



AMERICAN CIVIL LIBERTIES UNION FOUNDATION

THE NATIONAL PRISON PROJECT

January 13, 1988

Hon. Donald J. Porter
Chief Judge
United States District Court
413 U.S. Courthouse
Pierre, SD 57501

Re: Cody v. Hillard
80-4039

Dear Judge Porter:

I enclose a copy of the report of the expert panel regarding physical plant. Both parties have agreed to this report. I will ask Mr. Smith to write the Court directly to confirm the defendants' agreement to this report.

The expert panel has, unfortunately, experienced some delays with regard to the filing of its medical report. The parties jointly request an extension of time until the end of January to file this report. If the report is available earlier than the end of January, I anticipate that it will be filed earlier. I am hopeful that the extra time may make it possible for the parties to agree to the report.

Thank you for your continued patience with this matter.

Respectfully submitted,

Elizabeth Alexander
Elizabeth Alexander

EAbj

Enc:

cc: Mark Smith
Douglas Cummings
William Froke
Roger Flittie

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DATE: December 16, 1987

TO: American Civil Liberties Union Foundation
The National Prison Project
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ATTN: Elizabeth Alexander

RE: South Dakota State Penitentiary, Sioux Falls, South Dakota

On November 20, 1987 an environmental health and safety evaluation was conducted at the South Dakota State Penitentiary, Sioux Falls, South Dakota. The purpose of this evaluation was to determine the level of compliance with the partial consent decree, and agree upon any unresolved issues.

I, Robert W. Powitz, consulting sanitarian for the plaintiffs was accompanied by Mr. Clyde W. Hagen, Administrative Assistant at the South Dakota State Penitentiary.

The areas covered by this report include the following provisions of the consent decree:

I.A.6	Fire evacuation drills
I.A.7d	Fire inspections
I.B.1	Cell ventilation and heating
II.B.1	Basement food storage
II.B.2	Kitchen food storage
II.C.	Kitchen elevator
II.D.3	Utensil repair and sanitation
II.D.5	Kitchen food defrosting
III.B.	Furniture upholstery shop
III.E.	Safety locking devices
III.F.	Sawdust removal

Following this report is an addendum also relating to health and safety issues. It was felt that those issues warranted documentation and subsequent correction, but they should not become part of the consent decree. Rather, a good faith effort will be made in their amelioration, and it was agreed that

progress toward this end will be monitored on a regular basis.

Fire Evacuation Drills

Full evacuation fire drills are currently conducted biannually. It was felt that this frequency is sufficient to insure inmate safety if the following actions are taken in conjunction with these drills:

1. Each drill will become an inservice education project. Time and motion studies will be conducted to determine the efficiency and safety of inmate evacuation and written commentaries will be logged with the prison administration critiquing the positive and negative aspects of the actual drill.
2. All correctional personnel will be given the opportunity for hands-on training with available fire suppression equipment in addition to the existing safety training.
3. All emergency lighting is in place, but the operating condition of the battery units could not be determined. Therefore, there will be quarterly tests of these units with the results and any corrective measures logged in a hardbound, paginated notebook.

Fire Inspections

The State Fire Marshall tours the facility twice a year. Although this is a reasonable interval, considering their workload, it was felt that more frequent inspections would benefit life safety. Therefore, it was agreed that an individual will be identified, who will be properly trained in fire inspection techniques and N.F.P.A. Life Safety Code. This individual will conduct frequent inspections and prepare the necessary reports for action by the warden or his representative.

Cell Ventilation and Heating

The ventilation system and its operations were reviewed. Since the last inspection, several improvements to the system had been made.

The current system consists of thirty-three individually controlled constant speed fans. These fans cannot be shut down from a central control; each has its own switch in the pipechase where it is located. An industrial vacuum had been

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purchased for cleaning accessible duct work; those that were randomly inspected were in a clean and working condition. The vendors of the system, Johnson Controls, ran a two day training program in its maintenance, monitoring and operation. A budget request was made for sixty additional control points which will enhance overall quality control and monitor the operation of each fan. It was agreed that these monitoring sensors will be installed and operational by July 1, 1988. However, until these units are in place, the daily data provided by the control center will be summarized in a very simple manner and a permanent record maintained in a hardbound, paginated notebook. Any fluctuations from the normal operating parameters will be recorded along with any major repairs made to the system.

Basement Food Storage

The basement has been rodent-proofed; drip pans have been placed under sewage lines; all storage is away from the walls; proper dunnage is being used and the area is being maintained in a clean, vermin-free condition.

Kitchen Food Storage

There were no major deficiencies noted during this inspection. Reportedly, the State Sanitarian conducts a full food service inspection twice a year with the last inspection report receiving 91 points out of a possible 100. All critical items had been corrected.

Kitchen Elevator

The safety of the guillotine elevator door was investigated. Although the rubber bumpers between the doors were in a resilient condition and in good repair, it was found that a hand injury can occur if the hand gets caught between the doors as a result of grasping the closing strap too short or if the hand slips from the strap which has become slick from grease and handling. Therefore, it was decided that a horizontally mounted bar-type handle be mounted on both sides of the door where it does not interfere with the normal operation of the elevator. The bars will be mounted so that the hand controlling the doors will be away from the pinch point.

