

1987 WL 13585

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United States District Court, N.D. Illinois, Eastern  
Division.

WILLIE WILLIAMS, etc., Plaintiffs,  
v.  
MICHAEL LANE, et al., Defendants.

No. 81 C 355. | July 7, 1987.

## Opinion

### MEMORANDUM ORDER

SHADUR, District Judge.

\*1 This Court conducted an extended trial in this action January 28 through February 10, 1986 (the 'Trial'). Following the Trial (but after a considerable delay occasioned by the need to obtain the final Trial transcript) the parties tendered their respective versions of proposed findings of fact ('Findings') and conclusions of law ('Conclusions'). After full consideration, in accordance with Fed. R. Civ. P. ('Rule') 52(a) this Court entered its Findings and Conclusions October 21, 1986 (in the 'Opinion,' 646 F.Supp. 1379).

Further delays were then occasioned by the parties' requests (primarily on the part of defendants) for extended time periods to enable them to submit proposed forms of an order conforming to the Findings and Conclusions in general and addressing in particular the subject referred to in Conclusion 15. This Court has now considered those submissions, and it issues this order instead of the final order it had contemplated.

This Court has continuously sought to be mindful of the respective roles to be played by state officials and federal courts in cases of this nature. Like most federal courts, it does not relish the role of interfering with the administration of systems (prisons, county jails, schools, police departments and what have you) that under a system of federalism are traditionally committed to more locally-based units of government (states, counties, school boards, cities and what have you). Only when those units of government have deliberately and consistently flouted the Constitution does such federal-court interference become unavoidable.

Just such a pattern of conduct on defendants' part was reflected in nearly every facet of the Findings and

Conclusions. Nevertheless, to minimize further conflict between the state's traditional role and this Court's constitutional responsibility, it gave the Illinois Department of Corrections ('Department') much more than ample time to develop and submit a form of order that would meet defendants' constitutional obligations. But instead of complying with this Court's most recent order requiring defendants to provide a draft final order for plaintiffs' counsel to review and then to make the predicate for their own proposal,<sup>1</sup> Department's counsel tendered a self-characterized 'preliminary draft,' 'skeletal in nature,' containing some 'proposals' for Stateville Correctional Center ('Stateville')—and even that inadequate tender (Exhibit 1 to this order) was hedged by a caveat that 'the submission of this proposal does not constitute an admission on the part of defendants that these options are administratively or operationally possible or feasible.' That submission on defendants' behalf could not, under any view, have been understood by them in good faith as conforming to what this Court had ordered them to do.

Frustrated by such noncompliance on defendants' part, plaintiffs' counsel (who have consistently done massive and yeoman work in this case in the face of such continued irresponsibility by defendants and their counsel) were left with no choice but to prepare and tender a proposed final order of their own fashioning, drawing on guidelines for protective custody facilities published by the American Correctional Association. Plaintiffs' counsel said (in their June 8, 1987 forwarding letter at page 2 n.1) that defendants' counsel had declined several invitations from plaintiffs' counsel to discuss issues relating to such a final order.

\*2 Now defendants have filed a purported 'Defendants' Response to the Plaintiffs' Proposed Final Order.' Essentially defendants (1) have criticized the draft prepared by plaintiffs' counsel (ignoring the obvious fact that the draft had to be prepared in the dark because of defendants' own violation of this Court's order that they do the drafting job first) and (2) have explained various options they have considered and rejected, indicating that no way is really available for them to perform their constitutional duties.<sup>2</sup> Basically they are delivering the message 'you can't get there from here.' That is precisely the kind of response with which federal courts were met when they first told government officials responsible for southern school systems that racial discrimination had to be eliminated 'root and branch.'<sup>3</sup>

That kind of stonewalling is not acceptable. Defendants are ordered:

1. to show cause on or before July 16, 1987, by a further written filing, why they should not be held in contempt of court for having failed to comply with the timetables and requirements established by the prior orders of this Court and

2. to be personally present in court July 21, 1987 at 10 a.m., together with their counsel (including Department's in-house legal counsel), to confer with plaintiffs' counsel and this Court as to the proposed means for implementing the Opinion in the most expeditious manner possible.

