

Mo- 07-202 6/26/86



PC-RI-001-005

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

NICHOLAS A. PALMIGIANO, et al.,	)	
	)	
v.	)	C.A. No. 74-172
	)	
J. JOSEPH GARRAHY, et al.	)	
	)	
THOMAS R. ROSS, et al.,	)	
	)	
v.	)	C.A. No. 75-032
	)	
J. JOSEPH GARRAHY, et al.	)	

MODIFIED ORDER

On May 12, 1986, the Court issued an opinion setting forth findings of fact and conclusions of law resulting from an evidentiary hearing in December 1985 and also issued a further remedial order in this case. On May 22, 1986, the defendants filed a motion to alter or amend that order and on June 16, 1986, a status conference was held in chambers on defendants' motion with all parties present.

At the said conference, all parties agreed to certain modifications of the May 12, 1986, order and further agreed to waive all rights to appeal the May 12, 1986 order and this modified order. The Court is of the opinion that the agreed modifications are consistent with the findings of fact and conclusions of law contained in its May 12, 1986 opinion and that justice would be served by modifying its order as agreed to by the parties.

It is therefore the order, judgement and decree of this Court that:

1. Paragraph A.1 of the May 12, 1986 order is modified so that effective immediately the defendants are enjoined from

housing any more than 268 inmates in Medium Security.

The defendants will come into compliance with paragraph 4.(a)(9) of the August 10, 1977 Order within one year, and I enjoin the defendants at that time from exceeding the following population limits for the respective dormitories:

A Dorm	45
B Dorm	45
C Dorm	45
D Dorm	30
A Honor Dorm	<u>21</u>
Total	186

Together with the 36 cells in CBS and DCB cellblocks, which are required to be single occupancy, this places a population limit of 222 inmates, some 40 inmates above the design capacity.

The defendants shall make a good faith effort to reduce the population below 268 during this one year period and shall file a report setting forth the population every four months commencing four months from the date of this order.

2. Paragraph A.2 of the May 12, 1986 order is modified so that effective July 1, 1986, the defendants are enjoined from housing any more than 250 inmates at the Intake Service Center. Thereafter, the defendants shall be enjoined from housing any more than the following numbers of inmates on the following respective dates:

January 1, 1987	240 inmates
April 1, 1987	230 inmates

July 1, 1987	220 inmates
October 1, 1987	210 inmates
January 1, 1988	200 inmates
April 1, 1988	190 inmates
July 1, 1988	180 inmates
October 1, 1988	168 inmates

In the event the defendants do not reduce the population sufficiently at any of the above stated times, they are enjoined from accepting any new inmates unless and until the population is below the population cap at that time. On each of the dates specified above, commencing with July 1, 1986, the defendants shall file a report setting forth the population.

At any of the above stated times, the defendants may file a motion requesting that they be permitted to maintain the population at the level then required by this order, without further reduction, on the grounds that the defendants can establish at that time that they can maintain that population and are meeting and can continue to meet all other requirements of the August 10, 1977 Order as amended and all relevant constitutional standards.

Commencing July 1, 1986, no inmate shall be double-celled at the ISC unless that inmate is provided with at least ten hours each day out of his cell and no inmate shall be double-celled for more than thirty days.

3. Paragraph B. of the May 12, 1986 order is modified so that the defendants will come into compliance with paragraphs 5

and 2.(c) of the August 10, 1977 Order as amended within six months.

4. Paragraph C. of the May 12, 1986 order is modified so that the defendants will file the plan required by that paragraph with the Court, with a copy to counsel, within sixty days of the May 12, 1986 order.

5. In the event of an emergency caused by a riot, strike, fire or other events not caused by the defendants, their agents, employees, successors in office, and those acting in concert with them, which makes compliance with the population limits of this order as modified temporarily impossible or inconsistent with security, it may be necessary to suspend temporarily said population limits upon the following conditions:

a. The defendants will give immediate telephonic notice of said emergency to the Court, the Special Master, and counsel for the plaintiffs setting forth the terms of the order they wish suspended, the nature of the emergency situation, the reasons why the suspension is necessary, and the expected duration of the suspension.

b. Written confirmation of the provisions of paragraph a. above shall be made to the Court, the Special Master and plaintiffs' counsel within five days.

c. No suspension under this provision shall continue for more than five days from the date of the suspension.

6. All provisions of the May 12, 1986 order not expressly modified herein shall remain in full force and effect.

By order,

Cornetta R. Zanni  
Deputy Clerk

Enter:

Raymond Dettine  
Senior Judge

June 26, 1986