

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
FILED  
APR 20 1981

JESSE E. CLARK, CLERK  
BY DEPUTY: *[Signature]*

CIVIL ACTION NO. H-78-987

W. J. ESTELLE, JR., ET AL.,  
Defendants.

Pursuant to the Order of the Court of December 12, 1980, the parties to this cause have met and agreed, through counsel, as hereafter set out, on the provisions of an injunctive Order to be entered regarding the areas covered by their agreement. The Defendants have entered into such agreement with the express understanding that their agreement is not an admission of liability in any sense, and particularly is not an admission of bad faith. Further, Defendants expressly make it known that in their view the agreement hereafter set out in some respects goes beyond minimal, constitutional requirements, but they have entered into said agreement in a good faith effort to terminate this litigation in the areas covered by the agreement and to preclude the need for appeal as to such areas. Defendants, however, in executing this agreement expressly reserve the right to withdraw their consent thereto as to any part of this agreement which is not incorporated in the form hereafter set out in the final Order of the Court to be entered for the purpose of effectuating said agreement.

The major areas covered by this Decree are in full and complete compromise and settlement of any and all claims regarding such areas and, if Defendants fully comply with the provisions of this Decree, Plaintiffs and Plaintiff-Inter-



venor agree that neither will request any further relief from the Court on any of these areas except (1) as to the status of the Huntsville Hospital facility and conditions of administrative segregation confinement (extent of recreation; number of prisoners in administrative segregation cells and prohibition of routine use of administrative segregation pending disciplinary hearings) and (2) past, present and future individual claims of class members. Plaintiffs and Plaintiff-Intervenor agree that enforcement of this Decree will be limited to appropriate motions to effectuate the provisions of this Decree. No additional requirements beyond those expressly stated in the Decree will be requested of the Court except to the extent necessary to enforce the provisions of this Decree. Construction of the Decree will be governed by the ordinary and reasonable interpretation of the language therein so as to preclude any strained interpretation, the effect of which is to incorporate standards or relief beyond that agreed to in the Decree.

Accordingly, upon the Stipulation of the parties, dated as of February 10, 1981, Defendants, their successors, agents and employees (referred to collectively as "Defendants") are hereby ENJOINED as follows:



I. HEALTH CARE

A. Based on a survey of the medical, dental, and psychiatric needs of the Texas Department of Corrections (TDC) population, Defendants will by June 1, 1981, prepare and file with the Court a plan which will assure that prisoners receive necessary medical, dental and psychiatric care from the moment of their arrival in TDC. The plan shall include provision for:

1. prompt identification of immediate needs for medical, dental and psychiatric care;
2. compliance with American Medical Association (AMA) Standards for Health Services in Prison (July 1979), including a plan for implementation;
3. development of standards for architectural, engineering, or equipment needs of prison health care facilities to the extent they are not addressed by the AMA Standards;
4. accreditation by the Joint Commission on Accreditation of Hospitals (JCAH) of the TDC-UTMB Hospital (expected to be operational by May 30, 1982);
5. adequate inpatient and outpatient psychiatric and other psychological care, including the provision of appropriate facilities for that purpose;
6. a system to assure that no prisoner is assigned to do work that is contraindicated for his medical condition; and
7. full access to health care for all prisoners, regardless of segregation status.

B. Defendants shall assure that no nonmedical staff may countermand any medical order regarding a prisoner's treatment, work or other related circumstances.

C. No prisoner shall be denied access to work, recreation, education or other programs or opportunities because of health status unless required for medical reasons as determined by a licensed physician.



D. No prisoner who arrives with medication and a prescription therefor will be deprived of that medication until a licensed physician has examined him and made a medical determination regarding continuation of that medication.

E. Subject to the review of the Court to assure compliance with AMA standards, Defendants shall:

1. Initiate a program of accreditation by the AMA through an initial evaluation by the AMA pursuant to the AMA Standards, supra, to begin April 1, 1981 and to be completed by August 1, 1981.

The results of that evaluation will be reported in writing to the Court by November 15, 1981. The report will identify areas of compliance and non-compliance and will recommend means of complying.

2. Defendants will then prepare a plan for making TDC health care services and facilities accreditable, including a schedule for implementation. The plan will be filed with the Court on or before February 1, 1982. Every four months thereafter, until TDC health services and facilities are first accredited, Defendants will report progress in implementing the plan to the Court.

3. As per paragraph A, 3, supra, to the extent the AMA Standards may not address architectural, engineering, or equipment needs of prison health care facilities, Defendants will obtain the services of the Texas Hospital Association in developing standards for facilities and equipment. Defendants will file such standards with the Court by January 2, 1982. Thereafter, all TDC medical facilities will be equipped consistent with the standards and all new health care facility construction will be consistent with the standards.



