



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

THOMAS REGISTER, et al.,            )  
  )     CASE NO. C78-1680  
  )     JUDGE FRANK BATTISTI  
vs.                                     )  
GEORGE F. DENTON, et al.,         )  
  )     STIPULATION FOR FINAL  
  )     CONSENT DECREE  
and                                     )  
MYERS R. KURTZ, et al.,            )

I. PRELIMINARY STIPULATIONS

A. The parties to the above captioned action hereby stipulate to the jurisdiction of this court, pursuant to 28 U.S.C. §1343, and to the following relief and consent to the incorporation of this relief in a final order by this court.

B. This stipulation is not an admission of liability on the part of defendants and is made for the purpose of settling this action only.

C. The plaintiffs in this case are defined as the class of all persons who are or will be inmates of the institution currently designated as the Ohio State Reformatory in Mansfield, Ohio.

D. 1. The defendants are currently the following individuals: George F. Denton, Director of the Department of Rehabilitation and Correction; David R. McKeen, Chief of Division of Institutions, Department of Rehabilitation and Correction; Frank H. Gray, Superintendent of the Ohio State Reformatory; Myers Kurtz, Director of the Department of Mental Health; and Howard Sokolov, Commissioner of Mental Health, Department of Mental Health.

2. The terms of this stipulation shall apply to the current defendants and to their successors, agents, employees and any other person or agency under the control and/or direction of defendants or who is responsible to defendants. The term "Corrections Defendants" refers to all such persons associated with the Ohio Department of Rehabilitation and Correction; the term "Mental Health

Defendants" refers to all such persons connected with the Ohio Department of Mental Health.

3. All persons originally named as defendants who are not listed in subparagraph (D)(1) above are hereby dismissed with prejudice.

E. 1. Corrections defendants agree to ensure that all inmates receive adequate medical care as defined herein.

2. All defendants agree to ensure that all inmates shall receive adequate psychiatric and psychological care as defined herein. The responsibility for providing such care shall be allocated between Corrections and Mental Health defendants in a manner consistent with the provision of this decree and applicable state law.

3. Where the term "adequate" is used to qualify a specific type of medical, mental health or ancillary care, the term shall be interpreted to mean that level of services and those qualifications of health professionals and physicians which meet generally accepted standards in community settings. The parties agree that when the level of care currently provided at the Ohio State Reformatory is modified in accordance with the requirements of these stipulations, defendants are providing an adequate level of care.

F. If there is a substantial change in the number of inmates at the institution, or a change in the nature of the institution currently designated as the Ohio State Reformatory, defendants may propose alterations in the terms of this stipulation to reflect such changes. If plaintiffs do not object within 30 days, the alteration may be effectuated. If plaintiffs do object, all parties shall make a good faith effort to reach agreement on changes in these stipulations as necessary to reflect the change in the level or nature of the population. Only when the parties are unable to reach agreement on the alterations or changes will intervention by the court be sought.

G. This stipulation for final consent decree, once approved by the court, shall constitute a full and complete settlement of any and all claims, including claims for attorneys' fees and costs, regarding medical, psychiatric and psychological care which the members of plaintiffs' class may have against defendants. This stipulation shall become effective only upon approval by the court in a final order of all terms and conditions stated herein.

H. 1. Within ten days of the date of an interim order granting conditional approval of this stipulation, defendants shall provide notice to the class by posting in conspicuous places in the Ohio State Reformatory a written notice informing inmates of this settlement and providing that copies of this stipulation and the court order shall be made available for review by the inmates at locations chosen by Corrections defendants with prior approval by counsel for plaintiffs.

2. Members of the plaintiff class shall have the right to submit written comments and/or objections to the Court within sixty days of the entry of the interim order granting conditional approval. After consideration of the defendants' plan and the responses thereto by plaintiffs, the Court may, if warranted, enter final approval of the stipulation for final consent decree.