Utensil Repair and Sanitation

There were no broken or repaired kitchen utensils at the time of this inspection. All broken utensils are being promptly discarded and replaced with new utensils of an approved type. All kitchen equipment was being maintained in a sanitary condition.

Kitchen Food Defrosting

All defrosting of potentially hazardous foods is being done in an approved manner. All potential backsiphonage deficiencies have been repaired.

Furniture Upholstery Shop and Sawdust Removal

At the time of this inspection extensive repairs were being made throughout the shops area. The paint stripping room was under reconstruction; an improved point source capture ventilation system had been installed. Those items which had not yet been completed included the installation of a new lighting system and safety station. The room was not in operation at the time of this visit.

All machine safety guards had been installed in the carpentry shop and sawdust scavenging vacuums had been installed on most equipment.

It was agreed that by July 1, 1988 the following would be completed in the Prison Industries Area:

1. Electrical service.
2. Emergency fire suppression equipment properly installed and adequate.
3. All dust-generating equipment will have particulate scavenging devices.
4. All machines and accessible pinch points will be properly guarded.
5. All inmates and vocational personnel will be in full compliance with the sight conservation program.

It was further agreed that South Dakota State University will be contracted to conduct a comprehensive occupational safety and health evaluation after the remodeling is completed or no later than July 1, 1988.

Safety Locking Devices

All cells are now on an electronically controlled locking system with manual

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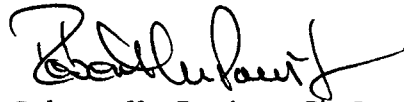
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override capabilities. Additionally, each cell has an emergency call button and there is a policy on response protocol.

Overall, health and safety conditions have improved significantly over the last inspection. Therefore, I feel that the agreements on compliance dates and additional quality assurance monitoring are both prudent and realistic.

Respectfully submitted,

BIOSAFETY SYSTEMS, INC.



Robert W. Powitz, Ph.D.
Consulting Sanitarian

attachment: Addendum
RWP/lel

ADDENDUM

On November 20, 1987, the following areas were evaluated. The health and safety deficiencies were noted and corrective measures were discussed. While some of these findings could be easily remedied, others will require planning and budget allocations.

Cottage

The remodeling project of the cottage to replace the doors, windows and ceilings is approximately 80% done. There will be an absolute capacity of 48 inmates in the cottage once the project is complete with no domicile areas allowed in the basement. Since the basement egress is less than six feet high, proper warnings and reflectorized tape demarkations must be placed on the low clearance areas.

The kitchen continues to be a full-service facility. The area is extremely crowded, storage is poor and there is no separation between the clean and soiled areas. Refrigerator space was lacking and cleaning supplies were being stored with food items. Baking preparation was being done on the drainboard of the dishwasher due to the lack of work space. However, overall general sanitation was quite good. It was agreed, effective immediately, that the baking could be done in the guard's kitchen and supplies could be delivered more frequently to overcome the shortage of space and lack of adequate refrigeration facilities.

Within the next few months there will be a review of the entire kitchen operations. Several options were discussed and a solution will be sought which is both safe and satisfactory to meet the inmate's needs.

Cell Blocks

The excelsior used to pack inmate's ceramics will be discontinued and replaced by a material of a lesser fire potential.

Periodic inspections will be conducted to reduce fire loading and eliminate electrical hazards in the cells.

Vocational Area/Prison Industries

The following deficiencies were noted on a cursory walk-through. Many will be corrected in the near future. However, several may depend upon the outcome of the comprehensive survey resulting in the rearrangement of entire shop areas.

It was agreed that large capital expenditure corrections be deferred until the survey is complete.

Tag Shop:

There is a backsiphonage potential such as submerged inlets and lack of vacuum breakers on some equipment waterlines.

Aisle space of thirty-six inches was not maintained and passageway under six feet high were not demarked.

Floor fans were not properly guarded.

Sign Shop:

Ventilation of the spray booth is extremely poor.

The silk screening operation is unvented.

Electrical connections are not protected in areas where solvents are used.

The shop area does not have adequate space for the amount of work being done in the area.

Carpentry Shop:

Although much of the dust generating equipment is now vented, the individual vacuum devices are both noisy and space consuming. Each unit must be individually cleaned; their handling is both awkward and can result in a rerelease of dust. Therefore, a properly designed control ventilation system should be installed.

The use of compressed air to clean off work should be discontinued. A small shop vacuum will serve equally as well without further dust generation.

Personnel Protection:

There is no fit testing of respirators and inappropriate respirators are being used, e.g. dust masks in a solvent area.

The sight conservation program is not universally enforced.

Power Plant

There is only one full-time employee supervising the power plant. The

Addendum

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remainder of the time the boiler is being watched by untrained trustee inmates, whose tenure is brief and turnover rapid. It is absolutely essential that any high-pressure system be monitored by full-time personnel holding a black-seal license or equivalent. If inmates are to be used, consider initiating a vocational program for long-term trustees.

A handwritten signature in black ink, appearing to be "J. H. [unclear]", located to the right of the main text block.

12/16/87
RWP/1e1