

COPY

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

APR 20 1984

J. Burciaga

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DWIGHT DURAN, et al.,

Plaintiffs,

vs.

TONEY ANAYA, et al.,

Defendants.

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)
)
)

Civil Action No. 77-721-JB

HONORABLE JUAN G. BURCIAGA

Duran v. Apodaca



PC-NM-001-012

ORDER

The parties to the above-captioned civil action have entered into a Stipulation concerning the closing of dormitory housing units at the Penitentiary of New Mexico. In the Stipulation, the parties acknowledge that correctional officers presently are deployed in the dormitory housing units in a manner that does not provide to inmates a reasonable degree of safety. The parties further acknowledge that it is not possible to deploy officers in a manner that will provide such safety consistent with sound correctional policy. The parties therefore have stipulated that the utilization of the dormitory housing units at the Penitentiary of New Mexico creates an unjustifiable risk of harm to inmates and therefore is contrary to sound correctional policy and violates the Court's orders in this action.

The parties have agreed that present circumstances require the continued short-term use of the dormitories to house inmates. The completion of

construction of new facilities and the opening of those facilities for occupancy, however, will eliminate the need for the dormitory housing units. Upon the opening of the Penitentiary of New Mexico--North facility, the parties have agreed the inmates housed at that time in the dormitory housing units will be reassigned to other general population housing units and the dormitories at the Penitentiary of New Mexico will be closed permanently.

The Court has reviewed the Stipulation of the parties and finds it consistent with the orders entered in this action and necessary to achieve compliance with those orders.

Wherefore, premises considered, it is

ORDERED that the Stipulation Concerning Closing of Dormitories at the Penitentiary of New Mexico, entered into by the parties to this action, is APPROVED. It is further

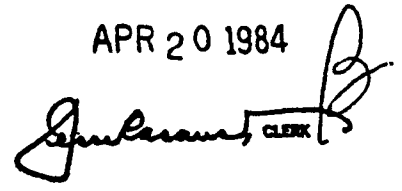
ORDERED that defendants implement forthwith the provisions of the Stipulation.

SIGNED and ENTERED this 20th day of April, 1984.



JUAN G. BURCIAGA
UNITED STATES DISTRICT JUDGE

APR 20 1984



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DWIGHT DURAN, et al.,) Civil Action No. 77-721-JB
Plaintiffs,) HONORABLE JUAN G. BURCIAGA
vs.)
TONEY ANAYA, et al.,)
Defendants.)
)

STIPULATION CONCERNING CLOSING OF
DORMITORIES AT THE PENITENTIARY OF NEW MEXICO

The parties to the above-captioned civil action met on March 5 and 6, 1984 to discuss issues raised by the first and second reports of the Special Master on the defendants' state of compliance with the Court's orders in this litigation. Among the matters discussed in these meetings were the findings of the Special Master set forth in his second report on compliance with the Court's orders relating to staffing. As a result of those meetings, and subsequent developments, the parties have reached agreement on certain issues relating to the secure operation of the Penitentiary of New Mexico in compliance with the orders of the Court, and they hereby enter into the following stipulation.

1. The Special Master found, in his Second Report on the Defendants' State of Compliance (Staffing), that "although at least one correctional officer is scheduled to be stationed in the sally port adjoining each dormitory at the Penitentiary of New Mexico at all times, these officers are not deployed in such a manner as to assure visual observation of inmates at all

times." Neither party to this litigation objected to that finding and it has been confirmed by the Court.

2. It is not possible to deploy correctional officers in the dormitory housing units at PNM in a manner that assures visual observation of inmates at all times. Any such deployment is contrary to sound correctional practice.

3. In the absence of continuous visual observation of inmates assigned to dormitory housing units at PNM, those dormitories cannot be operated in a manner that provides to inmates assigned to them a reasonable degree of safety. Utilization of the dormitory housing units at PNM for housing inmates under such circumstances creates an unjustifiable risk of harm to inmates and therefore is contrary to sound correctional policy and violates the Court's order in this cause.

4. The present inmate population in New Mexico and the capacity of available medium and maximum security facilities for adult inmates requires the continued short-term use of the dormitories at PNM to house inmates. This necessity will be eliminated by the completion of construction of additional correctional facilities at Santa Fe.

5. Upon the opening of the Penitentiary of New Mexico -- North Facility, all inmates housed at that time in dormitory housing units at PNM will be reassigned to general population housing. The reassignment and relocation of inmates from dormitories at PNM will be accomplished as quickly as possible and in

no event shall it take more than thirty working days after the North facility is open for occupancy.


6. After all inmates have been reassigned from dormitory housing units at the Penitentiary of New Mexico, those dormitories shall be closed permanently and at no time in the future shall they be used to house inmates.

7. The parties enter into this stipulation in full awareness of existing projections of increases in the New Mexico inmate population in the future and of the fact that these projections may be exceeded.


Signed:



Michael Francke
Secretary



William W. Deaton
Counsel for Plaintiffs



John Bigelow
Counsel for Defendants

4/18/84

Date