I. The parties agree that this Court specifically retains jurisdiction over this matter to insure compliance and to issue any additional orders required in the interest of justice. The parties agree that no special master is necessary at this time to insure compliance with the terms of this stipulation for final consent decree, and <sup>that</sup> regardless of how it is styled, any request by plaintiffs for court action to enforce the practices, procedures or standards established in this order shall be in the form of a request for civil relief.

## II. MEDICAL CARE

### A. STAFFING.

#### 1. PRIMARY PHYSICIAN STAFFING.

Corrections defendants shall provide and maintain adequate physician staffing for the clinic which shall include a minimum of 34 hours per week of primary on-site physician coverage.

#### 2. NURSE STAFFING.

Corrections defendants shall provide and maintain adequate nurse staffing for the clinic which shall include a minimum of three full-time registered nurses (R.N.) or equivalent (nurse practitioners or physician's assistants) and six full-time Licensed Practical Nurses (L.P.N.). Corrections defendants shall maintain 24 hour nursing coverage for the clinic at all times.

Corrections defendants shall use their best efforts to fill the currently vacant R.N. or equivalent position within 180 days of the entry of this order. In the event corrections defendants are unable to fill the position within 180 days, they shall promptly fill the position with an L.P.N. and when subsequent L.P.N. vacancies occur shall use their best efforts to hire an R.N. or equivalent to bring the number of this category of nursing staff up to three.

#### 3. PHARMACY STAFFING.

Corrections defendants shall provide and maintain adequate pharmacy staff which shall include a minimum of one full-time registered pharmacist and two full-time pharmacy assistants at the clinic.

### B. INPATIENT HOSPITAL SERVICES.

Corrections defendants shall provide adequate inpatient hospital services at hospitals in the community pending the availability of such services from the Department's Central Medical Facility (CMF) as provided for in H.B. 530. During the phase-in of the CMF and thereafter, corrections defendants shall supplement the CMF with inpatient

hospital services in the community when necessary to maintain an adequate level of inpatient care.

C. OUTPATIENT TREATMENT BY MEDICAL SPECIALISTS.

Corrections defendants shall provide adequate outpatient treatment by appropriate medical specialists from the community pending the availability of equivalent services at the CMF. During the phase-in of the CMF and thereafter, the corrections defendants shall supplement CMF specialists services with specialist services in the community where necessary to maintain adequate services of specialists.

D. ANCILLARY SERVICES.

Corrections defendants shall provide adequate ancillary services, including pharmacy, laboratory and x-ray for the operation of the clinic.

E. INMATE INVOLVEMENT IN MEDICAL CARE AND RECORDS.

1. Corrections defendants shall eliminate immediately all inmate access to medical records which is not directly supervised by a staff member.

2. Corrections defendants shall prohibit immediately an inmate from making entries or other notations in any medical record.

3. Corrections defendants shall implement immediately a system whereby one or more members of the medical staff compare with the original any inmate transcription of medical staff notes to ensure accuracy.

4. Corrections defendants shall eliminate all direct inmate involvement in medical care and access to medical records not later than December 31, 1984.

F. SICK CALL SIGN-UP.

1. Corrections defendants shall provide a member of the medical staff (which may be a clerk or secretary but not an inmate or a correctional officer) who shall record names and numbers of inmates requesting medical care at the sick-call sign up.

2. Corrections defendants shall immediately add an additional column to the sick call sign-up sheets for notes and observations. Medical staff members shall hereafter record specific symptoms and observations in the appropriate column on the sick call sign-up sheets.

G. TREATMENT OF DRUG WITHDRAWAL.

Corrections defendants shall provide appropriate medications to mitigate the effects of drug withdrawal as prescribed by a physician on a case by case basis.

H. CLINIC PHYSICAL PLANT.

Corrections defendants shall install and maintain proper and undamaged screens on all windows which are opened in the clinic not later than August 31, 1982.

I. CLINIC PROCEDURE MANUAL.

Corrections defendants shall complete and distribute a manual of nursing, clinical and emergency procedures for the clinic not later than December 31, 1982.

J. PHYSICAL THERAPY.

1. Corrections defendants shall provide, either directly or by contract, the services of a licensed physical therapist to inmates as prescribed by a physician.

