

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN**

LAWRENCE CARTY, et al.,	:	
	:	Civil No. 94-78
Plaintiffs,	:	
	:	
v.	:	
	:	
KENNETH MAPP, et al.,	:	
	:	
Defendants.	:	

**PLAINTIFFS’ EXPEDITED MOTION FOR COURT ORDER  
ACCEPTING AGREED UPON QUARTERLY GOALS**

Defendants have submitted proposed Goals (Doc. 886-1) that do not abide by the parties’ agreement or the Court’s instructions following the February 26, 2016 hearing. Plaintiffs respectfully move the Court to issue an order accepting the Goals as agreed upon during the meeting in the Court’s chambers on February 26, 2016, and requiring Defendants to produce a fourth goal for the quarter ending on May 6, 2016.

**BACKGROUND**

On February 24, 2016, Defendants submitted their proposed quarterly goals to Plaintiffs and the joint experts. *See* Defs.’ Proposed Quarterly Goals (Ex. A). That same day, Plaintiffs responded with their proposed quarterly goals to Defendants and the joint experts. *See* Pls.’ Proposed Quarterly Goals (Ex. B). On February 25, 2016, Defendants submitted a revised list of proposed quarterly goals to Plaintiffs and the joint experts, in redline format. *See* Defs.’ Revised Proposed Quarterly Goals (Ex. C).

On February 26, 2016, the parties conferred with the Court following the quarterly status hearing, during which the parties agreed to three quarterly goals as set forth by Defendants in their

revised goals. The Court also instructed Defendants to select a fourth goal from those proposed by Plaintiffs. The goals agreed to by the parties include the following: (1) “Complete training and implementation of Administrative Directives,” which includes re-training staff that did not earn a passing score on the Administrative Directives, revising lesson plan for Use of Force Incident Reporting policy, and fully implementing Administrative Directives; (2) “Develop and implement MOU to ensure timely transfers of seriously mentally ill inmates in need of inpatient or intermediate care to an appropriate hospital or mental health facility;” and (3) “Develop a detailed plan for procurement and installation of new CCTV system (hardware and software) for both facilities. The plan must include all of the steps and approximate time frames for implementation, including but not limited to: identification of and initial consultation with potential vendors; description and work and technical requirements; identification of necessary funds based on informed capital estimates; estimated time frames to complete the work.”

On February 26, 2016, Defendants filed their quarterly goals with the Court. *See* Doc. 886. Defendants unilaterally, and without notice or the consent of Plaintiffs, changed the language for the goal relating to the development and implementation of a MOU to ensure timely transfers of seriously mentally ill inmates in need of inpatient or intermediate care to an appropriate hospital or mental health facility. *See* DE 886-1 (revising quarterly goal to require only a “plan to address timely transfers of seriously mentally ill inmates in need of intermediate care,” and omitting language on those in need of inpatient care). Defendants also failed to propose a fourth goal.

## ARGUMENT

### **I. THE COURT SHOULD ADOPT GOALS FOR THIS QUARTER AS AGREED TO BY THE PARTIES DURING THE FEBRUARY 26, 2016 MEETING.**

#### **A. The Court Should Adopt the Goal on Implementation of a Hospitalization Memorandum of Understanding as Written by Dr. Burns.**

In their quarterly goals filed with the Court (DE 886-1), Defendants unilaterally altered the language of the goal on the development and implementation of a MOU to ensure timely transfers of seriously mentally ill inmates in need of inpatient or intermediate care to an appropriate hospital or mental health facility. The parties agreed to certain language during the meeting in the Court's chambers on February 26, 2016, which tracks the language proposed by joint expert Dr. Kathryn A. Burns and the language in the Settlement Agreement. *See* Agreement ¶V.x.iii (“[D]evelopment and implementation of memorandum of understanding to ensure timely transfers of seriously mentally ill prisoners in need of acute stabilization to an appropriate hospital or mental health facility.”). Plaintiffs request that the Court adopt the language that the parties agreed to, as set forth in proposed order.

