



PC-CO-005-007

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 77-K-1093

FIDEL RAMOS, et al.,

Plaintiffs,

vs.

RICHARD D. LAMM, et al.,

Defendants.

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MOTION TO MODIFY CONSENT ORDER  
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Defendants, by and through the Attorney General for the State of Colorado, respectfully move this Court for an Order modifying the population limitations imposed upon the Colorado Territorial Correctional Facility and Centennial Correctional Facility pursuant to the Consent Order entered in this case on August 7, 1985. Defendants also respectfully request that the prohibition against double bunking contained in the Consent Order be temporarily lifted. In support of this Motion, Defendants assert the following:

BACKGROUND

1. Provision 23 of the Consent Order dated August 7, 1985, limits the inmate population at the Colorado Territorial Correctional Facility and the Centennial Correctional Facility to 652 prisoners and 336 prisoners respectively.

2. The Consent Order also contains a prohibition against double bunking during the term of the Consent Order at the Centennial and Shadow Mountain Correctional Facilities and at the Colorado Territorial Correctional Facility once Cellhouses 1 and 7 were completed.

3. Subsequent to entry of the Consent Order, the

Court modified the population limitation at the Colorado Territorial Correctional Facility to permit double bunking of fifty-six cells in Cellhouse 3 which cells were designated Reception and Diagnostic cells. This modification brought the authorized inmate population at that facility to the current level of 708 inmates.

REQUEST TO INCREASE AUTHORIZED INMATE POPULATION AT THE  
COLORADO TERRITORIAL  
AND CENTENNIAL CORRECTIONAL FACILITIES

4. Since the Consent Order was entered, a succession of Court Orders requiring Department of Corrections (DOC) to absorb the backlog of State-sentenced prisoners being housed in county jails has imposed upon DOC the burden of drastically increasing its capacity in the short term.

5. In Baker v. Bray, the United States District Court entered an Order requiring DOC to eliminate permanently the backlog of State-sentenced prisoners in the Jefferson County Jail by September 15, 1987.

6. In State of Colorado v. Pena, the Denver District Court ordered DOC to eliminate permanently the backlog of State-sentenced prisoners in the Denver County Jail.

7. In Adams County Commissioners, et al. v. State, the Denver District Court ordered the DOC to permanently eliminate the backlog of State-sentenced prisoners being housed in the Adams, Arapahoe, Douglas, Boulder, El Paso and Weld County Jails by January 1, 1989.

8. A number of individual inmates have obtained court orders requiring the DOC to remove them from the backlog.

9. Other suits seeking to eliminate the backlog of State prisoners being housed in county jails are currently pending.

10. It has become apparent to the DOC that backlogging State-sentenced prisoners in the county jails is no longer a feasible option.

11. An increase in the authorized inmate popu-

lations at the Colorado Territorial and Centennial Correctional Facilities and authorization to double bunk at those facilities is necessary to most safely and equitably absorb the overall increase in the inmate population. Due to the capacity limitations imposed upon the Centennial, Shadow Mountain and Colorado Territorial Correctional Facilities under Ramos the Department has been absorbing the increase in the inmate population at its other facilities resulting in an uneven distribution of the burden. At this time, the Centennial and Colorado Territorial Correctional Facilities are best equipped to absorb more inmates. Centennial is a relatively new facility and Territorial has been recently renovated. In addition, the staffing patterns at the Centennial and Colorado Territorial Correctional Facilities is proportionately significantly better than at non-Ramos facilities. The other DOC facilities are already burdened by increased prisoner population and would be hard pressed to absorb the entire projected increase in population without the utilization of the "Ramos" facilities as requested in this Motion.

12. The DOC has developed a Facility Capacity Expansion Plan designed to deal with the anticipated influx of population. This plan is essentially a proposal for increasing bedspace, staffing, programs and plant throughout the DOC.

13. As it would impact the Colorado Territorial Correctional Facility, the plan calls for the following:

(a) An additional 150 beds would be added through double bunking;

(b) An additional 39 full-time employees would be hired;

(c) An additional \$325,950 has been allocated for operating expenses along with \$75,000 for increased utility usage;

(d) An additional \$359,000 would be expended for programs/activities; and

(e) \$570,000 would be expended for capital improvements including multi-purpose space, bunks and furniture, program space and food service renovation.

14. In regard to the Centennial Correctional Facil-

ity, the Facility Capacity Expansion Plan provides as follows:

(a) An additional 50 beds would be added through double bunking;

(b) An additional 13 full-time employees would be hired;

(c) An additional \$108,650 has been allocated for operating expenses along with \$25,000 for increased utilities;

(d) An additional \$60,000 would be expended for programs/activities; and

(e) \$90,000 would be expended for capital improvements including bunks and furniture, expansion of the print shops, and the addition of kitchen facilities.

15. Under the Facility Capacity Expansion Plan, a total of 300 beds would be added through increased double bunking. (100 of the new double-bunk beds would be added in non-Ramos facilities.) In order to meet the needs of these additional inmates, clinical services would be expanded as follows:

(a) An additional 9 full-time employees would be hired;

(b) An additional \$90,000 would be allocated for operating expenses; and

(c) An additional \$75,000 would be expended for contract services.

16. An inability to facilitate the planned increases of 150 beds at Colorado Territorial Correctional Facility and 50 beds at the Centennial Correctional Facility by means of double bunking would impair the DOC's ability to absorb the increased inmate population in the safest and most equitable manner possible. Having to crowd those 200 beds into other, already severely taxed facilities would result in greater risk to staff, inmates, and the public than would the adding of the beds at the Colorado Territorial and Centennial Correctional Facilities.

17. DOC's expansion plan is contingent upon the

receipt of the funding set forth above which funding has already been committed by the Joint Budget Committee of the Colorado General Assembly. See attached correspondence. No double bunking would be implemented without funding for the staffing increases, plant and equipment upgrades, operations increases and programs enhancement at the levels called for in the plan.

18. The Facility Capacity Expansion Plan is designed to absorb the increased inmate population until the new medium security facility being built at Limon, Colorado and the new Diagnostic facility being constructed in Denver are available. It is anticipated that those facilities will be in operation by the summer of 1991.

19. Implementation of the Plan as outlined above at the Colorado Territorial and the Centennial Correctional Facilities would not adversely affect the quality or quantity of services and staffing currently available at those facilities.

REQUEST TO DOUBLE BUNK INMATES ALREADY BEING HOUSED AT THE  
SHADOW MOUNTIAN CORRECTIONAL FACILITY

20. Pursuant to the Consent Order dated August 7, 1985, the inmate population of the Shadow Mountain Correctional Facility was set at 384 inmates and double bunking was prohibited during the term of the Consent Order. While the Department does not seek to increase the inmate population at the Shadow Mountain Correctional Facility, it does seek authorization to double bunk inmates there to facilitate anticipated renovations.

21. The Department plans to renovate the Shadow Mountain Correctional Facility and to proceed with the work one cellhouse at a time. During the renovation process, each cellhouse will be closed in turn and it will be necessary to distribute the inmates removed from the cellhouse under renovation to the remaining 3 cellhouses which will remain open. There will be no net increase in the inmate population during renovation.

