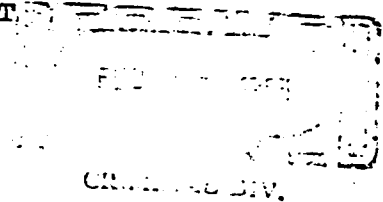


MCI-1  
MHC-5 1982



PC-MD-0005-0001

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND



JOHN H. X. WASHINGTON, et al. \*

Plaintiffs \*

v. \* CIVIL NO. H-78-1730

JAMES P. TINNEY, III, et al. \*

Defendants \*

\* \* \* \* \*

ORDER DIRECTING NOTICE OF SUBMISSION  
OF PROPOSED STIPULATION

An application having been presented to the Court for the approval of a Stipulation, which Stipulation has been executed by all counsel for the parties to this action, and it appearing to the Court that the giving of notice of the Stipulation to the members of the plaintiff class certified by order of this Court dated January 18, 1979, is necessary and proper, it is this 9<sup>th</sup> day of February, 1983.

113 notice  
MHC

ORDERED that notice of the Stipulation be given to the members of the plaintiff class who are presently confined to the Maryland Correctional Institution at Hagerstown, in the form of the Notice to Class Members attached to this order; and

It is further ORDERED that such notice shall be posted within the confines of the Maryland Correctional Institution at Hagerstown, in a prominent manner, in the following locations:

1. The main dining hall;
2. The gymnasium;
3. The entrance to each housing unit;
4. The large visiting room;

I hereby attest and certify on 2/15/83  
that the foregoing is a true and correct  
copy of the original of the order and is in  
legal custody.

By: R. SCHLITZ  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND  
[Signature]

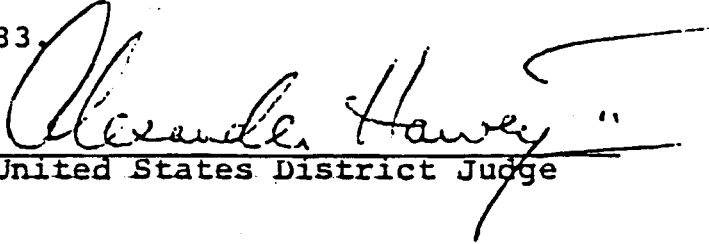
5. D. P. 1.

5. The entrance to each dormitory;

6. The entrance to the 128 bed facility known as the Butler Building.

7. The entrance to the outside recreation area.

It is further ORDERED that any objections to the Stipulation shall be filed with the Clerk of this Court on or before *March 10*, 1983.

  
Alexander Hawley  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

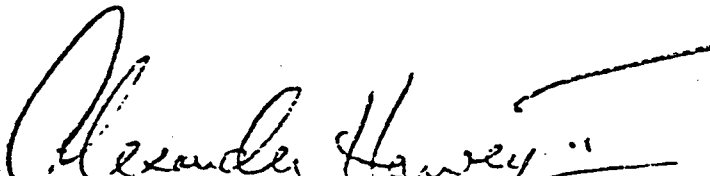
JOHN H. X. WASHINGTON, et al. :  
Plaintiffs :  
v. : Civil No. H-78-1730  
JAMES P. TINNEY, III, et al. :  
Defendants :  
: : : : : : : : :

ORDER

Upon agreement of counsel, it is this 18<sup>th</sup> day of February, 1983,

ORDERED, that the deadline for filing objections to the proposed Stipulation in this case be and is hereby extended to March 28, 1983;

And it is further ORDERED, that in all other respects this Court's Order of February 9, 1983 shall remain in full force and effect.

  
ALEXANDER HARVEY, II,  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

JOHN H. X. WASHINGTON, et al. \*

Plaintiffs \*

v. \* CIVIL NO. H-78-1730

JAMES P. TINNEY, III, et al. \*

Defendants \*

\* \* \* \* \*

NOTICE TO CLASS MEMBERS

TO ALL INMATES OF THE MARYLAND CORRECTIONAL INSTITUTION AT  
HAGERSTOWN

The purpose of this notice is to advise you of the submission of a Stipulation for approval by the court in an action in the United States District Court of Maryland involving a class of which you are a member as a plaintiff. It is important that you read and consider the matters herein.