#### **B. The Court Should Order Defendants to Produce a Fourth Quarterly Goal as Agreed to During the February 26, 2016 Meeting.**

Defendants also failed to propose a fourth goal as instructed by the Court during the February 26, 2016 meeting in the Court's chambers. Defendants filed only three goals with the Court, despite specific instruction from the Court to select a fourth goal from Plaintiffs' proposed quarterly goals that they believe they could readily achieve. As such, Plaintiffs respectfully request that the Court order Defendants to produce a fourth goal within seven (7) days of this Motion.

**II. PLAINTIFFS ASK THE COURT TO EXPEDITE ITS CONSIDERATION OF THIS MOTION.**

Plaintiffs respectfully request that the Court shorten the period for Defendants to respond to this Motion to this Wednesday, March 2, 2016, and expedite its consideration and ruling on this Motion. Shortening the timeframe will ensure that the goals are set at the beginning of the quarter, and that Defendants thereby have sufficient time to make progress towards compliance with the goals.

**CONCLUSION**

For the foregoing reasons, Plaintiffs respectfully ask the Court to issue an expedited ruling and grant this Motion for a Court Order Accepting Agreed Upon Quarterly Goals.

Respectfully submitted,

**/s/ ERIC BALABAN**

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**/s/ BENJAMIN CURRENCE**

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St. Thomas, U.S.V.I. 00804-6143  
340/775-3434  
Attorneys for Plaintiffs

Dated: February 29, 2016

**CERTIFICATE OF SERVICE**

I hereby certify that, on February 29, 2016, a true and correct copy of the foregoing pleading and exhibits were served by the Notice of Electronic Filing administered by this Court to the following counsel for Defendants at the following address:

Carol Thomas-Jacobs  
Asst. Attorney General  
V.I. Department of Justice  
Office of the Attorney General  
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34-38 Kronprindsens Gade  
St. Thomas, USVI 00801  
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Shari D' Andrade  
Assistant Attorney General  
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**/s/ ERIC BALABAN**  
Eric Balaban

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
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LAWRENCE CARTY, et al.,	:	
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	:	
Defendants.	:	

**DECLARATION OF ERIC BALABAN IN SUPPORT OF PLAINTIFFS’ EXPEDITED  
MOTION FOR COURT ORDER ACCEPTING AGREED UPON QUARTERLY GOALS**

Pursuant to 28 U.S.C. § 1746, Eric Balaban declares the following to be true and correct under penalty of perjury:

1. I am lead counsel for the Plaintiffs in the above-captioned case.
2. Attached as Exhibit A is a true and correct copy of the Proposed Quarterly Goals that Defendants submitted to Plaintiffs and the experts on February 24, 2016.
3. Attached as Exhibit B is a true and correct copy of the Proposed Quarterly Goals that Plaintiffs submitted to Defendants and the experts on February 24, 2016.
4. Attached as Exhibit C is a true and correct copy of the revised Proposed Quarterly Goals that Defendants submitted to Plaintiffs and the experts on February 25, 2016.

DATED this 29th day of February, 2016

/s/ ERIC BALABAN  
ERIC BALABAN

**Carty Experts-Revised Goals**  
**BUREAU OF CORRECTIONS**  
**SETTLEMENT AGREEMENT - CARTY et al v. TERRITORY OF THE VIRGIN ISLANDS**  
**PROPOSED QUARTERLY GOALS – PERIOD ENDING MAY 6, 2016**