REQUEST TO DOUBLE BUNK INMATES ASSIGNED TO THE COLORADO  
TERRITORIAL CORRECTIONAL FACILITY

22. The Department is currently housing 57 inmates in modular units at the Colorado Territorial Correctional Facility. The modular units in question have nearly outlived their utility and have become run down. Consequently, the Department requests authorization to move the inmates currently being housed in the modular units into the cellhouses. Such a move would be accomplished by double bunking.

23. This move would not result in an increase in the inmate population at the Colorado Territorial Correctional Facility and resources have already been allocated to meet the needs of the inmates currently being housed in the modulars.

WHEREFORE, Defendants respectfully request that this Court enter an Order of modification authorizing the DOC to house 858 inmates at the Colorado Territorial Correctional Facility and 386 inmates at the Centennial Correctional Facility subject to receipt of funding as outlined in this Motion. This population expansion would be accomplished by double bunking which would cease during the summer of 1991. In addition, Defendants respectfully request authorization to double bunk at the Centennial, Shadow Mountain and the Colorado Territorial Correctional Facilities as outlined in this Motion.

Respectfully submitted,

FOR THE ATTORNEY GENERAL

  
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COLORADO GENERAL ASSEMBLY  
**Joint Budget Committee**

REPRESENTATIVES  
Elwood Gillis, Chairman  
Vickie L. Armstrong  
Richard R. Bond

200 E. 14TH AVENUE  
LEGISLATIVE SERVICES BUILDING  
DENVER, COLORADO 80203  
303/868-3061

SENATORS  
Robert E. DeNier, Vice Chairman  
Mike Bird  
Jim Rizzuto

June 28, 1988

Mr. W.L. Kautzky  
Executive Director  
Department of Corrections  
2862 South Circle Drive, #400  
Colorado Springs, CO 80906

Dear Mr. Kautzky:

During our meeting of June 21, 1988, you stated that due to a recent court order the Department of Corrections will have to remove about 500 state prisoners from county jails and accommodate them in the state correctional system and that a total of about 900 additional correctional beds will be needed. You also presented us with a proposal on how to deal with this problem.

We see no alternative but to comply with the court order so we support your plan for emergency capacity expansion. However, please keep in mind that any final decision on this plan will require approval of the General Assembly.

It is our understanding that this problem is a temporary one. Consequently, we encourage you to employ low-cost, short-term remedies to alleviate it. We hope you will continue to explore other options for dealing with the jail backlog and that you will keep us informed of your efforts and progress.

Thank you for bringing this issue to our attention in such a timely fashion.

Sincerely,



Elwood Gillis  
Chairman

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within  
MOTION TO MODIFY CONSENT ORDER upon all parties herein by  
depositing copies of same in the United States mail, postage  
prepaid, at Denver, Colorado this 13th day of July, 1988,  
addressed as follows:

David H. Miller, Esq.  
American Civil Liberties Union  
815 East 22nd Avenue  
Denver, CO 80205

James E. Hartley, Esq.  
Holland & Hart  
555 17th Street, Suite 2900  
Denver, CO 80202

*Nancy D. Hutchinson*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 79-K-1093

FIDÉL RAMOS, et al.,

Plaintiffs,

v.

RICHARD LAMM, et al.,

Defendants.

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CONSENT ORDER

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Being fully informed as to the underlying facts and legal claims of the plaintiffs and defendants, the Court enters this order upon the consent of the parties.

Introduction.

With the exception of the two issues referred to below in paragraph 27 of this order (access to the courts and attorneys fees), this consent order is intended to compromise and resolve all issues which have been raised in this case as reflected in the prior opinions of this Court and the Court of Appeals for the Tenth Circuit. See Ramos v. Lamm, 488 F. Supp. 122 (D. Colo. 1979), aff'd in part and rev'd in part, 639 F.2d 559 (10th Cir. 1980), opinion on remand, 520 F. Supp. 1059 (D. Colo. 1981). Nothing in this order shall constitute an admission or evidence of the level of services to which the prisoners are constitutionally entitled.

(a) It is the Court's intention to incorporate in this order those orders previously entered in this case which have not been rendered moot by the passage of time or changed circumstances. Nonetheless, the Court's prior orders remain in full force and effect to the extent they are not inconsistent with this consent order.

(b) This order shall apply to all prisoners who are presently incarcerated, or who will become incarcerated during the duration of this consent order, at any one of the three correctional facilities presently known as the Centennial Correctional Facility, the Shadow Mountain Correctional Facility, and the Colorado Territorial Correctional Facility (including the Diagnostic Unit), all located in Canon City, Colorado, described collectively as the "three facilities" and referred to individually as "CCF" "SMCF" and "CTCF" respectively.

(c) Provided that defendants are substantially in compliance herewith, this consent order, and defendants' obligations hereunder, shall terminate, and the case shall be deemed closed, 18 months after the order is entered by the Clerk of the Court.

(d) The purpose of this consent order is to modify and improve the conditions of confinement in CCF, SMCF and CTCF in the ways specified below. To the extent services or staffing at any of the three facilities are not specifically

addressed by this order, however, defendants agree to provide services and staffing of a quality and quantity substantially similar to that provided at the time that this consent order is entered. By the term "substantially similar" it is intended that the defendants will provide staffing and services comparable, but not necessarily identical, to those provided immediately prior to the entry of this order. Current staffing and service levels are set out in Exhibit A.

Physical Facilities and Sanitation.

2. No prisoner shall be confined in a cell which provides him individually less than 60 square feet of living space, except for (a) inmates confined to the Diagnostic Unit and provided that individual inmates housed in the Diagnostic Unit shall not be confined therein for more than six weeks, and (b) inmates confined to Cellhouse 3 at CTCF.

3. Lighting shall be provided in each cell at a level of approximately 30-foot candles for reading, writing and other activities; in no event, however, shall such lighting level drop below 25-foot candles. Lighting in other activity areas shall provide sufficient illumination to allow the inmates in the housing units to be able to perform the routines designed for those individual housing units.

4. Every living area which houses members of the plaintiff class shall be ventilated at a level of at least 10 cubic feet of fresh or purified air per minute per person.

5. A qualified architect or engineer shall evaluate the noise levels at Centennial Correctional Facility, Shadow Mountain Correctional Facility and Colorado Territorial Correctional Facility and recommend measures for reducing the noise levels in those institutions. Thereafter, defendants shall reduce such noise levels by implementing any reasonable measures recommended by the architect or engineer. An attempt will be made to reduce sound levels within the residential areas in which class members live to a level not to exceed 60 dB(A) during the day and 55 dB(A) at night.

6. All inmates shall have hot and cold water available to them in their cells or living areas (including common areas of Cellhouses 1 and 7 after renovation). All inmates other than those in Diagnostic Unit, shall be provided with the opportunity to shower at least 6 times per week. Inmates in Diagnostic Unit shall be provided the opportunity to shower at least three times per week. All toilets, lavatories, and showers shall be maintained in an operable condition and there shall be no cross-connections between the waste water system and the potable water supply.