F. By September 1, 1981, Defendants will file with the Court a plan for the development of new or alternative facilities for housing inmates in need of chronic care or acute psychological and psychiatric care.

## II. SPECIAL NEEDS PRISONERS

Special needs prisoners shall be defined as those who are mentally retarded, physically handicapped, developmentally disabled or require psychological or psychiatric care. Defendants will provide all special needs prisoners with adequate medical care, adequate living facilities and working conditions (if appropriate), fair discipline, and protection from other prisoners. By September 1, 1981, Defendants will file with the Court a plan which includes provision for:

1. a system for adequately identifying special needs prisoners and for evaluating their needs;
2. individualized treatment and placement plans appropriate for such prisoners' needs and assurances for their implementation;
3. architectural modifications of portions of existing facilities to permit, insofar as possible, physically handicapped prisoners access to programs and activities; and
4. compliance with the procedural requirements of Vitek v. Jones, 445 U.S. 480 (1980), for transfers of mentally disturbed prisoners to mental institutions.

## III. SOLITARY CONFINEMENT

### A. Term of Solitary Confinement

Defendants shall not confine any prisoner to more than one fifteen-day term in solitary confinement without holding a hearing conforming to the requirements of due process procedures which are applicable to prison disciplinary proceedings for each term in solitary confinement beyond the initial term. Consecutive disciplinary punishments are permitted only for violations arising from totally separate incidents.



B. Health Precautions

Defendants shall scrupulously follow Rules 4.3.4.2.4 and 4.3.4.2.7 of the Rules and Regulations and Grievance Procedures of TDC (1975) requiring physical examinations of all prisoners entering solitary confinement and monitoring of the physical and mental health of prisoners confined to solitary.

C. Solitary Diet

Prisoners held in solitary confinement will be fed the same daily full rations as the general inmate population during all the time that they are held in solitary.

IV. USE OF CHEMICAL AGENTS

By April 1, 1981, Defendants shall develop and file clear, concise written standards governing use of chemical agents, including (1) the filing of written reports on each use of chemical agents by TDC personnel and prompt and effective discipline of TDC personnel who violate the standards for use of chemical agents; (2) prompt examination, necessary treatment and necessary decontamination by medical personnel of all prisoners exposed to chemical agents and ventilation of the area in which the agents were used unless additional decontamination is required by the circumstances; (3) where reasonably feasible, review of the medical records of a prisoner prior to the use of chemical agents on him to ascertain whether the use of chemical agents is medically contraindicated; and (4) prohibition of use of chemical agents on prisoners confined to cells or other similar enclosures who do not present an imminent threat of injury to other persons. Further, the standards shall limit the use of chemical agents to the minimum necessary to prevent escape or imminent serious personal injury or property damage.

V. WORK SAFETY AND HYGIENE

By September 1, 1981, Defendants shall file with the Court a proposed work safety and hygiene plan prepared with the assistance of personnel from the United States Bureau of Prisons. The plan shall cover all TDC prisoner work operations and shall include the following elements: employment and necessary training of work safety and hygiene professionals, or other personnel, with authority to require security and



administrative personnel to comply with their recommendations when circumstances are found to exist which pose an imminent or serious threat to health and safety, subject to review of such action at the earliest possible time by the Director of TDC or his designate; adequate record keeping; and safety and hygiene inspections by safety and hygiene professionals or other trained personnel.

VI. ADMINISTRATIVE SEGREGATION

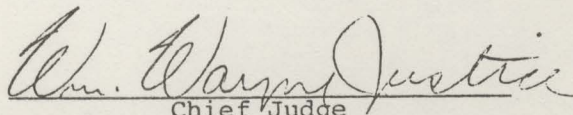
By September 1, 1981, Defendants shall file with the Court a plan setting forth:

1. the circumstances under which prisoners may be confined to administrative segregation;
2. the procedures conforming to the requirements of Wolff v. McDonnell, 418 U.S. 539 (1974) and Wright v. Enomoto, 462 F. Supp. 397 (N.D. Cal. 1976), aff'd 434 U.S. 1052 (1978); and
3. regular and frequent review of prisoners confined to administrative segregation, including the standards for such review.

VII. DEVELOPMENT AND FILING OF PLANS: SPECIAL MASTER

As required by the Court's Order of December 12, 1980, in developing the plans required by this Decree, Defendants shall address the relevant facts and conclusions contained in the Court's Memorandum Opinion of December 12, 1980. The parties understand that, by entering into the Consent Decree, there has been no agreement whether a Special Master will be appointed, or as to the role of a Special Master, including whether the agreements in this Consent Decree will be part of the reference to a Special Master.

SIGNED and ENTERED this 3rd day of March, 1981.

  
Chief Judge

United States District Court  
Eastern District of Texas  
Judge Presiding