PROVISION	REF.	EXPERT	LEAD	GOALS
An adequate fire safety program with written evacuation plan reviewed by Local Fire authorities, and posted evacuation routes throughout both facilities.	Sec. IV O.1.a	Bogard	GD/KW	<ul style="list-style-type: none"> <li>• Finalize Evacuation Plan for the CJC and the Annex and submit to VI Fire Service for approval</li> </ul>
Complete training on Administrative Directives	Sec. IV.H.1.d, f., g.; IV.G.1.a.[v ii.]; IV.I.1.f.; IV.D.1.a-f; XI.1.e.; IV.B.1.e.	Bogard	GD/KW/ Compliance/ EH	<ul style="list-style-type: none"> <li>• Re-train staff that did not successful receive a passing score on the following Administrative Directives                             <ul style="list-style-type: none"> <li>○ Use of Force De-escalation</li> <li>○ Pre Hearing Detention</li> <li>○ Contraband</li> <li>○ Keep Separates</li> <li>○ Outdoor Recreation</li> <li>○ Maintaining Housing Posts</li> <li>○ Housing Unit Rounds</li> <li>○ Use of force Incident Reporting</li> </ul> </li> <li>• Revise lesson plan for Use of Force Incident Reporting policy.</li> </ul>
Security Policies	Sec. IV. E.8, G & H	Bogard	Compliance/ GD/KW	<p>Finalize, the following policies</p> <ul style="list-style-type: none"> <li>• Inmate Bedding and Clothing Policy</li> <li>• Incident Reporting Policy</li> </ul> <p>Draft the following policy:</p> <ul style="list-style-type: none"> <li>• Use of force policy and related forms, including sub-policies that cover use of reporting requires, supervisory and administrative review of use of force incidents, use of force continuum, use of force alternatives &amp; de-escalation,</li> </ul>

					<ul style="list-style-type: none"> <li>impermissible uses of force, medical and mental health staff involvement, physical restraints and control techniques and tactics, less-lethal weapons/devices, use of mechanical restraints, use of deadly force, firearms and armory operations, video recording of use of force incidents, Special Operations Response Team (SORT), and Use of Force Training</li> </ul>
Adequate suicide prevention	Sec. V.2.1.i-xii	Burns	GD, VC	<ul style="list-style-type: none"> <li>Complete suicide prevention policy, procedure and all related forms including a standardized risk assessment instrument, including identification and modification of a safe cell</li> <li>Prepare staff training materials and training schedule on suicide prevention policy and procedure.</li> </ul>	
Implementation of specific policies on the use of seclusion or restraints on mentally ill prisoners consistent with professional guidelines	Sec. V.2.x, vii.a-d	Burns	GD, VC	<ul style="list-style-type: none"> <li>Complete Seclusion and Restraint policy, procedure and all related forms and logs.</li> <li>Prepare staff training materials and training schedule on seclusion and restraint policy and procedure.</li> </ul>	
The development and implementation of an objective and validated system that classifies and appropriated houses detainees and sentenced prisoners . . .	Sec. IV.A. 1.a	Austin	ES	<ul style="list-style-type: none"> <li>Complete validation study</li> </ul>	
Defendants shall remedy all know security deficiencies and hazards at the Jail.  Defendants shall ensure that security systems and equipment are readily available to staff and in working order.	Sec. IV C.1; IV.C.1.m	Bogard	EH/	<ul style="list-style-type: none"> <li>Develop a detailed plan for procurement and installation of new CCTV system (hardware and software) for both facilities. The plan must include all of the steps and approximate time frames for implementation, including but not limited to: identification of and initial</li> </ul>	



<p>Defendants shall develop and implement policies regarding the operation and placement of security cameras and the video monitoring system.</p>				<p>consultation with potential vendors; description and work and technical requirements; identification of necessary funds based on informed capital estimates; estimated time frames to complete the work.</p>
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**TEAM**

- RM- Rick Mullgrav, Director
- EH- Everette Hansen, Assistant Director
- ES – Ernest Smithen, Classification Supervisor
- KW – Kelvin Williams, Assistant Warden
- GD- Gilbert David, Warden
- JW – Jimmy Warren, Chief Inspector
- VC- Vermita Charles, Health Services Administrator
  