7. Defendants shall designate specific Department of Corrections employees who, under the supervision of the Director of the Division of Adult Services or the Department of Corrections Inspector General, shall have the responsibility to insure maintenance of minimal health and sanitation standards at each institution in which class members are housed. This person shall have the responsibility for monitoring compliance with a written routine of daily housekeeping designed to insure that a minimal level of cleanliness is maintained at the institution, and that the presence of cockroaches, rodents, and other vectors of disease is minimized. This routine shall, at a minimum, provide the following:

(a) A schedule shall be set forth listing in reasonable detail the areas to be cleaned and the procedure for cleaning each area, including the frequency of cleaning, the specific person or persons assigned to clean each area and the procedure for procurement and maintenance of housekeeping equipment and supplies.

(b) Cleaning activities shall be supervised at all times by designated civilian staff.

(c) A checklist shall be devised for a daily inspection of all areas by a designated employee to insure that all areas are clean and sanitary. The employee shall certify in writing that he or she conducted the inspection.

(d) Where applicable, screens shall be maintained on windows and doors.

(e) Window panes shall be continually maintained in all areas.

(f) Structural defects, if any, which allow rodents to enter the buildings shall be cured.

(g) An effective vermin and pest control program.

(h) Access to household cleaning supplies is now and shall continue to be provided to inmates to maintain personal living areas in a sanitary fashion.

(i) Unsanitary mattresses and blankets shall be sanitized or replaced. Replacement mattresses shall be obtained which are manufactured from materials which are fire retardant, moisture resistant and easily cleanable. The designated employee(s) described in paragraph 7 above shall be responsible for insuring the continued sanitation of mattresses and other bed linens, and in no case should a mattress used by one inmate be used by another inmate without first being sanitized.

(j) Buildings, including roofs, ceilings, walls and floors shall be maintained in good repair.

8. A comprehensive written preventive maintenance manual shall be maintained which includes an inventory of all equipment and systems along with a schedule for regular inspection

and maintenance of said equipment and systems which meet the maintenance requirements of the manufacturer's specifications. The manual shall list the employees responsible for executing the plan and specific measures to be taken in maintaining each machine or system. Those persons shall be adequately trained for said duties. A checklist shall be developed and implemented for inspection and maintenance of each machine or system, and the person responsible for inspection and maintenance shall certify that the facts stated on the checklist are true.

9. Any of the three facilities which house class members shall meet applicable fire safety and prevention standards including those provided by the applicable version of the Life Safety Code of the National Fire Protection Association or the equivalencies provided for therein.

(a) Defendants shall have the appropriate State and local fire officials inspect the facilities and procedures utilized for fire safety semiannually and consistent with the results of the inspections and the recommendations made by said officials, adequately provide for the safety of the inmates in case of fire. The facilities and procedures shall provide for the following:

(i) Specific provisions for adequate fire protection service.

(ii) Specific equipment such as fire extinguishers and fire hoses to be located at specific appropriate places within the institution and an inspection and preventive maintenance schedule for said equipment.

(iii) The specific responsibilities of staff and inmates in the event of a fire.

(iv) The required training drills to be given staff and inmates in fire safety.

(b) The Department of Corrections shall periodically submit its facilities and fire safety procedures to the appropriate State and local safety officers for inspection to insure compliance by each institution in which class members are housed with applicable fire safety and prevention standards, including those provided by the applicable version of the Life Safety Code of the National Fire Protection Association.

(c) Regular fire drills involving all inmates and staff shall be conducted at least once quarterly. In the event that such fire drills cannot be safely conducted, alternate methods may be taken to insure that the occupants can be expeditiously removed from the living units in case of fire. Any such alternate methods must be approved by the appropriate local fire safety official or some other qualified fire safety expert.

10. These three facilities operated by the Department of Corrections shall meet all applicable building and electrical codes.

11. All indigent prisoners shall be provided with soap, toothpaste, toothbrush, shaving materials and other personal hygiene items without charge.

12. Those class members who are not permitted to wear personal clothing shall be provided with an adequate supply of prison-issue clothing, including underclothing and socks. Defendants shall provide adequate equipment and services for laundering all clothing, whether prison-issue or personal.

13. Defendants shall maintain procedure for maintaining a record of inmate property and shall continue to provide personal footlockers or other secure storage.

14. Defendants shall provide to class members three wholesome and nutritious meals per day, prepared and served consistent with the laws, regulations and standards of the State of Colorado.

15. All food service operations used for the preparation of food served to prisoners housed at CCF, SMCF and CTCF must meet all applicable Colorado Department of Health standards and regulations, specifically including the "Regulations Regarding Food Service Establishments and Regarding Sanitary Standards and Regulations for Penal Institutions."

16. Defendants' plans for the renovation of Cellhouses 1 and 7, previously filed with the Court as Exhibit A to Plaintiffs' Motion for Relief from Injunction (August 10, 1984), are hereby approved.

17. On a semiannual basis during the term of this consent order, defendants shall arrange for representatives of the Colorado Department of Health to inspect conditions at the three facilities relating to health and sanitation. Any costs associated with these inspections shall be borne by defendants. If the representative recommends changes which the defendants fail or refuse to implement, plaintiffs bear the burden of proving to the Court that such changes are necessary for the health and safety of inmates.

Safety.

18. Within 120 days after this consent decree is executed, defendants shall use their best efforts to employ and train eight additional correctional officers for positions at CCF which were approved for the fiscal year commencing July 1, 1984, will staff a tower or observation post at SMCF with existing employees to enhance safety in the exercise yard, and at SMCF shall staff the connected housing unit control centers (which observe 96 inmates) with two correctional officers at all times prisoners are present in the dayrooms on both sides of the control centers.

19. All staff employed at institutions where class members are housed shall be provided with adequate pre-service and inservice training.

Physical and Mental Health Care.

20. Defendants shall provide adequate physical and mental health care to members of the plaintiff class. Defendants' plan for providing physical and mental health care, dated February, 1985, is hereby approved. A copy of the plan is attached as Exhibit B to this consent order.

Programs.

21. Within 120 days from the entry of this consent order, defendants shall provide programs for at least 90% of the eligible prisoners at each of the three correctional facilities. The average eligible inmate shall have the opportunity to participate in programs for an average of 5.5 hours per work day (or 27.5 hours in a normal work week). Defendants shall provide a total number of daily program hours at each facility equal to 5.5 hours times 90% of the eligible inmates at the respective facilities.

(a) For the purposes of this consent order, the term "programs" shall include but not be limited to jobs, work crews, educational services, other work assignments and similar

activities whether provided at or away from the facility by staff or volunteers. By way of example only, Exhibit C to this order is a description of the manner in which defendants presently plan to comply with the provisions of this paragraph at each of the three facilities.

(b) The term "eligible inmates" is defined to include prisoners in general population (including protective custody), but excluding those who either refuse or are unable for some medical or security reason to work or participate in other programs.

