

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUL 23 1996

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

INMATES OF OCCOQUAN, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 MARION S. BARRY, JR., MAYOR, et al.,)
)
 Defendants.)

C.A. No. 86-2128 (JLG)

ENVIRONMENTAL HEALTH AND FIRE SAFETY CONSENT ORDER

Upon consideration of plaintiffs' Motion for an Order to Show Cause Why Defendants Should Not Be Held in Contempt, and Automatic Sanctions Imposed with Respect to the Environmental Health and Fire Safety Portion of this Case, dated March 28, 1996, the agreement of the parties and the entire record here, the Court adopts the findings of the plaintiffs' fire safety and environmental health experts memorialized in affidavits attached to the March 28, 1996 Motion for an Order to Show Cause. The Court further finds that the defendants have failed to comply with the fire safety and environmental health orders of this Court.

The Court further finds that the provisions of the Prison Litigation Reform Act, Public Law No. 104-134 (April 26, 1996), do not apply to the provisions of this Consent Order because it does not provide relief beyond the relief provided in the Court's prior orders.

I. ENVIRONMENTAL HEALTH

A. Repairs and Renovations

1. Defendants shall immediately begin to repair or restore all inoperable water closets, sinks, and showers in the

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housing units.

2. By September 1, 1996 defendants shall have completed the repair and restoration of all inoperable water closets, sinks, and showers and thereafter shall maintain them in working condition.

3. Within 14 days of entry of this Consent Order, defendants shall identify, for each dormitory, its current population, the numbers of functioning toilets, urinals, lavatories and showers and specify the ratio of inmates to each hygienic fixture. Within 14 days thereafter, defendants shall submit to the Special Officer and plaintiffs' counsel a plan with an implementation schedule to reduce temporarily (pending comprehensive housing unit renovations, or the closure of Lorton, or a period not to exceed seven years from the signing of this order) the extreme population pressure on the hygienic facilities in selected housing units. Any disagreement over the advisability or necessity of remedial measures shall be submitted to the Court.

4. Defendants shall install secure tempering valves in the showers to protect prisoners from scalding water. The work shall be accomplished within 90 days of receipt of necessary materials. Upon proper application to the Special Officer by the defendants, the funds for purchasing the necessary supplies for this project shall be obtained from the escrow account established by the December 15, 1995 Order. Defendants shall reimburse the escrow fund for the full amount of this procurement within 120 days of receipt of these funds from the escrow account.

5. Defendants shall cover the exposed heating line pipes and radiators in the one-half of the housing units posing the highest burn risk within 90 days of receipt of necessary materials. Within the following 90 days, defendants shall cover the exposed heating line pipes and radiators in the remaining housing units. Upon proper application to the Special Officer by the defendants, the funds for purchasing the necessary supplies for this project shall be obtained from the escrow account established by the December 15, 1995 Order. Defendants shall reimburse the escrow fund for the full amount of this procurement within 120 days of receipt of these funds from the escrow account.

6. Defendants shall immediately implement their service and repair plan, referred to as a preventive maintenance plan in the Action Plan, and the plan shall be fully operational by August 1, 1996.

7. By October 1, 1996, defendants shall fully implement a preventive maintenance plan, to be approved by the Special Officer, to conduct preventive maintenance needed to assure the health and safety of inmates and ensure that essential parts and supplies are readily available. By September 16, 1996, defendants shall report to the Special Officer and plaintiffs' counsel on how they will accomplish full implementation.

8. Defendants shall immediately begin to repair all broken components of the ventilation systems in the housing units. (e.g., clogged registers; broken A.H.U.; broken exhaust fans). All repairs not dependent on extensive renovations or major expense

shall be completed by August 15, 1996. Upon proper application to the Special Officer by the defendants, the funds for purchasing the necessary supplies for this project shall be obtained from the escrow account established by the December 15, 1995 Order. Defendants shall reimburse the escrow fund for the full amount of this procurement within 120 days of receipt of these funds from the escrow account.

9. By August 15, 1996, defendants shall ensure that the present ventilation system in the housing units is operational at full capacity and that it remains fully operable and that necessary repairs are promptly made.