- COMPLIANCE – Bonnielyn Thomas, Kim Lyons

**Party Experts' Revised Plaintiffs' Proposed Quarterly Goals**  
**BUREAU OF CORRECTIONS**  
**SETTLEMENT AGREEMENT - CARTY et al v. TERRITORY OF THE VIRGIN ISLANDS**  
**PROPOSED QUARTERLY GOALS - PERIOD ENDING MAY 6, 2016**

PROVISION	REF	EXPERT	GOALS
<del>An adequate fire safety program with written evacuation plan reviewed by local fire authorities and posted evacuation routes throughout both facilities.</del>	Sec. IV-G-1a	Bogard	<ul style="list-style-type: none"> <li>Finalize Evacuation Plan for the CIC and the Annex and submit to VI Fire Service for approval.</li> </ul>
Complete training <del>on</del> and implementation of Administrative Directives	Sec. IV.H.1.d., f., g.; IV.G.1.a.[v ii.]; IV.I.1.f.; IV.D.1.a-f; XI.1.e.; IV.B.1.e.	Bogard	<ul style="list-style-type: none"> <li>Re-train staff that did not successfully receive a passing score on the following Administrative Directives                             <ul style="list-style-type: none"> <li>Use of Force De-escalation</li> <li>Pre Hearing Detention</li> <li>Contraband</li> <li>Keep Separates</li> <li>Outdoor Recreation</li> <li>Maintaining Housing Posts</li> <li>Housing Unit Rounds</li> </ul> </li> <li>Use of force Incident Reporting</li> <li>Revise lesson plan for Use of Force Incident Reporting policy.</li> <li>Fully implement Administrative Directives.</li> </ul>
Security Policies	Sec. IV.F-9.D., A, G & H	Bogard	<p>Finalize and prepare for training the following policies:</p> <ul style="list-style-type: none"> <li>Immate Bedding and Clothing Policy</li> <li>Incident Reporting Policy</li> </ul> <p><del>Draft the following policy:</del></p> <ul style="list-style-type: none"> <li>Use of force policy and related forms, including sub-policies that cover use of reporting requires, supervisory and administrative review of use of force incidents, use of force continuum, use of force alternatives &amp; de-escalation, impermissible uses of force, medical and mental health staff involvement, physical restraints and control techniques and tactics, less-lethal weapons/devices, use of mechanical restraints, use of deadly force, firearms and</li> </ul>

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		armory operations, video recording of use of force incidents, Special Operations Response Team (SORT), and Use of Force Training
Adequate suicide prevention	Sec. V.2.i.i-xii	<ul style="list-style-type: none"> <li>• Complete suicide prevention policy, procedure and all related forms including a standardized risk assessment instrument, including identification and modification of <del>safe</del> <u>safe</u> cells</li> <li>• Prepare staff training materials and training schedule on suicide prevention policy and procedure.</li> </ul>
Implementation of specific policies on the use of seclusion or restraints on mentally ill prisoners consistent with professional guidelines	Sec. V.2.x.vii-a-d	<ul style="list-style-type: none"> <li>• Complete Seclusion and Restraint policy, procedure and all related forms and logs.</li> <li>• Prepare staff training materials and training schedule on seclusion and restraint policy and procedure.</li> </ul>
<u>Development and implementation of memorandum of understanding to ensure timely transfers of seriously mentally ill prisoners in need of inpatient or intermediate care, or those in need of acute stabilization, to an appropriate hospital or mental health facility.</u>	Sec. V.2.x.iii	<ul style="list-style-type: none"> <li>• <u>Develop and implement MOU to ensure timely transfers of seriously mentally ill inmates in need of inpatient or intermediate care to an appropriate hospital or mental health facility.</u></li> </ul>
<del>The development and implementation of an objective and validated system that classifies and appropriated houses detainees and sentenced prisoners. Defendants shall actively manage their prisoner population, including seeking pretrial detention alternatives and reduced bails, and offering sentences of time served for prisoners charged with misdemeanor and non-violent offenses.</del>	Sec. IV.A.1-a	<ul style="list-style-type: none"> <li>• <u>Launch Criminal Justice assessment Complete validation study</u></li> </ul>
Defendants shall remedy all know security deficiencies and hazards at the Jail.  Defendants shall ensure that security systems and	Sec. IV C.1; IV.C.1.m	<ul style="list-style-type: none"> <li>• Develop a detailed plan for procurement and installation of new CCTV system (hardware and software) for both facilities. The plan must include all of the steps and approximate time frames for implementation, including but not limited to: identification of</li> </ul>