(c) Prisoners in the Diagnostic Unit, punitive segregation, and administrative segregation, are not "eligible inmates." Nonetheless, prisoners confined to administrative segregation shall be permitted to participate in appropriate programs, if the prisoner does not present a risk to the safety of inmates or staff and would not present a significant behavioral problem. Prisoners in administrative segregation shall be reviewed for participation in programs and retention in administrative segregation status each 60 days during the first six months of such segregation and each 90 days thereafter. Further, depending upon the protective and safety needs of particular individuals, inmates in CCF, protective custody/administrative segregation will be given equal access to programs and activities available to other inmates in administrative segregation.

(d) Inmates confined on death row shall be permitted to participate in such programs as are provided by law.

Double Bunking and Overcrowding.

22. At the time this consent order is entered, double bunking is occurring only in Cellhouse 3 at CTCF. As soon as Cellhouses 1 and 7 at CTCF are rennovated and occupied, defendants will phase out and discontinue double bunking in Cellhouse 3. Thereafter, defendants will not double bunk at any of the three facilities during the term of this consent order.

23. Defendants agree to prevent overcrowding at CCF, SMCF and CTCF by limiting the population of those facilities as follows:

CCF -- 336 prisoners

SMCF -- 384 prisoners

CTCF -- 245 prisoners (652 prisoners after  
Cellhouses 1 and 7 are renovated and occupied)

Grievance System.

24. Defendants shall amend the inmate grievance system to provide that a grievance officer shall hear the appeal at step three of the system. The grievance officer shall be an employee of an agency other than the Department of Corrections.

He or she shall review the grievance and the prior responses, make such inquiries as are appropriate (including contact with the inmate and officials of the Department of Corrections), and may request an investigation by the executive director of the Department of Corrections.

(a) The grievance officer may deny the grievance or may recommend to the executive director that the inmate receive part or all of the relief sought. If a recommendation is made to the executive director, he (or his designee) shall respond to the recommendation as step four in the grievance procedure. At the conclusion of this new step four of the grievance process the inmate shall be advised that he may file a lawsuit or seek the assistance of counsel if he disagrees with the result.

(b) This revised grievance process shall replace the current system by which complaints to the court or plaintiffs' counsel are referred to the defendants for investigation; such complaints shall be returned to the inmate to pursue through the grievance system unless the complaint involves an emergency regarding the health or safety of an inmate. This provision, which requires initial pursuit of grievances through the grievance system, is mandatory only for grievances relating to issues raised and disposed of in this case. Nothing in this provision shall be construed to deny to inmates their right to seek and employ legal counsel other than counsel of record for the plaintiff class.

(c) The files and records of the grievance officer shall be available to counsel for all parties. The grievance officer shall meet periodically with a representative of the Department of Corrections and counsel for all parties to evaluate this amendment to the grievance system.

(d) Time periods within which grievances shall be answered are as follows:

1. Step One: 30 calendar days
2. Step Two: 30 calendar days
3. Step Three: 25 calendar days
4. Step Four (Executive Director):  
5 calendar days.

Additional Inspections and Reports.

25. In addition to all other inspections and reports required under this consent decree, the parties agree that the following shall be done at reasonable expense to the defendants'.

(a) Defendants shall supply, within six (6) months of consent decree approval, written certification that its February 1985 Health Services Plan (Consent Decree Exhibit B, hereinafter referred to as the "February Plan") has been fully implemented. To the extent that any February Plan requirements have not been then implemented, defendants shall report to plaintiffs on what deficiencies exist.

(b) Sixteen (16) months from the adoption of the consent decree qualified mental health and medical experts, agreed upon by the parties, shall conduct an inspection and report on the implementation and adequacy of the February Plan.

(c) Within six (6) months from the adoption of this consent decree matters in the consent decree which involve security shall be reviewed by a corrections expert agreed upon by the parties but without the requirement of a site visit.

(d) Within six (6) months of the adoption of this consent decree a corrections expert agreed upon by the parties and qualified in physical plant, environmental health and safety matters, shall inspect and report on such concerns. This expert shall conduct another such inspection 16 months from the adoption of the consent decree.

(e) Should any expert recommend changes which the defendants fail or refuse to implement, plaintiffs bear the burden of proving to the court that such changes are necessary to protect the health, safety or welfare of inmates.

Suspension During State of Emergency.

26. Any and all of the above-mentioned provisions may be temporarily suspended and given no effect by the Executive Director during a state of emergency. States of Emergency include situations threatening the security of the whole or a

significant part of the institution (e.g., inmate uprisings, natural disasters, etc.). The provisions of this Decree may not be suspended for a period greater than seventy-two (72) hours without judicial approval. Further, the eighteen (18) month period this Decree is to be in effect will be extended correspondingly for any period of time the Decree or its provisions have been suspended due to the declaration of a state of emergency.

Issues Not Covered By This Consent Decree.

27. The parties specifically intend that plaintiffs' claim for attorneys fees and issues relating in the scope of prisoners' constitutional right of access to the courts are not covered or affected in any way by this consent order.

Dispute Resolution.

28. In the event a dispute arises as to the meaning or enforcement of this agreement, counsel for the parties shall meet and attempt to resolve the dispute. If the parties are unable to resolve the dispute, either party may apply to the Court for an order interpreting or enforcing this consent order.

Dated: August 2, 1985.

BY THE COURT:

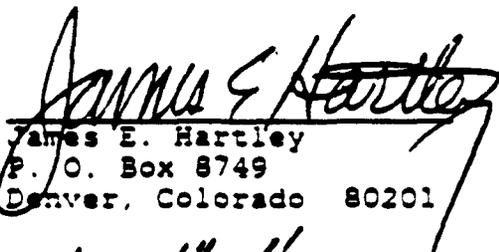
John L. Kane, Jr.  
John L. Kane, Jr.  
United States District Judge

APPROVED:

For the Plaintiffs

A.C.L.U. FOUNDATION OF  
COLORADO, INC.

By

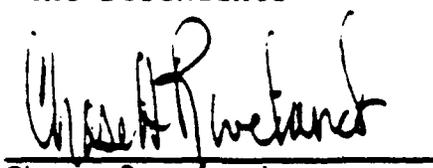
  
James E. Hartley  
P. O. Box 8749  
Denver, Colorado 80201

By

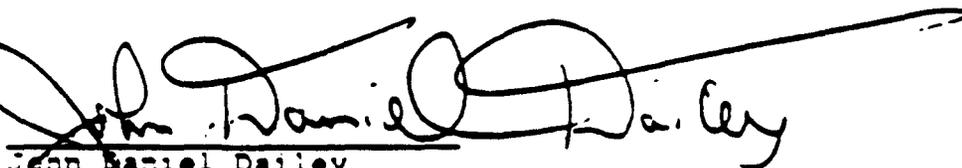
  
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For the Defendants

By

  
Chase Riveland  
Executive Director  
Colorado Department of Corrections

By

  
John Daniel Dailey  
First Assistant Attorney General  
525 Sherman Street  
Third Floor  
Denver, Colorado 80203

# **COLORADO DEPARTMENT OF CORRECTIONS**



## **Facility Capacity Expansion Plan**

W. L. HALTER  
EXECUTIVE DIRECTOR

JULY 1, 1938

DEPARTMENT OF CORRECTIONS

CAPACITY EXPANSION PLAN

I. INTRODUCTION:

The Department of Corrections developed this plan to eliminate the jail backlog during FY 1989. The department must respond to a projected increase of 900 inmates in the population during the next six months.