Notice of the pendency of this action was previously posted. This action relates to conditions at the Maryland Correctional Institution at Hagerstown.

As counsel for the named plaintiffs in this action and as counsel for the class, the undersigned have presented the Stipulation attached to this notice to the court for approval. If approved by the court, this Stipulation will be binding upon the plaintiffs and the defendants, and will terminate this litigation, at least for the interim period outlined in the Stipulation with the exceptions outlined in the Stipulation and in particular with the exceptions of proceedings necessary to monitor the compliance of defendants with the Stipulation as

outlined therein. If the Stipulation is approved, there will be no hearing upon the pending motions at the present time. Any questions concerning this litigation or this Stipulation should be directed to one of the lawyers whose names appear below.

The court will pass upon the advisability of the approval of the Stipulation. If you have any objection to the adoption of this Stipulation, you should file any such objections with the Clerk of the United States District Court, 101 W. Lombard Street, Baltimore, Maryland 21201, in writing not later than the following date: March 28, 1983

Paul D. Bekman

Paul D. Bekman  
Tenth Floor - Sun Life Building  
Charles & Redwood Streets  
Baltimore, Maryland 21201

W. Michel Pierson

W. Michel Pierson  
10 Light Street  
30th Floor  
Baltimore, Maryland 21202

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

CHARLES E. JOHNSON, et al. :  
Plaintiffs :  
v. : Civil No. H-77-113  
JON P. GALLEY, et al. :  
Defendants :  
: : : : : : : : :  
JOHN H. X. WASHINGTON, et al. :  
Plaintiffs :  
v. : Civil No. H-78-1730  
JAMES P. TINNEY, III, et al. :  
Defendants :  
: : : : : : : : :

STIPULATION

WHEREAS, on November 6, 1981, defendants filed a Motion to Modify Decrees seeking revision of previously entered orders of this Court in the above-captioned case requesting, inter alia, this Court's permission to: (a) increase the capacity of the Maryland Correctional Institution - Hagerstown (MCI-H), following improvement of certain housing areas, programming, staffing levels and services of that institution; and (b) to place 112 temporary beds within the perimeter of the Maryland House of Correction (MHC).

WHEREAS, on March 12, 1982, a pleading styled Second Addendum to Motion to Modify Decrees was filed by defendants, seeking revision of a previously entered decree of this Court

to permit continued double bunking at MHC, without temporal limitations, so as to assure defendants necessary flexibility to assigning classified inmates consistent with institutional and public safety.

WHEREAS, in addition, on March 12, 1982, defendants filed a Motion for Interim Modification of Decrees seeking, inter alia, this Court's permission for interim relief on an emergency basis as follows: (a) double bunking at MHC without temporal limitations; (b) additional double celling at MCI-H; and (c) creation of additional temporary housing areas at MCI-H to accommodate an increase in prison population at that institution.

WHEREAS, plaintiffs have filed timely responses opposing defendants' motions, and the Johnson plaintiffs filed on or about January 22, 1982 a Motion to Modify Order of October 30, 1981 seeking to terminate the double bunking at MHC. \*?

WHEREAS, the Court has continuing jurisdiction over the subject matter of this action, and of the parties, and has certified this action as a class action.

WHEREAS, there has been no trial of the matters alleged in the defendants' aforesaid motions to modify or of plaintiffs' motion to modify this Court's order of October 30, 1981, and no finding of fact or conclusion of law or adjudication has been made with respect to any matter alleged in or arising out of said motions.

WHEREAS, plaintiffs have: undertaken extensive discovery including depositions of defendants, their agents and

*whs*  
employees, production of documents, and tours of the subject institutions; retained an expert witness who has evaluated the claims in the areas of environmental health and safety, security, and classification; held discussions with members of the Plaintiff classes; and participated in monthly compliance hearings before this Court;

WHEREAS, counsel for the parties have conducted lengthy negotiations regarding an interim resolution of the issues raised in the aforesaid motions filed by the parties.