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equipment are readily available to staff and in working order.  Defendants shall develop and implement policies regarding the operation and placement of security cameras and the video monitoring system.			and initial consultation with potential vendors; description and work and technical requirements; identification of necessary funds based on informed capital estimates; estimated time frames to complete the work.
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- COMPLIANCE – Bonnielyn Thomas, Kim Lyons

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**Carty Experts Revised Plaintiff-Defendants Proposed Quarterly Goals**  
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**SETTLEMENT AGREEMENT - CARTY et al v. TERRITORY OF THE VIRGIN ISLANDS**  
**PROPOSED QUARTERLY GOALS – PERIOD ENDING MAY 6, 2016**

PROVISION	REF	EXPERT	GOALS
<p><del>An adequate fire safety program with written evacuation plan reviewed by Local Fire authorities; and posted evacuation routes throughout both facilities;</del></p>	<p><del>Sec. IV C-1a</del></p>	<p><del>Bogard</del></p>	<p><del>Finalize Evacuation Plan for the CIC and the Annex and submit to V Fire Service for approval</del></p>
<p>Complete training <u>on and implementation of</u> Administrative Directives</p>	<p>Sec. IV.H.1.d., f., g.; IV.G.1.a.[v ii]; IV.I.1.f.; IV.D.1.a-f; XI.1.e.; IV.B.1.e.</p>	<p>Bogard</p>	<ul style="list-style-type: none"> <li>• Re-train staff that did not successful receive a passing score on the following Administrative Directives                             <ul style="list-style-type: none"> <li>○ Use of Force De-escalation</li> <li>○ Pre Hearing Detention</li> <li>○ Contraband</li> <li>○ Keep Separates</li> <li>○ Outdoor Recreation</li> <li>○ Maintaining Housing Posts</li> <li>○ Housing Unit Rounds</li> <li>○ Use of force Incident Reporting</li> </ul> </li> <li>• <del>Revise lesson plan for Use of Force Incident Reporting policy.</del></li> <li>• <u>Fully implement Administrative Directives.</u></li> </ul>
<p>Security Policies</p>	<p>Sec. IV. <del>E;D.A, G &amp; H</del></p>	<p>Bogard</p>	<p>Finalize <u>and prepare for lesson plan</u><del>strategies</del> For the following policies:</p> <ul style="list-style-type: none"> <li>• <del> inmate Bedding and Clothing Policy</del></li> <li>• <del> Incident Reporting Policy</del></li> <li>• <u>Draft the following policy:</u> <ul style="list-style-type: none"> <li>• Use of force policy and related forms, including sub-policies that cover use of reporting requires, supervisory and administrative review of use of force incidents, use of force continuum, use of force alternatives &amp; de-escalation, impermissible uses of force, medical and mental health staff involvement, physical restraints and control techniques and tactics, less-lethal weapons/devices,</li> </ul> </li> </ul>