**EXHIBIT 1**

**ILLINOIS DEPARTMENT OF CORRECTIONS**

**MICHAEL P. LANE, Director**

**4-200 State of Illinois Center**

**100 West Randolph Street**

**Chicago, Illinois 60601**

**Telephone (312) 917-3017**

**May 21, 1987**

Mr. Jack Rovner  
Kirkland & Ellis  
200 East Randolph Dr.  
Suite 5800  
Chicago, Illinois 60601  
Re: Williams v. Lane  
No. 81 C 0355

Dear Mr. Rovner:

Enclosed is the preliminary draft of the defendants' proposals for compliance with the Court's order of October 21, 1986. We stress that this is a preliminary draft of the proposals for Stateville which we plan to submit to the Court on June 8, 1987.

Inasmuch as we believe that if the Court's decision is not reversed by the Seventh Circuit the decision will have systemwide impact, we are also preparing similar proposals for the Menard Correctional Center, Pontiac Correctional Center and Joliet Correctional Center, which we will submit to the Court on June 8, 1987.

The enclosed plan is a draft and may be amended prior to June 8, 1987. Likewise, we will advise the Court on June 8, 1987, that the proposals submitted are skeletal in nature and to submit a more detailed plan would require the expenditure of State funds and substantially more staff time. We do not believe that such expenditures are appropriate while the case remains subject to reversal by the Seventh Circuit.

Of course, the submission of this proposal does not constitute an admission on the part of defendants that these options are administratively or operationally possible or feasible.

If you have questions or would like to meet with us concerning this plan, please do not hesitate to contact us.  
\*3 Sincerely,

/s/ Debra J. Anderson

Deputy Chief Legal Counsel

DJA:mm

cc:File

**PROPOSALS FOR COMPLIANCE WITH ORDER  
OF OCTOBER 21, 1986**

This report is prepared in response to the Order of March 27, 1987, issued by the United States District Court for the Northern District of Illinois, Eastern Division. The order directs the Illinois Department of Corrections to submit a proposed form of injunction order which would result in compliance with the Court's decision of October 21, 1986. This is submitted without admission of liability or admission that the conditions of confinement at the Stateville Correctional Center violated the constitutional rights of protective custody inmates.

**Stateville Correctional Center**

**OPTION A**

Operate protective custody (PC) on a night shift. PC

**Williams v. Lane, Not Reported in F.Supp. (1987)**

inmates would be released from their cells at approximately 10:15 PM (following the 9:30 PM count check).

The following services/activities would have to be provided during the period from 10:15 PM to 4:00 AM:

PC inmates must be back in their cells by 4:00 AM since general population industry lines start to feed at approximately 4:30 AM.

**Correctional Industries**

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Furniture Factory	1 industry employee
	1 security staff
Soap Factory	1 industry employee
	1 security staff
Tailor Shop	1 industry employee
	1 security staff
	1 industry supervisor

**Additional Staff Needed**

**Additional Annual Cost\***

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3 Industry Lead Workers	94.7
3 Security Staff	66.2
1 Industry Supervision	36.0

**Williams v. Lane, Not Reported in F.Supp. (1987)**

NOTE (1) Normal work day for industry is 5:30 AM–10:00 AM and 10:45 AM–1:30 PM

Thus, PC inmates would, even under this option, not be able to work the same number of hours as general population inmates. Payment is based on a payment per piece basis.

NOTE (2)—There are insufficient number of employee supervisors presently. Approximately 50 general population inmates were recently laid off.

NOTE (3)—To ensure sufficient amount of work, general population inmates may need to be laid off in order to hire protective custody inmates.

**M & M Shop**

(This would only employ 12 inmates because only 2 inmates can be assigned to each foreman).

Additional Staff Needed	Additional Annual Cost*
2 security staff	44.1
1 plumber	49.2
1 electrician	49.2
1 carpenter	48.7
1 brickmason	44.9
1 painter	39.5

\*4 NOTE (1)—May have to pay additional salary because of unusual shift hours.  
NOTE (2)—May have trouble with local tradesmen union in requiring unusual hours.

**Janitorial**

Could fire general population inmates assigned to janitorial and come up with at most 10 PC jobs.

**Recreation**

Multipurpose Building—3 security staff, 2 LTS staff  
Yard—No yard after dusk for any inmate. Could not run

yard after dark. Continue with PC day yard (PC inmates choose yard or sleep).

Art Building—1 LTS staff (This area could assign only 15 PC inmates.)

Music Building—1 LTS staff (This area could assign only 6 PC inmates.)

Drama (Theatre)—1 LTS staff (This area could assign only 25 PC inmates.)

