



PC-MD-003-001

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CHARLES E. JOHNSON, et al. *
 Plaintiffs *
 v. * Civil No. H-77-113, et seq.
 THOMAS W. SCHMIDT, et al. *
 Defendants *

* * * * *

STIPULATION

WHEREAS, the Court herein by Order of November 2, 1981 consolidated Civil Nos. H-77-113, H-77-116 and R-78-1730; and,

WHEREAS, the Court herein by Order of November 3, 1981 implemented the Mandate of the United States Court of Appeals for the Fourth Circuit in Nelson, et al. v. Collins, et al., 659 F.2d 420 (Fourth Circuit 1981) and Order of Compliance with the Court's Order of January 24, 1979 concerning population at the Maryland Penitentiary; and,

WHEREAS, the Orders of January 24, 1979 and November 3, 1981 set certain population limits and housing restrictions for the Maryland Penitentiary; and,

WHEREAS, the Court held compliance hearings on a regular basis subsequent to the Court's Order of November 3, 1981; and

WHEREAS, Plaintiffs herein filed a motion hearing asking this Court to hold Defendants in civil contempt and for other relief for Defendants' alleged failure to comply with those portions of the Court's Orders of January 24, 1979 and November

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3, 1981 concerning reduction of population at the Maryland Penitentiary; and,

WHEREAS, this Court after discovery and evidentiary hearing, by memorandum and order of March 2, 1983 denied Plaintiffs' request to hold Defendants in contempt and directed Defendants to submit an appropriate order modifying the Court's Orders of January 24, 1979 and November 3, 1981 as they related to population reduction at the Maryland Penitentiary; and,

WHEREAS, this Court by Order of March 18, 1983 modified the Orders of January 24, 1979 and November 3, 1981 by granting Defendants temporary authority to house more inmates at the Maryland Penitentiary than allowed by the Orders of January 24, 1979 and November 3, 1981; and,

WHEREAS, Plaintiffs herein did note a timely appeal to the United States Court of Appeals for the Fourth Circuit from this Court's Orders of March 2, 1983 and March 18, 1983; and,

WHEREAS, Plaintiffs' Appeal is currently pending before the United States Court of Appeals for the Fourth Circuit; and,

WHEREAS, events, conditions, and the population of the Maryland Penitentiary have changed materially and substantially since this Court's Orders of March 2, 1983 and March 18, 1983; and,

WHEREAS, the parties hereto, excluding the Maryland Penitentiary portion of this litigation, have previously herein reached agreement by stipulation filed with this Court and with

Judge Ramsey in R-80-283 concerning housing and population at the Maryland House of Correction, Maryland Correctional Institution-Hagerstown and the Maryland Correctional Training Center, and this Court and Judge Ramsey, after notice and hearing, approved the Stipulations as to those institutions; and,

WHEREAS, counsel for the parties herein have conducted lengthy negotiations regarding resolution of the issues pending before this Court and the United States Court of Appeals for the Fourth Circuit concerning the Maryland Penitentiary; and,

WHEREAS, Plaintiffs and Defendants herein desire to resolve the issues regarding population and housing at the Maryland Penitentiary without the time, expense and uncertainty of any further litigation or appeals; and,

WHEREAS, Plaintiffs and Defendants respectfully through counsel have voluntarily agreed to the provisions of this Stipulation; which shall become effective upon approval by the Court;

WHEREFORE, the parties herein, by and through their respective counsel, do hereby stipulate and agree as follows:

1. The provisions of this Stipulation shall apply only to the Maryland Penitentiary and shall become effective upon approval by this Court of this Stipulation after notice and opportunity to be heard.

2. Inmates assigned, classified or confined to or in

administrative segregation, punitive segregation or protective custody shall be single celled.

3. The areas known as "E" block (old print shop) and "F" block (old wood shop) shall hereafter not be used to house inmates. Defendants shall convert and renovate these areas for use for programming, library, educational and administrative purposes (old E block) and demolish space not necessary for these purposes (old F block). The anticipated completion date of this renovation/conversion is January 22, 1986.

4. The total inmate population of the Maryland Penitentiary shall not exceed 1,250 inmates.

5. Since this Court's Order of March 18, 1983, Defendants herein have opened two new correctional facilities, to wit: Roxbury Correctional Institution and the Baltimore City Correctional Center. Additionally, Defendants herein have started construction of a new major correctional facility in Somerset County Maryland to be known as the Eastern Correctional Institution. The tentative date for completion of the Eastern Correctional Institution is summer 1987.