2. Corrections defendants may consider transfer of the inmate to a more appropriate institution when the physician determines that such services will be required for a period in excess of four months.

K. PROSTHESES.

Corrections defendants shall provide prostheses to inmates upon the order of a physician without unreasonable delay.

L. TRAINING FOR CORRECTIONAL OFFICERS.

1. Corrections defendants shall provide within 90 days after the entry of this order a minimum three hours orientation course on the medical problems of inmates. This program shall be mandatory for all correctional officers

assigned to the medical range, protective custody and the disciplinary isolation areas. The content of said orientation course shall be determined by a physician, the director of nursing and the director of the day care program as defined in Section III(A)(2) below. The course shall include but not be limited to recognition of psychiatric symptoms and adverse reactions from psychotropic medications.

2. Corrections defendants shall repeat the orientation course periodically so as to insure that officers assigned to the areas specified in the previous paragraph receive this training within 30 days after their initial assignment to the specific areas. Attendance of such officers shall be mandatory.

3. Counsel for plaintiffs shall be given, upon request, copies of materials used in the course, schedules for presentation of the course and attendance records of all persons attending the course.

M. MONITORING OF HEALTH SERVICES.

1. Corrections defendants shall provide semi-annual on-site inspections by Department of Rehabilitation and Correction inspectors with respect to all health services.

2. Corrections defendants shall ensure that the inspectors shall review compliance with the provisions of this decree. The review shall include, but not be limited to, the general level of all health services provided to inmates including staff and inmate concerns with these services, and emergency access to health care from all parts of the institution.

3. Corrections defendants shall provide plaintiffs' counsel with at least 30 days notice of the dates of these inspections and permit plaintiffs' counsel and/or expert(s) of their choice to accompany the inspector.

4. Corrections defendants shall promptly provide a written report of the inspector's findings to plaintiffs' counsel. Upon request to defendants' counsel, plaintiffs'



counsel shall be permitted to inspect and copy any records upon which the report is based.

5. Corrections defendants shall permit plaintiffs' counsel and/or experts chosen by plaintiffs access to all health care related sites, staff, records, and training programs upon reasonable notice to counsel for defendants. Defendants shall permit plaintiffs' counsel and/or experts chosen by plaintiffs access to any inmate upon reasonable notice to counsel for defendants.

6. Plaintiffs agree to waive expert and attorneys' fees in connection with monitoring unless it becomes necessary to litigate to ensure compliance with this order.

### III. PSYCHIATRIC AND PSYCHOLOGICAL SERVICES.

#### A. STAFF.

1. Corrections defendants shall maintain four full-time psychology positions (not less than one licensed psychologist and three psychology assistants) and adequate support staff to test and classify inmates, refer inmates to the day care program and to augment the day care program to the extent defendants deem appropriate. Corrections defendants will provide security functions for the day care program.

2. Mental Health defendants shall take the administrative steps necessary to approve, establish, fund and maintain the following full-time positions for a day care program at the Ohio State Reformatory:

- a. one Director (which shall be at least a Masters Degree level mental health professional)
- b. two registered nurses (R.N.)
- c. two social workers
- d. one activity therapist
- e. one psychologist
- f. one secretary.

3. Mental Health defendants shall provide adequate psychiatric services which shall include not less than 16 hours per week of psychiatric coverage.

4. Mental Health defendants shall use their best efforts to fill the R.N. and psychologist positions. In the event Mental Health defendants are unable to fill any or all of these positions within 180 days of the court's order, they may take steps to fill the positions of R.N. with licensed practical nurses and they may take steps to fill the psychologist position with a psychology assistant with at least a master's degree in psychology. When subsequent vacancies occur in the R.N. or psychologist positions Mental Health defendants shall use their best efforts to fill these vacancies with an R.N. or psychologist.

B. THERAPY SPACE.

All defendants shall ensure that there is adequate space and privacy for individual therapy, small group therapy, activity therapy and large group therapy.