WHEREAS, plaintiffs and defendants desire to resolve the issues in said motions without the time, expense, and uncertainty of contested litigation. Plaintiffs and defendants, therefore, through counsel, have voluntarily agreed to the provisions of this Stipulation, which shall become effective upon approval by the Court.

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

I. MHC — REDUCTION OF DORMITORY POPULATION. O Dormitory

A. O Dormitory

*Discovery*  
Defendants shall be permitted to continue to house inmates in the basement recreation area of MHC known or designated as "O-Dorm". Consistent with public safety, institutional security and good correctional practice, such inmates shall be given priority for transfer to the new interim facility described in Section VI.A. herein, upon readiness of that facility for housing inmates. In the event



Defendants are required by intake to house more than 100 inmates in O Dormitory, such housing over 100 inmates shall be subject to the provisions of Section X herein. Each inmate so housed shall be accorded a minimum of 40 square feet of living space, exclusive of the shower, sink, and toilet area located in O Dormitory.

Within 14 days from the date all counsel sign this Stipulation, Defendants shall begin the renovation and upgrading of certain areas of O Dormitory. Specifically, five new toilets and ten new sinks will be added; the six shower heads presently installed will be kept in good working order; a privacy partition will be erected between the living area and the sanitary facilities; and adequate and necessary painting and lighting work will be done.

It is the intention of Defendants to terminate the housing of inmates in O Dormitory by December 31, 1983. The termination of the housing of inmates in O Dormitory is contingent upon the completion of the new interim facility described in Section VI.A. herein. If the new interim facility described in Section VI.A. herein is not ready for the housing of inmates by December 31, 1983, Defendants may continue to house inmates in O Dormitory until such time as the new interim facility is available for the housing of inmates.

In the event Defendants desire to continue the housing of inmates in O Dormitory after the new interim facility described in Section VI.A. herein is available for the housing

*Modify to increase shower heads, etc?*

*Need to determine leaking/water pipes - onto 15' heads -*

*is this a must - ?*

of inmates, such continuation shall be subject to Section X herein.

B. Double Bunking: C, D, H, I, and J Dorms

Within thirty days from the date all counsel sign this Stipulation, Defendants shall remove 40 inmates of those inmates presently double bunked in C, D, H, I, and J Dormitories at MHC. Within 120 days from the date of all counsel's signature, an additional 60 inmates now double-bunked in the aforesaid dormitories shall be removed therefrom. The remaining 25 inmates so double-bunked will be removed from the MHC dormitories when the new interim facility is completed, as set forth in Section VI.A. of this Stipulation.

When new, permanent DOC facilities are completed, as set forth in Section VI.B. of this Stipulation, defendants where consistent with public safety, institutional security, good correctional practice, and where permitted by intake, shall reduce as soon as is practicable the population levels in C, D, H, I, and J dorms to the levels existing at the time of this Court's original decree entered in May, 1978, as follows:

	May 1978
<u>MHC Dorm</u>	<u>Population</u>
C	86
D	88
H	106
I	106
J	106

C. Reinstitution of double bunking

*2 how*  
In the event that intake of additional prisoners to the custody of the Division of Correction, institutional security, or such other situation as set forth in Section X of this Stipulation, requires, defendants may reinstitute double bunking in C, D, H, I, and J dormitories, for a limited period of time, in accordance with the following conditions:

(a) This Court and counsel shall be notified immediately, in accordance with the provisions of Section X of this Stipulation;

*only hand limit*  
(b) Each inmate housed in any dormitory where double bunking occurs shall be accorded a minimum of 40 square feet living area. Such area shall be exclusive of dayroom space and the shower and toilet area located in each dormitory.

D. Trailers

*Trails*  
The parties agree that defendants shall be permitted to continue housing of inmates in the trailer facilities presently erected within the perimeter of MHC.

