

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARTIN HARRIS, ALBERT ANTHONY, OP AMLO X. McCREA, : CIVIL ACTION  
TYRONE GLENN, CARLOS ROYSTER, :  
KHALID ALLAH MUHAMMAD, and ARNOLD SUPTICK, :  
CHARLES OAKES, EMANUEL GARDNER :  
:

v.

IRENE PERNSLEY, individually and in her official :  
capacity as Commissioner of the Department of :  
Human Services of the City of Philadelphia, :  
ROYAL L. SIMS, REV. ALBERT CAMPBELL, :  
LABORA BENNETT, JAMES BARBER, MARK MENDEL, :  
DONALD PADOVA, each individually and in his or :  
her official capacity as a member of the Board of :  
Trustees of the Philadelphia Prison System, :  
DAVID S. OWENS, individually and in his official :  
capacity as Superintendent of the Philadelphia :  
Prison System, :  
GUETON CURIONE, individually and in his official :  
capacity as Warden of Holmesburg Prison, :  
PHILLIP DUKES, individually and in his official :  
capacity as Warden of the Detention Center, :  
JOHN DAUGHEN, individually and in his official :  
capacity as Warden of the House of Corrections, :  
RODNEY D. JOHNSON, individually, :  
TEO C. BROOKS, individually, :  
JAMES S. WHITE, individually and in his official :  
capacity as Managing Director of the :  
City of Philadelphia, :  
WILLIAM J. GREEN, individually, :  
HON. WILSON GOODE, individually and in his :  
official capacity as Mayor of the :  
City of Philadelphia, :  
CITY OF PHILADELPHIA, :  
JAY C. WALDMAN, individually and in his official :  
capacity as General Counsel for the :  
Commonwealth of Pennsylvania, :  
RONALD J. MARKS, individually, :  
GLEN JEFFES, individually and in his official :  
capacity as Commissioner of the Pennsylvania :  
Department of Corrections : NO. 82-1847

ORDER

AND NOW, this 30th day of December, 1986, upon consideration  
of the Settlement Agreement entered into by Plaintiffs and all Defend-  
ants except Waldman, Marks and Jeffes (settling defendants hereinafter  
referred to as "City Defendants"), the factual record developed b

Harris v. City of Philadelphia



JC-PA-0001-0003

stipulation and affidavits of counsel, the Court's own inspection of the prisons, and argument of counsel, the Court finds and concludes as follows:

1. The criteria for certification of a class action under Fed.R.Civ.P. 23(b)(2) are met by the proposed class. In particular, named Plaintiffs are adequate representatives of the class and are represented by able and experienced counsel.

2. The conditions of confinement in the Philadelphia Prison System (consisting of Holmesburg Prison, the House of Corrections, the Detention Center, Women's Modular Units, Laurel Hall, the Cannery, YMCA, Philadelphia Industrial Correction Center (PICC), and the downtown facility to be built and operated by the City of Philadelphia) have improved in various ways since those conditions were adjudged unconstitutional by the Philadelphia Court of Common Pleas in 1972. Gains have been made in the areas of nutrition, health, drug and alcohol treatment, maintenance, social work, education, vocational training and visitation; the City's operating and capital budgets have been increased significantly.

3. There is nevertheless a need for additional improvements in many areas, particularly those where even improved conditions of confinement are impaired by overcrowding. For example, intake procedures, maintenance, kitchen and dining facilities, sick call capabilities and educational, vocational and recreational opportunities are all impaired by overcrowding.

4. The current population of the Philadelphia Prison System is approximately 4300 inmates, including 250 inmates housed in the partially completed PICC.

5. The Settlement Agreement between the City Defendants and Plaintiffs contemplates a system-wide maximum population of 3750, with PICC fully operational and housing 850 inmates.

6. The Settlement Agreement will result in a significant overall reduction in the current prison population and a reduction in double-celling throughout the Philadelphia Prison System.

7. The City Defendants have also agreed to propose the entry of an order in the Jackson v. Hendrick proceeding to address conditions of confinement other than overcrowding.

8. There is a risk that Plaintiffs could not succeed at trial in demonstrating that the conditions of confinement in the Philadelphia Prison System are unconstitutional such that any relief is warranted.

9. There is a further risk that the Court would not permit Plaintiffs to litigate the conditions in the entire Philadelphia Prison System -- as opposed to Holmesburg Prison only -- making it unlikely that Plaintiffs could achieve the system-wide relief accomplished through the settlement now proposed by the parties.

10. Settlement of this matter now provides immediate relief to Plaintiffs prior to taking costly discovery. Trial on the merits of this matter would be lengthy and subject to appeal, and would greatly delay any relief to which Plaintiffs ultimately may be entitled.

11. The City Defendants have litigated this matter vigorously, and the proposed settlement appears to be the result of arm's length bargaining.

12. Appropriate notice having been given to members of the class in the most feasible manner and the proposed settlement being in

the interest of the class Plaintiffs, it is accordingly hereby approved by the Court in accordance with Rule 23(e) of the Federal Rules of Civil Procedure.