The Department of Correction's plan for this capacity increase is a realistic approach toward solving the pressure generated by the jail backlog. Emergency capacity expansion can be successfully accomplished only with adequate increases in staff and capital resources.

To insure continuing compliance with existing court orders, the department must operate within the following limits:

- o The totality of conditions of confinement to include security, medical, mental health, and programs governs the department's ability to execute the plan.
- o Emergency capacities will be expanded at institutions where public risk and internal management can be balanced and unnecessary risks reduced.
- o Capacity expansion defines the maximum expansion level attainable by the department based upon the conditions of confinement and public and staff safety.
- o Emergency planning is limited to designated facilities within the constraints of applicable codes and physical plant design.
- o Emergency plans reflect the most efficient use of existing and requested resources.
- o The absence of required staff or capital improvement funds will limit the execution of the plan.

II. CURRENT SITUATION:

The Department of Corrections is currently required to operate within a very narrow oversight process maintained by the federal courts. As a result of *Fanos vs. Lam* (1978), the Department of Corrections is limited in the amount of additional risk which can be absorbed through double bunking to expand facility capacity.

The *Fanos* Consent Decree establishes virtually the same obligations as the U.S. Supreme Court set forth in *Chapman vs. Rhodes*. The institutions operated by the Department of Corrections must comply with conditions of confinement standards meeting court requirements. Court standards require

attention to safety and fire codes, violence levels, medical services, sanitation, and physical plants. The Colorado correctional system must address:

- o reduced levels of violence by protecting inmates;
- o continuing coverage for medical and mental health services;
- o fire safety;
- o facilities maintenance;
- o sanitation standards for cleanliness and pest control;
- o compliance with building, safety, and health codes; and
- o program opportunities for 90 percent of eligible offenders.

Staffing and services comparable to those conditions created by the order must be maintained. The department must assure that 90 percent of the eligible offenders in each of the correctional facilities are provided with opportunities to participate in programs for an average of 5.5 hours per workday within the framework of the court-established limitations.

The department developed its first emergency capacity expansion plan in April, 1987. The capacity plan suggested double bunking initiatives should be started across all facilities provided staffing and capital resources were sufficient to meet the objective. Specific attention was directed toward the expansion of program and activity areas to balance the security and operational interest with the need for productive management of inmate time. The 1987 legislature authorized the department to double bunk 287 inmates. The Department of Corrections is now double bunking more than 400 inmates in higher custody facilities as well as several hundred inmates in the modular housing.

The department maintains approximately 476 temporary modular beds leased from Atco Structures, Inc. These facilities are rapidly nearing the end of their useful life since many of them were extensively used as housing on oil field operations prior to their acquisition by the Department of Corrections.

The current backlog is nearly 500 inmates. The backlog growth rate ranges from 50 to 75 inmates per month, although the plan assumes a more modest growth rate of 50 inmates per month. With a rate of designed capacity of 3,536 and temporary housing measures allowing the department to accommodate nearly 5,000 inmates, it is clear that additional risk can not be taken within existing resources.

The Department of Corrections is committed to assuring additional risk proportional to the availability of essential security and program staff and capital improvement funds. This plan outlines the staffing and capital improvement needs essential to controlling the level of risk associated with significant inmate growth.

### III. POPULATION PROJECTIONS

Based on the first 11 months of FY 87-88, the state judicial system is sentencing, on average, 198 offenders to prison per month and the Parole Board is revoking 50 offenders back to prison per month. The combined total of offenders that the Department of Corrections can expect monthly is 248. Conversely, and based on the same time frame, the Department of Corrections releases 176 per month. The net gain of offenders, for which the department has no available beds, is 72 per month. This build up, without available prison beds, occurs within the state's jails.

It is anticipated that the total state jail backlog will be 488 by July 1, 1988, and that the seven counties involved in the court ruling plus Denver and Jefferson Counties will make up 80 percent of the total backlog. Therefore, the department will need to bring the seven counties plus Denver and Jefferson Counties combined jail backlog down to 388 by October 1, 1988 and zero by January 1, 1989. The passage of HB 1200 and SB 148 will not affect the rate of sentencing through 1988 and only act to slow the population growth in future years. The early effect of this legislation is that its adjustments to the prescriptive ranges, for Class 4 and 5 felons will not affect the rate of intake and therefore, will not act to reduce the jail backlog. The effect of changing the prescriptive range from the maximum to the mid-point of the range will not affect the population growth for over two years.

In order for the Department of Corrections to accept the seven county jail backlogs under the court order stipulations, and to continue to accept Denver and Jefferson County intakes, no intakes can be taken from the remaining counties and the department will have to increase the bed space by 488 beds by January 1, 1989 - see attachment . To accept all the current jail backlog and the continued build up through December, 1988, the department will require 800 beds to bring the state-wide jail backlog down to zero. Therefore, additional beds will be required to maintain the continued rate of commitments above available bedspace. From this analysis a request for 800 additional beds represents a conservative estimate for a short range solution to the correctional bedspace needs through this year.

### IV. GENERAL PLAN

The Department of Corrections proposes to create the additional 800 beds by double bunking within specific facilities, utilization of modular living units, contracting for bed space with Colorado counties, with community correctional centers and with correctional departments in other states. These proposals represent what we consider to be a reasonable plan in solving the situation.

The following facilities and time frames are proposed for implementation:

<u>Facility:</u>	<u>Number of Beds</u>	<u>Date Needed</u>
County Jail Contract	50	July 1988
Community Correctional Center	200	July 1988
Out-of-State Beds	100	August 1988
Double Bunking	300	September 1988
Temporary Housing	250	January 1989

The proposal for the county jail contract increases the previously appropriated funds to support 50 additional beds in those counties where some beds are being under utilized, additional community beds would be negotiated to increase the current contract total by 200, and contracts for 100 beds would be negotiated with other states where bed space is presently available. Double bunking expansion will depend on the court's relaxation of the Ramos orders as to which facilities will be affected. Temporary housing proposals are dependent on receiving adequate funds for the purchase of used modular units and to adequately staff the additional units.