II. MARYLAND CORRECTIONAL INSTITUTION-HAGERSTOWN - POPULATION

*basement*  
*?*  
A. As previously requested by Defendants herein, the parties hereto do agree, and the Court does hereby approve, the conversion of previously non-utilized areas of MCI-H (the "basement annexes") to house up to 320 inmates. Defendants presently have in progress construction and/or modifications

to the basement annexes to remove the asbestos insulation and to upgrade and correct any deficiencies in fire safety protection. Defendants hereby agree to the prompt completion of these improvements.

B. The parties acknowledge that the Defendants have prior hereto created an additional housing unit separate and apart from the main institution with a capacity of 128 inmates.

C. With the exception of the two units referred to above (the 128 bed separate facility and the 320 bed capacity "basement annexes") Defendants may in the interim continue to double-cell inmates in the "main" portion of the Maryland Correctional Institution-Hagerstown consistent with the provision of adequate medical, sanitation, recreational security, and dietary services. There are 620 cells in the main portion of MCI-H. Defendants will use their best efforts to limit the number of double cells to less than 400. In the event Defendants find it necessary to exceed 400 double cells, such additional double-celling shall be subject to Section X hereof. The double-celling of inmates, however, shall be on an interim basis only, pending the completion of new permanent construction as previously described to alleviate said double-celling. Defendants understand and recognize their obligation as set forth in this Court's previous Orders to eliminate said double-celling as expediently as possible with the addition of new permanent construction. Defendants shall continue to supply the Court and counsel for the Plaintiffs with monthly population reports as provided for in Section IX hereof.

?  
No prop  
or service  
No double-celling  
340 cells

or  
alterations

### III. MCI-H CLASSIFICATION REVIEW

Defendants agree to initiate and complete, within six months from the date this Stipulation is approved by the Court, a classification team review of all non-segregation inmates housed in double cells at MCI-H at the time of the Court's said approval of this Stipulation. The parties recognize that the purpose of such classification review shall be to determine whether such double-celled inmates are eligible for reclassification to minimum or pre-release security status in accordance with applicable Division of Correction regulations.

Discovery

### IV. MARYLAND CORRECTIONAL INSTITUTION-HAGERSTOWN TRANSFER TO MINIMUM SECURITY

Defendants agree that inmates double-celled at the Maryland Correctional Institution - Hagerstown who are reclassified from medium to minimum/pre-release security shall be reassigned to an appropriate minimum/pre-release security facility within 21 (twenty-one) working days of the final approval of the reclassification by the office of the Commissioner of Correction. The parties do further agree and understand that such reclassifications shall be in accordance with the established classification procedures and criteria of the Division of Correction.

V. MARYLAND CORRECTIONAL TRAINING CENTER - NEW TEMPORARIES

The parties recognize that the Maryland Correctional Training Center at Hagerstown is not involved in this litigation, although there is a pending civil action, styled Lightfoot, et al. v. Goodlander, et al., Civil No. R-80-283, in this Court pertaining to population levels and conditions of confinement at that facility. An interim Stipulation of counsel has been filed therein, and has been approved by the Court. However, as pointed out by the United States Court of Appeals for the Fourth Circuit in Nelson, et al. v. Collins, et al., 659 F.2d 420 (1981), any solutions to the problem of prison overcrowding in Maryland must be on a system-wide basis. To this end, the parties note that Defendants have placed three temporary housing units, housing 150 inmates each at the Maryland Correctional Training Center. These temporary units will be used partially to accommodate inmates classified to medium security into the Division of Correction, as well as to accomplish the agreements contained herein.