13. An opinion detailing the reasons for the Court's approval of the settlement will be filed forthwith.

THEREFORE, it is hereby ORDERED AND DECREED as follows:

1. A Plaintiff class shall be certified in this matter, pursuant to Fed.R.Civ.P. 23(b)(2), to include all persons who are, or who have been, inmates of the Philadelphia Prison System since April 30, 1980, and all persons who shall be inmates of the Philadelphia Prison System in the future during such time as this Court retains jurisdiction of this matter.

2. The City Defendants shall adopt and implement the following procedures and policies to reduce the population of the Philadelphia Prison System and maintain the population at agreed-upon levels:

a. Before admission to the Philadelphia Prison System, all defendants in criminal proceedings shall be held at the Police Administration Building for at least four (4) hours from the time of their preliminary arraignment to enable said persons to post bail. Those defendants with bail of \$1,500.00 or less shall be held at the Police Administration Building for at least six (6) hours from the time of their preliminary arraignment to enable said persons to post bail.

b. At no time shall more than two inmates be housed in a cell in the Philadelphia Prison System.

- c. Every inmate shall be assigned to a long-term housing area within seventy-two (72) hours of arrival in the Philadelphia Prison System. Housing areas shall not include any gymnasium, corridor or bench area, or any area not set up for permanent housing. Every inmate shall receive a mattress by the first night after arrival and a bed and mattress within twenty-four (24) hours of arrival. Until his or her assignment to a housing area, each inmate shall remain in designated intake areas and shall receive proper bedding in accordance with this provision.
- d. City Defendants shall complete construction of the Philadelphia Industrial Correction Center, with at least 650 cells, which shall be occupied by December 15, 1986.
- e. City Defendants shall construct a downtown detention facility, with at least 440 beds, which shall be occupied by December 31, 1990.
- f. The population of the Philadelphia Prison System shall not exceed the following levels:

As of March 9, 1987 - 4,100 inmates

As of May 11, 1987 - 3,950 inmates

As of July 13, 1987 - 3,750 inmates

Thereafter, the prison population shall not exceed 3,750 until the opening of the downtown detention facility. All population levels established by this subsection shall be referred to hereafter as "the maximum allowable population."

g. On and after July 13, 1987, the population of the respective individual facilities within the Philadelphia Prison system shall not exceed the following levels:

Detention Center	-	750 inmates
Holmesburg	-	800 inmates
House of Correction	-	900 inmates
Women's Modular Units	-	200 inmates
Laurel Hall, Cannery & YMCA	-	250 inmates
Philadelphia Industrial Correction Center	-	850 inmates
TOTAL		3,750 inmates

h. No federal or state prisoners, other than inmates detained for immediate court appearances, shall be housed within the Philadelphia Prison System, except for those federal prisoners in the custody of the United States Marshal. Said federal prisoners may be housed pursuant to the contract between the City of Philadelphia and the United States Marshal.

i. City Defendants shall, on a weekly basis, provide counsel for Plaintiffs with daily population figures for each of the facilities within the Philadelphia Prison System.

3. The Court recognizes that the prison population fluctuates on a daily basis; therefore, the maximum allowable population of the Philadelphia Prison System or of any individual facility may be exceeded temporarily, but never for more than seven (7) consecutive days or for more than twenty (20) out of any forty (40) days.

4. If the population of one or more of the individual facilities within the Philadelphia Prison System exceeds the maximum allowable population as set forth in Paragraphs 2 and 3 of this Order, the City Defendants shall seek the release, through the mechanism of the Bail Master appointed by the Jackson court or otherwise, of persons being held either on the lowest bail or persons sentenced to the Philadelphia prisons with less than sixty (60) days remaining to serve on their sentences. Such releases shall continue until the maximum allowable population is achieved or restored. City Defendants agree not to seek the release of any person charged with, or convicted of, murder or forcible rape; City Defendants further agree not to seek the release of any person whose release would constitute an imminent threat to public safety or to the inmate's own health, safety or welfare.

5. If, after twenty-one (21) days from the date on which the maximum allowable population has been exceeded for the period of time specified in Paragraph 3, the population of one or more of the individual facilities still exceeds the maximum allowable population, City Defendants shall admit no additional inmates into such facility or facilities, except persons charged with, or convicted of, murder, forcible rape, or a crime involving the use of a gun or knife in the commission of an aggravated assault or robbery, until the number of inmates housed in the facility or facilities is within the maximum allowable population and new admissions will not cause the maximum allowable population to be exceeded.

6. This Court shall retain jurisdiction of the parties and the cause of action in this matter for five (5) years. At that time, unless the parties reach agreement on the issue of continued

jurisdiction, the Court shall discontinue jurisdiction unless Plaintiffs demonstrate, at a hearing, that continued jurisdiction is necessary to maintain the maximum allowable populations prescribed in the parties' Agreement and this Order.

7. Subject to the terms of this Order, all claims asserted in this matter against the City Defendants are dismissed with prejudice. All claims asserted against Defendants Marks and Jeffes are dismissed without prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Thomas J. Shadle  
J.