V. SPECIFIC PLANS

1. If the department is unable to obtain federal court approval to exceed the number of inmates housed at the Ramos facilities, the following facilities would be double bunked and funds requested:

<b>Fremont Correctional Facility - 125 beds</b>	
Personal Services (32.5 FTE)	\$ 934,476
Operating	271,600
Utilities	62,500
Contract Services	248,000
Capital (one-time costs)	126,250
Bunks and Furniture	
Multi-Purpose Program Space	
Physical Plant and Security Renovation	
<b>Buena Vista Correctional Facility - 125 beds</b>	
Personal Services (32.5 FTE)	\$ 934,476
Operating	271,600
Utilities	62,500
Contract Services	248,000
Capital (one-time costs)	126,250
<b>Skyline Correctional Center - 50 beds</b>	
Personal Services (13 FTE)	\$ 370,791
Operating	108,600
Utilities	23,000
Contract Services	98,000
Capital (one-time costs)	50,500
<b>Warehouse - Canon City</b>	
Capital (One-time costs)	\$ 135,000
(Renovation of Freezer and Refrigeration)	
<b>Upgrade Water System</b>	\$ 205,000
<b>Clinical Services</b>	
Personal Services (9 FTE)	\$ 268,773
Operating	90,000
Contract Services	75,000
<b>Total Ramos Double Bunking Request:</b>	<b>\$5,440,400</b>

2. If the department is successful in obtaining the approval of federal court to exceed the limits of the Rans order, the following facilities would be double buried and funds requested:

Colorado Territorial Correctional Facility - 150 Beds

Personal Services (39 FTE)		\$1,122,371
Operating		325,951
Utilities		75,000
Contract Services		359,000
(Contracts to include vocational auto body)		
Capital (One-time costs)		570,000
Multi-Purpose Space	\$200,000	
Bunks and Furniture	100,000	
Program Space-Auto Body, Sign Shop	195,000	
Renovation of Food Service	75,000	

Centennial Correctional Facility - 50 Beds

Personal Services (12 FTE)		\$ 373,790
Operating		103,680
Utilities		35,000
Contract Services		60,000
(Academic and Vocational)		
Capital (One-time costs)		90,000
Bunks and Furniture		
Expansion of Print Shops		
Addition of Kitchen Facilities		

Frontier Correctional Facility - 75 Beds

Personal Services (19 FTE)		\$ 546,309
Operating		162,975
Utilities		37,500
Contract Services		129,000
Capital (One-time costs)		341,000
Bunks and Furniture	\$ 40,000	
Multi-Purpose Program Space	140,000	
Physical Plant and Security Renovation	161,000	

Siouxone Correctional Center - 25 Beds

Personal Services (7 FTE)		\$ 301,270
Operating		54,000
Utilities		10,500
Contract Services		40,000
Capital (One-time costs)		26,000
Bunks and Furniture	\$ 26,000	

Warehouse - Canon City

Capital (One-time costs, (Renovation of Freezer and Refrigeration)		\$ 135,000
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Upgrade Water System

\$ 215,000

Operational Services

Personal Services (9 FTE)	\$ 258,778
Operating	90,000
Contract Services	75,000

Total Non-Fares Double Booking Request \$5,440,420

3. County Jail Contract - Current funding would be expanded from 200 beds to 250.

Current Funding	\$2,920,000
Additional Contracting	730,000

Total County Jail Contract Request \$ 730,000

4. Out of State Prison Beds - Contracts would be negotiated with correctional agencies from other states for housing protective custody inmates beginning August 1988.

Contract Beds @ \$60/bed	\$2,190,000
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Total Out-of State Request \$2,190,000

5. Purchase Temporary Housing - Modular units are available for immediate purchase and relocation to existing correctional facilities. Sufficient units to house 250 inmates would be located at the following sites:

Colorado Women's Correctional Facility - 50 Beds

Personal Services (15.5 FTE)	\$ 260,268
Operating	54,025
Utilities	12,500
Contract Services	49,000
Capital (One-time costs)	436,675
Site Development	\$210,580
Repair and Renodal	80,800
Mechanical	55,750
Electrical	20,000
Equipment	42,270
Contingency	26,475

Buena Vista Correctional Facility - 100 Beds

Personal Services (31 FTE)	\$ 806,538
Operating	103,480
Utilities	23,000
Contract Services	95,000
Capital (One-time costs)	692,100
Site Development	\$290,300
Repair and Renodal	90,700
Mechanical	157,500
Electrical	25,000
Equipment	84,540
Contingency	41,060

Four Mile Modular Unit - 100 Beds

Personal Services (31 FTE)		\$ 516,500
Operating		108,600
Utilities		25,000
Contract Services		98,000
Capital (One-time costs)		673,743
Site Development	\$273,800	
Repair and Renodel	92,700	
Mechanical	157,500	
Electrical	25,000	
Equipment	84,500	
Contingency	40,243	

Purchase and Relocation

Purchase Modular Units	\$ 191,200
Relocate Modular Units	370,504

Clinical Services

Personal Services (7.5 FTE)	\$ 127,000
Operating	37,500
Contract Services	31,250

Total Purchase Temporary Housing Request \$4,355,106

6. Administration and Consolidated Services

Personal Services (10 FTE)	\$ 350,000
Operating	37,000
One-Time Cost (Computer Program Update)	25,000

Total Administration and Consolidated Services Request \$ 412,000

NEW EMERGENCY OPERATIONS PLAN REQUEST: \$13,130,500

7. Critical Issues

Double bunking and temporary housing as proposed in this plan provides the department with the needed immediate relief to the bed space crises, however, at the same time it severely taxes some of the functional areas. The success of the plan depends on the ability of the department to obtain adequate funds to provide the necessary physical plant program and staff which are so vital to providing the safety measures for these overcrowded conditions.

Ramos Facilities

If the decision is made that the Department of Corrections can not double bunk inmates at the two Ramos facilities, the shift of beds will be to FCI and FCIW. Those two facilities are at the point where they are about topped out on what they can provide. FCIW is plagued with staff shortages, water and sewage concerns, line of sight, and blind areas. The same is true

of the Fremont Correctional Facility; program space, kitchen space, work programs and projection density have become serious concerns in the management of the institution. Staff and inmate's safety is at risk. Fire safety is a serious concern because of water and egress due to locking mechanisms. Court decrees, such as Rhodes vs. Chapman and Ramos vs. Latt have a direct impact on how facilities are managed.

#### Centennial Correctional Facility:

Centennial is the only maximum security facility in the department. It houses the most dangerous, volatile inmates in the system. There are special categories of inmates who, at the present time, can only be housed at Centennial: death row inmates, protective custody inmates, severe management problems, and psychotic inmates. Centennial is a relatively new facility, however, the lack of a food preparation area severely hampers the ability to house additional inmates. Centennial would be enhanced if it were self-contained with its own kitchen and laundry services.

#### Colorado Territorial Correctional Facility:

Territorial is one of the facilities being considered for double bunking 150 additional inmates. It is presently over burdened with the variety of services it provides to a diverse inmate population. The facility is a major medium security facility that houses the diagnostic center inmates, serves as the medical treatment area for the department and houses the HIV inmates. Major areas of concern are the inadequate work areas, insufficient space for food preparation, and inadequate staff, and inmate safety due to staff shortages. Presently there are 57 temporary beds and 66 double bunk beds at Territorial.

#### Colorado Women's Correctional Facility:

Women's is one of the facilities being considered for an increased capacity. The prison was built to house 94 inmates; the population today fluctuates between 175 and 180. The infrastructure is over burdened to the point of having to add hot water heaters and several years of equipment. There are presently 18 temporary beds and 34 double bunked beds at CWF.