*Need Stipulation*

VI. NEW FACILITIES - SUBMISSION OF PLAN - RECOMMENDATIONS

A. Interim Facilities:

Defendants shall seek approval from the Governor and General Assembly of Maryland to construct an interim facility to house up to 840 inmates. This facility will be located at the site of the Defendants' new permanent facility to be likewise requested from the Governor and General Assembly (see Section VI. B. herein). It is the intention of the Defendants to construct said interim facility immediately upon

*Cap. 128 -  
act. 158  
Molecular -  
for property -  
temporarily -  
MCTC  
Still big need  
Dunder-type*

availability of funding as approved by the General Assembly, and Defendants' earliest anticipated completion date for said facility is December 31, 1983. The actual completion date for said facility will depend on a number of variables including but not limited to: a) the site selected; b) availability of utilities; c) necessary site preparation work; d) availability of materials; etc. The actual completion date may therefore be prior to or after December 31, 1983 depending on these various factors. The parties hereto understand that the interim facility just-described will be used to accommodate population in the Division of Correction generally as well as to accomplish the agreements herein.

B. Permanent Facilities:

Defendants have during the course of this litigation filed certain exhibits in conjunction with monthly compliance hearings held by the Court which detail itemization of all new permanent Division of Correction prison facilities presently planned or under construction.

Defendants agree that as such new permanent facilities are completed, Defendants will submit to the Court and counsel a plan as to how each such new permanent facility will be utilized when it becomes operational. Defendants will submit each such plan not less than 30 (thirty) days prior to the opening of each such new permanent facility for the reception of inmates. Defendants agree that in developing the aforesaid plans for the utilization of each new permanent facility, Defendants will, to the extent practicable, and consistent with operational needs, staffing, and population, give

priority in the development of such plans to the elimination of double-celling inmates at the Maryland Correctional Institution - Hagerstown, and the relief provided in Section I, herein.

The agreement by Defendants to give such priority to inmates double-celled at the Maryland Correctional Institution - Hagerstown and the relief provided in Section I herein reflects Defendants' present intention, based on the circumstances and conditions existing in the Division of Correction as of the time of this Stipulation. The parties agree and understand that the prison population is not static and that the circumstances existing at the time of the opening of the State's new permanent facilities will have to be considered in the future implementation of present plans. It is, however, the good faith intention of the Defendants to give such a priority to the elimination of the double-celling of inmates at the Maryland Correctional Institution - Hagerstown and the relief provided in Section I herein upon the opening of such new permanent facilities.

Plaintiffs and Defendants understand that a task force on prison construction previously appointed by Governor Hughes has recommended to the Governor on or about February 1, 1983 as to the need of Defendants to construct another new permanent facility over and above those presently planned or under construction. Defendant Schmidt, on behalf of the Department of Public Safety and Correctional Services, will make a recommendation to this task force on behalf of the Department of Public Safety and Correctional Services that the



State of Maryland build another new permanent facility, over and above those presently planned or under construction, of medium security custody level with a capacity of at least 1000 inmates.

Defendants agree that they shall advise the Court and counsel for Plaintiffs of the final recommendations that the said task force makes to Governor Hughes as soon as their recommendations are transmitted to the Governor and the General Assembly. Defendants will likewise advise the Court and counsel for Plaintiffs of the actions taken by the Governor and the General Assembly of Maryland in response to the recommendations of the task force.

Defendants further agree to notify the Court and counsel for Plaintiffs of changes in, or alterations to, the State's new permanent facilities presently planned or under construction, if any be made. Defendants will make such notification as soon as any such changes or alterations are approved by the Governor and the General Assembly of Maryland.

#### VII. PLACEMENT OF ADDITIONAL BEDS IN PRE-RELEASE SYSTEM

The parties hereto agree that Defendants shall place an additional 45 beds among those facilities of the pre-release system within 30 days from the date all counsel sign this Stipulation. An additional 55 new beds shall be placed among the facilities of the pre-release system within 180 days from the date of signature by all counsel. The location and placement of the additional beds shall be in defendants' sole discretion, subject to staffing and operational requirements.

### VIII. COMMUTATIONS

The parties note that pursuant to Article 2, Section 20 of the Maryland Constitution, a Christmas, 1982 commutation exercise occurred. Inmates seeking review for such a commutation were required to meet the following criteria:

(a) They must be serving a sentence of three years or less;

(b) The crime for which said sentence was imposed must have been a non-violent one; and

(c) Such inmates must be, as of December 25, 1982, within 60 days of parole release or mandatory release.