C. PROGRAMMING.

The psychiatric and psychological services and program provided may include, but are not limited to, individual therapy, group therapy, activity therapy, day hospital programs and medication maintenance.

D. ACCESS TO MENTAL HEALTH SERVICES.

All defendants shall develop and maintain a system of referrals for psychiatric and psychological services which ensures that each inmate in need of such services has access to such services.

E. RESTRAINTS.

1. Correction defendants shall ensure that requirements of §§5120-9-01 and 5120-9-02 O.A.C. (1982) are followed. Inmates who have been placed in immobilizing restraints shall be checked every fifteen minutes by a member of the medical staff. This staff person shall note the inmate's condition in the inmate's medical chart every fifteen minutes. The parties agree that if, in exceptional

circumstances, there is no member of the medical staff available to check on an inmate in restraints every fifteen minutes, a correctional officer who has received the previously stipulated training shall conduct the fifteen (15) minute check. When this procedure is followed, a member of the medical staff will conduct an hourly check on the restrained inmate and note all observations in the inmate's medical chart.

2. The Corrections defendants shall ensure that leather or cloth restraints are used wherever possible. Steel restraints shall be used only in exceptional circumstances with the approval of the shift supervisor, who shall enter a note in the inmate's chart explaining the need for using such restraints.

F. MONITORING.

1. Mental Health defendants shall provide semi-annual on-site inspections by Department of Mental Health inspectors with respect to mental health services.

2. Mental Health defendants shall ensure that the inspectors shall review compliance with the provisions of this decree. The review shall include, but not limited to, the general level of mental health services provided to inmates, including staff and inmate concerns with these services.

3. Mental Health defendants shall promptly provide a written report of the inspector's findings to plaintiffs' counsel. Upon request to defendants' counsel, plaintiffs' counsel shall be permitted to inspect and copy any records upon which the report is based.

4. Mental Health defendants shall permit plaintiffs' counsel and/or experts chosen by plaintiffs access to all mental health care related sites, staff, records and training programs at Ohio State Reformatory upon reasonable notice to counsel for defendants.

5. Plaintiffs agree to waive expert and attorneys' fees in connection with monitoring unless it becomes necessary to litigate to ensure compliance with this order.

G. PATIENT EDUCATION.

Mental Health defendants shall make available to inmates a training program on psychotropic medication. All materials used in this program shall be made available to counsel for plaintiffs upon request.

IV. ATTORNEY FEES

A. All defendants stipulate that at least 1400 hours were spent on this matter by attorneys for plaintiffs. Plaintiffs stipulate that they will not claim fees for more than 1400 hours.

B. All parties stipulate that expenses of \$15,000 were reasonably incurred by attorneys for plaintiffs in conducting this litigation.

C. All parties stipulate that \$65.00 per hour is a reasonable rate of compensation for services by attorneys for plaintiffs.


D. As a full and complete settlement of plaintiffs' claims for attorneys fees, expenses and costs, the Department of Mental Health agrees to pay \$26,500 and the Department of Rehabilitation and Correction agrees to pay \$79,500 to plaintiffs not later than ninety (90) days after the date of filing of the final order approving the stipulation for final consent decree.


IT IS SO STIPULATED

FOR DEFENDANTS:


FOR PLAINTIFFS:

  
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GEORGE F. DENTON  
DEFENDANT

  
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FRANKLIN J. HICKMAN  
ATTORNEY FOR PLAINTIFFS

  
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DAVID R. McKEEN  
DEFENDANT


  
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GORDON J. BEGGS  
ATTORNEY FOR PLAINTIFFS

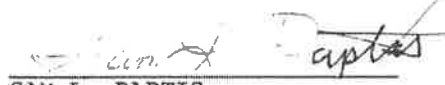
  
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FRANK H. GRAY  
DEFENDANT


  
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MYERS R. KURTZ  
DEFENDANT

Howard N. Sokolov in 10  
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DENNIS L. SIPE  
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SAM L. RAPTIS  
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HENRY A. ARNETT  
ATTORNEY FOR MENTAL HEALTH DEFENDANTS