#### Fremont Correctional Facility:

The internal physical security controls do not enable staff to isolate a disturbance within the facility. It was designed to house favorably adjusted inmates who were within two years of release from confinement. The physical layout of the housing units and the proximity to the control center creates a management situation in which staff could be overtaken by a small number of inmates. The kitchen is producing meals for three facilities. The meals are prepared and delivered to Shadow Mountain and Centennial Facilities in food carts and trucks. Continuing to increase the number of meals to be produced is creating not only a critical production problem but also a situation whereby an inmate takeover of the kitchen could create chaos in all three facilities. Staff to inmate ratios are dangerously low for a medium security facility. Present program space is inadequate and new space must be developed in order to ensure availability of program assignment and to prevent inmate idleness.

### Stairline Correctional Center

The antiquated plumbing system is in dire need of repair and/or replacement. Exterior lighting is inadequate and must be improved/replaced.

### Diagnostic

An average of 18 to 20 inmates can be received into the Reception and Diagnostic Center per working day. This, however, is the upper limit as dictated by limited bed space and duration of required programs and testing creating a "bottlenecking" problem.

### Warehouse

Freezer and refrigeration space is inadequate for the storage of foodstuffs required for the expanded capacity. Current facility is already providing items for double its design capacity.

### Central Functions

Functions such as classification, records, etc., which were centralized for economy of scale have now experienced growth to the limit of their efficiencies and must be provided additional staff. Inmate files have outgrown their filing capability and floor space.

### Correctional Industries

Additional cash spending authority must be provided for purchase of raw materials and equipment in support of this plan.

### Attachments:

- A - Emergency Capacity Plan
- B - Emergency Bed Plan Schedule
- C - Cash-Funds Budget Needs

**EMERGENCY CAPACITY PLAN**

STRATEGY	BEDS	DATE	STAFF	COST	FY89 TOTAL COST
<b>Additional Double Bunking</b>	<b>300</b>	<b>9-88</b>	<b>87</b>		<b>5,443,420</b>
Personal Services (14.5 FTE/50 Inmates)				2,501,520	
Operating				741,900	
Utilities				150,000	
Contract Services				663,000	
Capital (one-time costs)				1,307,000	
(Base Whse Renovation/Water/Whse/L. Butler Building					
990,000      135,000      225,000      37,000)					
<b>County Jail Contract</b>					
Current funding	200	7-88		2,920,000*	
Additional contracting	50	7-88		730,000	730,000
<b>Out of State Prison Beds</b>	<b>100</b>	<b>8-88</b>		<b>2,190,000</b>	<b>2,190,000</b>
Protective Custody @ \$60/Bed					
<b>Purchase Temporary Housing</b>	<b>250</b>	<b>1-89</b>	<b>85</b>		<b>4,355,136</b>
Personal Services (17.0 FTE/50 Inmates)				1,443,726	
Operating				309,125	
Utilities				62,500	
Contract Services				276,250	
Capital (One-time costs)				2,263,535	
<b>Administration and Consolidated Services</b>				412,000	
Personal Services			10	350,000	
Operating				37,000	
Operating (One-time cost) Computer Prog. Update				25,000	
	<u>900</u>		<u>172</u>		<u>13,130,556</u>

\*200 bed were funded 1989 Long Hill  
appropriation \$2,920,000

## POPULATION GROWTH AND BED NEEDS

## EMERGENCY BED PLAN SCHEDULE

Time Period	Beginning Population	State/FE Beds	Court Order Beds	DOC Intake	DOC Release	End of Month POP	DOC Capacity	Cumulative Bed Needs	Backlog Court Order Capacity	Other County Ranking
7/1/88 - 7/31/88	4886	248	188	288	178	4870	4870	101	300	147
8/1/88 - 8/31/88	4870	248	188	288	178	5080	4870 *	88	288	157
9/1/88 - 9/30/88	5080	248	188	288	178	5147	4870	125	184	247
10/1/88 - 10/31/88	5147	248	188	288	178	5200	4870	281	180	257
11/1/88 - 11/30/88	5200	248	188	288	178	5319	4870	247	68	247
12/1/88 - 12/31/88	5319	248	188	284	178	5407	4870	455	-0-	357

\* AVOF = 100

## DESCRIPTION:

1. The rate of new sentenced offenders and parole revocators will remain at 248 per month through December, 1988. The court order counties rate will be 80% of total rate.
2. The rate of DOC releases will remain at 178 through December, 1988.
3. The on-grounds population of DOC will be 4886 on July 1, 1988 and the jail backlog will be 488 on July 1, 1988. The court order county backlog will be 300 on July 1, 1988.
4. All intake will be exclusively from the court order counties through December 31, 1988.
5. Aransas Valley will be at full capacity in August, 1988.

Correctional Industries  
 Emergency Capacity Planning  
 Cash-Funds Budget Needs

<u>Program</u>	<u>FTE</u>	<u>Inmate Jobs</u>	<u>Pera. Svcs</u>	<u>Operating</u>	<u>Raw Materials</u>	<u>Inmate Pay</u>	<u>Facility</u>
Powder Coat	2.0	20	\$62,286	\$30,000	\$121,000	\$10,000	Fremont
Expand Print	2.0	20	57,906	81,600	122,400	10,000	Centennial
CWCF Ag.	2.0	25	57,906	30,000	65,000	12,500	Women's
Auto-Body	2.0	25	57,906	30,000	121,000	12,500	Territorial
Expand Signs	2.0	20	57,906	60,000	157,000	10,000	Territorial
BVCF Farm	-0-	20	-0-	15,000	25,000	10,000	Buena Vista
Farm/Swine	1.0	20	28,953	30,000	35,000	10,000	Skyline
Dairy Expand	1.0	30	28,953	10,000	-0-	15,000	Four Mile
<b>Total</b>	<b>17.0</b>	<b>180</b>	<b>\$351,816</b>	<b>\$286,600</b>	<b>\$646,400</b>	<b>\$90,000</b>	

Total Cash-Funds Need- \$1,374,816

FILED  
U.S. DISTRICT COURT  
DISTRICT OF COLORADO

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO JUL 26 P 4: 54

Civil Action No. 77-C-1093

FIDEL RAMOS, et al.,

Plaintiffs,

vs.

RICHARD LAMM, et al.,

Defendants.

JAMES R. MANDLER,  
CLERK  
BY \_\_\_\_\_ DEP. CLK.

---

PLAINTIFFS' RESPONSE TO MOTION  
TO MODIFY CONSENT ORDER

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Plaintiffs respectfully submit this response to defendants' motion to modify the consent order entered in this case on August 7, 1985.

I. Introduction

1. Defendants have proposed a massive modification to the Court's August 7, 1985 Consent Order. In a nutshell, defendants propose to increase the capacity of the "Ramos facilities" by 20%, at a one-time capital cost of approximately \$660,000. Recurring personnel and operating expenses caused by the expansion would cost almost \$2.9 million per year. See Department of Corrections, Facility Capacity and Expansion Plan at 5-6. Defendants' plans, of course, are subject to legislative approval and the appropriation of sufficient funds.