<b>Additional Staff Needed</b>	<b>Additional Annual Cost*</b>
3 security staff	66.2
5 LTA Specialist I	117.1

**Law Library**

<b>Additional Staff Needed</b>	<b>Additional Annual Cost*</b>
1 librarian	23.4
1 paralegal	22.6
1 security staff	22.1

NOTE 1—Would have to substantially increase the number of trained inmate law clerks who would have to operate on the night shift also. It would require six months to a year to train these additional inmate law clerks.

**Academic School**

Every day must meet minimum of five hours to be credited for one day of educational services—Literacy to Bachelors degree.

<b>Additional Staff Needed</b>	<b>Additional Annual Cost*</b>
21 teachers	570.0
1 Assistant Principal	33.9
1 Clerk Steno III	15.7

2 security staff 44.1

**Vocational School**

<b>Additional Staff Needed</b>	<b>Additional Annual Cost*</b>
Building instructor	26.5
Small engine instructor	26.5
Welding instructor	26.5
Print shop instructor	26.5
1 Security staff	22.1

found instructor, would need 2.)

**Barber**

(There is presently no instructor for general population. If

<b>Additional Staff Needed</b>	<b>Additional Annual Cost*</b>
1 barber instructor	33.9
1 security staff	22.1

**Chapel**

<b>Additional Staff Needed</b>	<b>Additional Annual Cost*</b>
5 Chaplain I	128.9
1 security staff	22.1

\*5 NOTE (1)—General population also has access to approximately 6 regular volunteer clergy and approximately 30 occasional volunteer clergy.

**General Staff**

<b>Additional Staff Needed</b>	<b>Additional Annual Cost*</b>
9 security staff	198.5
1 Capt. of Security	34.3

Approximate construction cost: \$1,480,368

**Dietary**

Requires new facility for kitchen and dining room.

<b>Additional Staff Needed</b>	<b>Additional Annual Cost*</b>
3 Food Supervisor I	72.6
2 Food Supervisor II	55.6
3 security staff	66.2

In order to accomplish this, the B West yard would be

demolished and a new dietary facility constructed at that location next to the protective custody unit.

**OPTION B**

Construction of 3 story buildings (approximate), including but not limited to the following:

Dietary Area

Dining Room

Classrooms

Vocational Area

Industries Area

LTS Area

Chapels

Approximate Construction Cost: \$2,871,584

NOTE (1)—This would require the demonishing of B West yard and the new construction built at same location.

NOTE (2)—This option would not necessarily require the night shift, but additional staffing similar to that outlined in Option A would be necessary.

NOTE (3)—Would have to transport PC inmates to multipurpose building during three different counts (7:00 AM, 3:30 PM, 9:30 PM). Reduce general population access from 1-1/2 hours per day to 1 hour per day.

NOTE (4)—Industry jobs, if required, would have to be on a night shift. Certain job assignments, if required

Footnotes

- 1 That arrangement was intended to carry out the basic principle that to the maximum extent possible, decisions as to prison administration should be left with the state authorities, rather than a federal court's superimposing a structure from without.
- 2 As the Opinion reflects, defendants have consistently shown almost a total disregard for the constitutional rights of the plaintiff class—opting instead for what defendants have perceived as administrative convenience. Now one of the reasons defendants assign for their inability to correct their constitutional violations at Stateville is a purported solicitude for protective custody inmates at other state institutions: Defendants say they must do the job of protecting such constitutional rights statewide. That looks suspiciously like nothing but a lame excuse for arguing nonfeasibility. Defendants are reminded that only Stateville has been the subject of a successful lawsuit by protective custody inmates. Defendants are now under a court-ordered duty to correct the situation at Stateville, and they cannot now use their claimed desire to afford equal protection to inmates (a desire the Opinion found singularly absent from defendants' past conduct) as the basis for their inaction here.
- 3 Because the situations are not truly analogous, 'all deliberate speed'—with the gloss imposed on that phrase by the school desegregation cases—will not be an acceptable timetable for defendants.

would also have to be on a night shife (i.e., M & M Shop).

**OPTION C**

Construction of new 300-bed facility outside Stateville walls for PC population.

Approximate construction cost: \$24,130,685

NOTE (1)—This option would necessitate substantial amount of additional staffing.

**OPTION D**

Reduce general population programs and services to constitutional minimum. Confine general population for more hours and let protective custody program have more hours.

**OPTION E**

Construction of new 900-bed protective custody facility.

Approximate construction cost: \$44.5 million.