Within sixty days after the Eastern Correctional Institution is opened and receiving inmates, the total inmate population of the Maryland Penitentiary shall be reduced to 1,103. The total inmate population of the Maryland Penitentiary shall not thereafter exceed 1,103 inmates.

Defendants herein shall seek authorization for and funding from the 1986 session of the Maryland General Assembly for construction of a new maximum security institution in Baltimore City to be located in close proximity to the Maryland Penitentiary. If authorized and funded, Defendants' anticipated completion date for this facility is December 1987.

6. With the exception of inmates assigned, classified or confined to administrative segregation, punitive segregation or protective custody, Defendants may double cell inmates within the Maryland Penitentiary or double bunk inmates confined to the Maryland Penitentiary cell blocks, dormitories and annexes so long as the total inmate population does not exceed the limits respectively set forth herein in paragraphs 4 and 5. Defendants shall first seek volunteers to be double celled or double bunked. If there are not enough volunteers, Defendants may then select inmates to be double celled or double bunked. In making such assignments, Defendants shall use care so as to not double cell or double bunk inmates who are known to be assaultive in nature or inmates who are known to be likely victims of assaults.

7. Defendants shall design and implement within the Maryland Penitentiary a release preparation program for Maryland Penitentiary inmates. Maryland Penitentiary inmates who are within sixty days of release from confinement shall be eligible to participate in this program. This program shall be optional for inmate participation. Such inmates shall not be required to

participate in the program, but it shall be available to them and they shall be encouraged to participate. The purpose of this program is to prepare Maryland Penitentiary inmates for their release into the community. The program will include to the extent possible and consistent with the security and operations of the Penitentiary, opportunities for work, counseling, substance abuse treatment, education and such other matters as Defendants may consider appropriate. It would apply only to Maryland Penitentiary inmates who are classified to maximum security custody level and will complete their sentences of confinement at the Maryland Penitentiary. Further it shall apply only to inmates in general population. Defendants may extend all or part of the program to inmates classified or confined in administrative segregation, punitive segregation or protective custody consistent with the security and safety of the inmate, the Maryland Penitentiary and the staff. This program shall be implemented within ninety days following approval of this Stipulation by the Court. Prior to implementation however Defendants shall submit to Plaintiffs herein the design of the program for comment.

8. Since this Court's Orders of March 2, and March 18, 1983, Defendants herein have completed the following improvements/renovations at the Maryland Penitentiary:

(a) Renovations to shower room in west wing A block (98% complete).

(b) Replacement of emergency generator and switchboard.

(c) Replacement of chiller unit - Hospital.

(d) Replacement of and improvements to security cage and showers on south wing.

(e) Renovation of windows on south and west wings.

(f) Rehabilitation of heating system on south and west wings.

(g) Renovation and improvements to secure perimeter (fence and manual gates) - 98% complete.

9. As of August 1, 1985, Defendants herein have either under construction or in the planning stages the following improvements/renovations at the Maryland Penitentiary in addition to those listed in paragraph 8 herein:

(a) Renovation of cell fronts on the south wing in the amount of \$475,120.00. Contractor commenced work on January 2, 1985 and anticipates completion on October 15, 1985. The work involves the installation of new locks, tracks, food passes and security screens on 272 cells.

(b) Alterations to cell doors on the west wing in the amount of \$320,000.00 with a scheduled completion date of September 14, 1985. The work to be performed includes the replacement of 593 deadbolts, new tracks and overhead lever locks on all cells.

(c) Modifications to special behavior confinement area in the amount of \$29,000.00. This project is presently 50%

complete and final completion is anticipated approximately September 1, 1985.

(d) Renovation, extension and improvement of cat walks on south wing in the amount of \$334,280.00. This project is presently 10% completed and anticipated completion date is February 6, 1986.

(e) Alteration and improvements to segregation visitation area on south wing in the amount of \$81,500.00. Anticipated completion date is September 1, 1985.

(f) Renovation of old print shop (E block) to library and programming space in the amount of \$1,349,500.00. Contractor has been selected and notified to proceed and scheduled completion date is January 22, 1986. Planning for improvements to administration and visitation areas in the amount of \$19,420.00. The planning process is approximately 85% complete and anticipated completion date is September 1, 1985.

(g) In addition to the foregoing, additional projects in the planning stage include: (1) conversion of old dining hall to a multi-purpose building; (2) additional renovations to perimeter wall; (3) renovation of the kitchen; (4) additional renovations to C dorm in south and west wings.

10. Since this Court's Orders of March 2 and March 18, 1983, the following staffing improvements/administrative changes have been made at the Maryland Penitentiary:

(a) The south wing of the Maryland Penitentiary is no longer used as a "regional segregation" area.