2. It is clear that prison overcrowding has reached crisis proportions and that defendants have proposed a substantial undertaking to solve overcrowding problems, at least for the short term. In the past, plaintiffs have urged defendants to propose a comprehensive plan for responding to overcrowding which will permit the plaintiffs and the Court to make a sound analysis of the long-term implications of defendants' proposals. See, e.g., Plaintiffs' Response to Defendants' Motion to Modify Consent Order, (March 29, 1988).

3. Defendants have now submitted their plan and the time has come for a thoughtful review of its provisions. Accordingly, plaintiffs propose that, as in the past, defendants be required to retain, at the State's expense, several experts who will thoroughly evaluate the implications of defendants' plan and permit the kind of thoughtful review and analysis required by the State's proposal. Specifically, the parties have historically agreed upon and consulted with recognized experts in the following fields: mental health and medicine, corrections, and environmental health and safety.

4. It is believed that such inspections could be expedited and a thorough analysis of defendants' plan completed in time to meet defendants' existing schedule, provided that the review by the experts does not uncover fundamental flaws in the State's plans.

## II. Discussion

5. As indicated, plaintiffs have every desire to accommodate these reasonable needs of defendants to respond to prison overcrowding. Indeed, the files of this case reflect that plaintiffs have consistently negotiated with defendants to compromise and resolve outstanding issues. For example:

- On October 2, 1981, the Court entered an order approving a stipulation reached between the parties concerning the continued use of Cellhouse 3 at the Colorado Territorial Correctional Facility.
- Subsequently, the Court entered an order approving the parties' agreement concerning limited double bunking in Cellhouse 3.
- On August 7, 1985, the Court approved a consent order, negotiated by the parties, which compromised and resolved most of the issues raised in the case.
- On January 10, 1986, this Court signed and approved the parties' consent agreement concerning issues relating to access to the courts.
- On August 25, 1987, the Court approved, in the face of the State's concerns about overcrowding in the Reception and Diagnostic Center, a stipulation permitting double bunking in Cellhouse 3 for a nine month period.
- Finally, on March 29, 1988, plaintiffs consented to defendants' request for a continuation of the emergency double bunking in Cellhouse 3.

In short, it should be clear to all that plaintiffs have bent over backwards to resolve the outstanding issues in this case by negotiation and compromise, all the while paying due respect to the legitimate interests of the Department of Corrections.

6. The August 7, 1985 Consent Order was entered by the Court upon the agreement of the parties and represented the culmination of over 8 years of litigation. The Order contains detailed standards designed to ensure that the State will maintain adequate conditions of confinement, including standards governing sanitation, medical and mental health care, security, safety and activity. It would be a tragedy if the improvements in conditions of confinement represented by the Order were vitiated by a continuous series of "emergency" modifications, none of which have been subjected to careful review and analysis by those experienced in the field.

7. Indeed, it is apparent that conditions at the Ramos facilities may deteriorate markedly if the prisoner population is increased dramatically as the State plans.

a. For example, the State's Facility Capacity Expansion Plan describes conditions at Centennial Correctional Facility: "Centennial is a relatively new facility, however, the lack of a food preparation area severely hampers the ability to house additional inmates. Centennial would be enhanced if it were self-contained with its own kitchen and laundry services."

b. By the same token, newly renovated Colorado Territorial Correctional Facility is described as follows: "Major areas of concern are the inadequate work areas, insufficient space for food preparation, and inadequate staff and inmate safety due to staff shortages." Id. at 8.

8. Plaintiffs recognize that the present plan is designed to cure these problems. We applaud the Department's efforts. Plaintiffs simply ask for an opportunity to conduct a substantive review of the sufficiency of those efforts.

9. Finally, there is nothing new about plaintiffs' request for the State to retain several experts, agreed upon by the parties, to inspect and report upon the adequacy of the State's plans. For example, the Consent Order required the State to retain qualified mental health and medical experts, a corrections expert and an expert qualified in physical plant, environmental health and safety matters. Consent Order at ¶ 25 (August 7, 1985). Similar inspections have occurred, at the State's expense, since that time.

10. In summary, it is clear that the capacity expansion plans set forth in the State's motion will have a dramatic impact on the capacity of the Ramos facilities to serve the prisoners confined in each of the institutions. The impact of the State's plans upon conditions of confinement, particularly in the areas of safety, food service, sanitation, physical plant, staffing and programs, needs to be studied before the Court can approve the defendants' proposal.

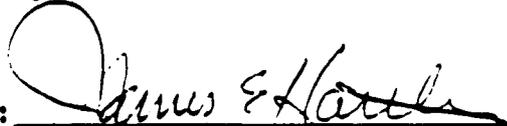
Dated July 26, 1988.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF COLORADO

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By:   
\_\_\_\_\_

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of July, 1988, I mailed a true and correct copy of the foregoing PLAINTIFFS' RESPONSE TO MOTION TO MODIFY CONSENT ORDER by placing a copy thereof in the United States mail, postage prepaid, addressed to the following:

Terrance A. Gillespie  
Marlene Langfield  
Assistant Attorneys General  
1525 Sherman St., Third Floor  
Denver, CO 80203

A handwritten signature in cursive script that reads "Lisa A. Widdowfield". The signature is written in black ink and is positioned to the right of the typed address block.

8/1/88

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 77-C-1093

FIDEL RAMOS, et al.,

Plaintiffs,

vs.

RICHARD LAMM, et al.,

Defendants..

-----  
DEFENDANTS REPLY TO PLAINTIFFS' RESPONSE TO MOTION  
TO MODIFY CONSENT ORDER  
-----

Pursuant to this courts order of August 1, 1988 Defendants  
reply to Plaintiffs' response to the motion to modify the consent  
order as follows:

1. The parties have agreed that mutually acceptable  
experts shall evaluate the Defendants Facility Capacity Expansion  
Plan in light of the prior orders of this court.
2. It is further agreed that the parties shall agree on  
which experts to employ for this evaluation within seven days of  
the filing of this reply.
3. Further, the Defendants request this court allow the  
experts 60 days within which to complete their evaluation.

RESPECTFULLY SUBMITTED,

FOR THE ATTORNEY GENERAL



TERRENCE A. GILLESPIE, 9579  
Assistant Attorney General  
Human Resources Section

Attorneys for Defendants

1525 Sherman Street, 3d Floor  
Denver, Colorado 80203  
Telephone: 866-5219  
AG Alpha No. CO AD GEBQM  
AG File No. EED880105

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within  
DEFENDANTS REPLY TO PLAINTIFFS' RESPONSE TO MOTION TO MODIFY CON-  
SENT ORDER upon all parties herein by depositing copies of same  
in the United States mail, postage prepaid, at Denver, Colorado  
this 11<sup>th</sup> day of August 1988, addressed as follows:

David H. Miller  
815 E. 22nd Ave.  
Denver, Colorado 80205

James Hartley  
555 17th Street, Suite 2900  
Denver, Colorado 80202

*Delta P. Abel*  
-----