		<p>use of mechanical restraints, use of deadly force, firearms and armory operations, video recording of use of force incidents, Special Operations Response Team (SORT), and Use of Force Training</p>
<p>Adequate suicide prevention</p>	<p>Sec. V.2.1.i-xii</p>	<p>Burns</p> <ul style="list-style-type: none"> <li>• Complete suicide prevention policy, procedure and all related forms including a standardized risk assessment instrument, including identification and modification of <del>a</del>-safe cells</li> <li>• Prepare staff training materials and training schedule on suicide prevention policy and procedure.</li> </ul>
<p>Implementation of specific policies on the use of seclusion or restraints on mentally ill prisoners consistent with professional guidelines</p>	<p>Sec. V.2.x, vii-a-d</p>	<p>Burns</p> <ul style="list-style-type: none"> <li>• Complete Seclusion and Restraint policy, procedure and all related forms and logs.</li> <li>• Prepare staff training materials and training schedule on seclusion and restraint policy and procedure.</li> </ul>
<p><del>Development and implementation of memorandum of understanding to ensure timely transfers of seriously mentally ill prisoners in need of inpatient or intermediate care or those in need of acute stabilization to an appropriate hospital or mental health facility.</del></p>	<p><del>See: V.2.x-iii</del></p>	<p><del>Burns</del></p> <ul style="list-style-type: none"> <li>• <del>Develop and implement MOU to ensure timely transfers of seriously mentally ill inmates in need of inpatient or intermediate care to an appropriate hospital or mental health facility.</del></li> </ul>
<p><del>The development and implementation of an objective and validated system that classifies and appropriated houses detainees and sentenced prisoners --. Defendants shall actively manage their prisoner population, including seeking pretrial detention alternatives and reduced bails, and offering sentences of time served for prisoners charged with misdemeanors and non-violent offenses.</del></p>	<p>Sec. IV.A. 1<del>a</del></p>	<p>Austin</p> <ul style="list-style-type: none"> <li>• <del>Launch Criminal Justice assessment Complete validation study</del></li> </ul>
<p>Defendants shall remedy all know security deficiencies and hazards at the Jail.</p>	<p>Sec. IV C.1; IV.C.1.m</p>	<p>Bogard</p> <ul style="list-style-type: none"> <li>• Develop a detailed plan for procurement and installation of new CCTV system (hardware and software) for both facilities. The</li> </ul>

Defendants shall ensure that security systems and equipment are readily available to staff and in working order.			plan must include all of the steps and approximate time frames for implementation, including but not limited to: identification of and initial consultation with potential vendors; description and work and technical requirements; identification of necessary funds based on informed capital estimates; estimated time frames to complete the work.
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**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
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Plaintiffs,	:	
	:	
v.	:	
	:	
KENNETH MAPP, et al.,	:	
	:	
Defendants.	:	

**ORDER**

Having considered Plaintiffs’ Expedited Motion for Court Order Accepting Agreed Upon Quarterly Goals,

**IT IS ORDERED** that Plaintiffs’ Motion is **GRANTED**, and the following three quarterly goals are adopted for the quarter ending on May 6, 2016:

1. complete training and implementation of Administrative Directives, including re-training staff that did not earn a passing score on the eight Administrative Directives (use of force de-escalation, use of force incident reporting, contraband control, pre-hearing detention, keep separates, outdoor recreation, Maintaining Housing Post Assignments, and Housing Unit Rounds); revising lesson plan for Use of Force Incident Reporting policy; and fully implementing the above listed Administrative Directives;
2. develop and implement MOU to ensure timely transfers of seriously mentally ill inmates in need of inpatient or intermediate care to an appropriate hospital or mental health facility; and



3. develop a detailed plan for procurement and installation of a new CCTV system (hardware and software) for both facilities. The plan must include all of the steps and approximate time frames for implementation, including but not limited to: identification of and initial consultation with potential vendors; description and work and technical requirements; identification of necessary funds based on informed capital estimates; estimated timeframes to complete the work.

**IT IS FURTHER ORDERED** that Defendants shall propose a fourth goal within seven (7) days of this Order from those Plaintiffs proposed.

**SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016,

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Hon. Judge Curtis V. Gomez