(b) Correctional officer staff previously assigned to E and F block have been reassigned as needed within the institution since those areas are now closed.

(c) Thirty-seven new Correctional Officer positions were allocated for the Maryland Penitentiary in the fiscal year 1986 operating budget. As of July 24, 1985, thirty of these positions have been filled with the remainder to be filled by September 1, 1985.

(d) Nine other new positions were approved in the fiscal year 1986 operating budget: One Motor Vehicle Operator, one Supply Officer, three Correctional Maintenance Officers and four Typist Clerks. These positions will be used to free up correctional officers who had been previously assigned to these duties to allow correctional officers to be redeployed within the institution.

(e) Seventy new portable radios and a new base station were ordered and received. The assignment of new radios should be complete by September 1, 1985.

(f) Eight new walk through metal detectors and six hand scanners have been ordered, received and put into operation in the south wing C Dormitory of the Hospital in the Classification Section.

(g) A new personal body alarm system has been ordered and is presently in the process of being implemented. This is a system of individual alarms worn by correctional officers and should the officers need assistance, they simply have to activate the alarm.

(h) A complete new telephone system has been installed in the Maryland Penitentiary and is current in terms of technology, switching, speed and reliability.

(i) The Maryland Commission on Correctional Standards conducted an audit of the Maryland Penitentiary on January 7, 8 and 10, 1985 and found the Maryland Penitentiary to be in compliance with 70% of the applicable standards. The compliance plan was developed and after a reaudit on June 19, 1985, the Maryland Penitentiary is currently in compliance with 91% of the standards for adult correctional institutions.

11. Defendants shall have the right, if matters of intake, or administrative conditions of a compelling and urgent nature so require, to temporarily exceed the population limits set forth herein but only to the extent necessary. If Defendants find it necessary for the reasons stated to so exceed the population limits set forth herein for more than 72 hours excluding Saturdays, Sundays and holidays, Defendants shall immediately thereafter file a written request with the Court and counsel for Plaintiffs seeking the Court's permission to so exceed the

population limits set forth herein. Defendants shall include in any such written request the following:

(a) A statement of the reasons and circumstances;

(b) A statement of the period of time that Defendants reasonably believe it will be necessary to exceed the population limits;

(c) A statement of the efforts and plans of Defendants for minimizing and eliminating the excess population.

In the event that Defendants shall file any such request, Plaintiffs and Defendants herein will jointly request the Court to conduct a prompt review of Defendants' request and rule thereon.

12. This Court hereby retains jurisdiction in this case and retains discretionary authority, subject to all applicable provisions of law and appellate review where not otherwise modified by this Stipulation, to modify either prospectively or retrospectively any provision hereof. Any party may at any time apply to this Court for modification of any and all provisions of this Stipulation but the parties recognize that such modification shall be subject to the provisions of this paragraph.

13. This Stipulation shall not constitute any admission as to any fact or conclusion of law in any subsequent hearing or proceeding.

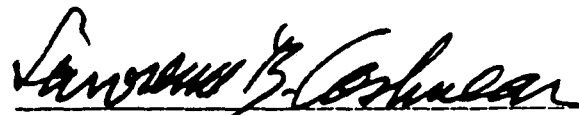
14. The Court has reviewed this Stipulation reached between the parties hereto and has no objection to the terms of this

Stipulation as to both substance and form. This Court will enforce the terms of this Stipulation subject to the provisions of paragraph 11.

15. The Court herein having previously certified this action as a "class action" pursuant to Rule 23, FRCP, the parties hereto agree that, upon submission of this Stipulation to the Court, copy shall be posted conspicuously within the Maryland Penitentiary in such places and in such a manner so as to be readily available for review by inmates confined therein. Inmates confined in the Maryland Penitentiary shall thereafter have thirty days from the date of such posting to file any objections they may have as to why this Court should not approve the terms of this Stipulation. Any such objection to this Stipulation must be filed with the Court in writing and be postmarked not later than the 30th day following the posting as provided for herein.

16. Defendants herein agree that they shall pay the cost of these proceedings including the costs on appeal.

It is stipulated and agreed to on behalf of the Maryland Penitentiary Plaintiff Class, this 28th day of August 1985.



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It is stipulated and agreed to on behalf of the Defendants
herein, this day of , 1985.

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APPROVAL BY COURT

The Court, having read and considered the foregoing
Stipulation does this day of , 1985,
hereby approve the terms and conditions hereof.

ALEXANDER HARVEY, II
United States District Judge