F. On an interim basis, between April 15, 1987 and December 15, 1987, at which time ¶II C(3)(d) of the Consent Decree shall be met, maximum efforts employing utmost diligence shall be made to minimize housing more than two inmates per room in the module areas. Accordingly, maximum efforts employing utmost diligence shall be made to house no more than two inmates in any single module room unless all of the following conditions are met:

1. use of corner module rooms only;
2. use of only those modules where all inmates either participate in facility worklines or school for at least 7 hours per day;

3. use of only modules which have adequate and properly functioning ventilation and air temperature control meeting requisite standards.

WCCC

G. Except for medical reasons or exceptional circumstances, all out custody and minimum custody sentenced felons at WCCC shall be assigned to and participate full-time in community services program or out-of-building full-time worklines, by no later than March 1, 1987.

H. All pretrial inmates with minimum custody status shall be afforded the same recreation opportunities as sentenced out custody inmates, effective immediately.

I. Effective immediately, all WCCC inmates will be permitted eight hours out-of-dorm activities, including free time.

VII. Monitoring

Reports shall be submitted to the experts and the plaintiffs' counsel quarterly beginning February 15, 1987 concerning the precise state of compliance or non-compliance as to each of the provisions of the Consent Decree, the plans and this stipulation. Specific documentation shall be maintained with respect to all provisions herein and in the Consent Decree and the expert plans, and shall be made available to plaintiffs' counsel upon request. Defendants shall also report to the plaintiffs' counsel once per month beginning January 15, 1987 as to their progress in reaching compliance with the provisions of this supplemental stipulation, supplying specific facts upon which their reports are based.

DATED:

January 14, 1987

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APPROVED AND SO ORDERED:

James W. Whinn
Judge of the above-entitled Court

Spear, et al., v. Waihee, et al.
Civil No. 84-1104