Defendants agree to study the feasibility of an additional commutation exercise for Easter, 1983; such feasibility shall depend upon, inter alia, public safety, institutional security, and good correctional practices.

### IX. COMPLIANCE REVIEW

*modify* → Defendants shall submit to the Court, with copies to all counsel, reports concerning progress towards, and completion of, the activities set forth in this Stipulation. The first such report, with copies to all counsel, shall be filed on or before March 15, 1983. Monthly reports shall thereafter be filed. The first report following the date of the Court's approval of this Stipulation, however, shall include only

information regarding that portion of the month following the date of approval by the Court.

#### X. JURISDICTION AND MODIFICATION

A. Defendants shall have the right, if matters of intake, or administrative conditions of a compelling and urgent nature so require, to take action or not to take action in a matter not consistent with this Stipulation, but only to the extent necessary. For example, and not by way of limitation, the parties hereto acknowledge that defendants may be forced from time to time to delay reduction of inmate population in the subject institutions as hereinbefore set forth, or may deem it appropriate to propose alternative housing plans for the inmate population at the subject institutions. In the event such action is necessary, defendants shall:

(1) Duly notify this Court and plaintiffs' counsel within 48 hours after such action or lack of action concerning same and the specific reasons and needs therefore;

(2) Minimize the period of time such action or lack of action exists;

(3) Continue with all reasonable speed to complete planned construction of new Division of Correction facilities.

B. This Court hereby retains jurisdiction in this case and retains discretionary authority, subject to all applicable

*Failure to  
O Dorn, 129-  
Continued  
doublecheck?*

*for motion  
failed to  
minimize*

provisions of law and appellate review where not otherwise modified by this Stipulation, to modify either prospectively or retrospectively, any provision hereof.

C. 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 paragraphs A and B set forth immediately above.

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

#### XI. APPROVAL OF STIPULATION OF COUNSEL

The Court has reviewed the instant Stipulation reached between the parties hereto, and has no objection to the terms of this Stipulation as to both substance and form. The Court will enforce the terms of this Stipulation, subject to Section X hereof.

#### XII. NOTICE AND POSTING REQUIREMENT

The Court having previously certified this action as a "class action" pursuant to Federal Rule of Civil Procedure 23, the parties hereto agree that, upon submission of this Stipulation to the Court, copies shall be posted conspicuously within the Maryland House of Correction and the Maryland Correctional Institution at Hagerstown in such places and in such a manner so as to be readily available for review by inmates confined therein. Inmates confined in those institutions shall thereafter have 30 days from the date of

said posting to file objections, if any they have, as to why this Court should not approve the terms of this Stipulation. Any such objection must be filed with the Court in writing and be postmarked not later than the 30th day following the posting as provided for herein.

Stipulated and Agreed to, on behalf of the Defendants, this 4<sup>th</sup> day of February, 1983.

STEPHEN H. SACHS,  
Attorney General of Maryland



PHILIP M. ANDREWS,  
Assistant Attorney General



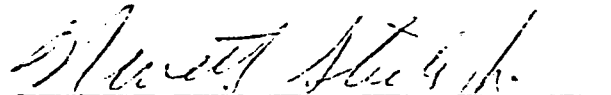
EMORY A. PLITT, JR.  
Assistant Attorney General

Attorneys for Defendants

Stipulated and Agreed to, on behalf of the Plaintiff class, this 4<sup>th</sup> day of February, 1983.



PAUL D. BEKMAN



NEVETT STEELE, JR.



W. MICHEL PIERSON,

Attorneys for Plaintiffs

APPROVAL BY COURT

The Court, having read and considered the foregoing Stipulation, does, this \_\_\_\_\_ day of \_\_\_\_\_, 198\_, hereby approve the terms and conditions hereof.

\_\_\_\_\_  
ALEXANDER HARVEY, II,  
United States District Judge