10. Within 180 days, defendants shall assess the levels of CO₂ within the housing units when prisoners are asleep and the windows are closed. A consultant shall be engaged to make recommendations on how to remedy any unsafe levels of CO₂. Any disagreement over the advisability or necessity of remedial measures shall be submitted to the Court. Upon proper application to the Special Officer by the defendants, the funds for compensation of the consultant shall be obtained from the escrow account established by the December 15, 1995 Order. Defendants shall reimburse the escrow fund for the full amount of this procurement within 120 days of receipt of these funds from the escrow account.

11. Defendants shall measure quarterly the CO₂ levels in each dormitory under conditions specified in paragraph 10 and maintain a log of date, time, location, and notation of whether or

not the ventilation system is functioning and whether the windows are open or closed; the defendants shall include the log as part of the bi-monthly report.

12. Defendants shall immediately begin to repair all broken windows and torn window screens; defendants shall record the date the damaged window or window screen is reported and the date the repair is completed. By August 15, 1996, defendants shall have repaired all broken windows and window screens and shall thereafter maintain them in good repair.

13. Defendants shall immediately repair and replace broken kitchen equipment that poses a threat to the health or safety of inmates. Repairs shall be complete by August 15, 1996 and thereafter the defendants shall maintain the equipment in operable condition.

14. Defendants shall test operational temperatures of the dishwasher water twice a day; maintain a log of time, date, and results of test; and submit a copy of the log as part of the bi-monthly compliance report.

B. Housekeeping

1. Defendants shall immediately implement the new vermin control plan referred to in the Action Plan.

2. Defendants shall, by September 1, 1996, implement the new Housekeeping Plan referred to in the Action Plan.

3. The defendants shall add the following items to the Housekeeping checklist: ventilation system; vermin infestation and mattress inspection on laundry day.

4. Defendants shall ensure that the Housekeeping Plan is placed in each housing unit; that the Correctional Officers are trained on the plan; and that the Correctional Officers supervise the prisoner housekeeping detail.

5. Defendants shall assure that all inmates who are newly assigned to the Occoquan Facility shall be supplied with a fire retardant mattress and/or mattress cover that can be effectively sanitized, are provided with supplies necessary to sanitize the mattress and are instructed on how to do so.

6. Defendants shall immediately implement a perpetual inventory system to ensure an adequate supply of cleaning supplies.

7. Defendants shall immediately clean kitchen walls to eliminate mold and slime and shall thereafter maintain the cleanliness of the walls.

C. Food Borne Disease

Defendants shall serve food to prisoners in the Adjustment Unit in hot and cold carts to ensure that food is served at the appropriate temperature.

D. Airborne Disease

Defendants shall immediately mark the dormitory floors to ensure that beds are properly spaced such that there is at least five feet between the heads of sleepers. In dormitory numbered 17, this provision, I-D, shall be effective 60 days after entry of this order.

E. Other Provisions

1. Defendants shall permit plaintiffs to make unannounced inspections (no less than 24 hour notice) to tour and evaluate defendants' compliance with the environmental health and safety orders in this case.

2. Defendants shall be fined \$500.00 per violation for each unexcused violation of the environmental health and safety provisions of this order.

II. FIRE SAFETY

A. Repairs

1. Defendants shall repair all malfunctioning housing unit fire alarm system pull stations within 10 days of delivery of necessary materials. Within 30 days after delivery of necessary materials, defendants shall repair all other malfunctions in housing unit fire alarm systems and shall thereafter maintain them in operative condition. Upon proper application to the Special Officer by the defendants, the funds for purchasing the necessary supplies for this project shall be obtained from the escrow account established by the December 15, 1995 Order. Defendants shall reimburse the escrow fund for the full amount of this procurement within 120 days of receipt of these funds from the escrow account.

2. Defendants shall repair all malfunctioning housing unit emergency lighting units within 30 days of delivery of the necessary materials and shall thereafter maintain them in operative condition. Upon proper application to the Special Officer by the defendants, the funds for purchasing the necessary supplies for

this project shall be obtained from the escrow account established by the December 15, 1995 Order. Defendants shall reimburse the escrow fund for the full amount of this procurement within 120 days of receipt of these funds from the escrow account.

3. Defendants shall immediately begin to repair/replace all malfunctioning housing area smoke detectors; by August 15, 1996 all housing area malfunctioning smoke detectors shall be repaired and thereafter defendants shall maintain them in operative condition.

4. Defendants shall install appropriate vents for all housing unit clothes dryers within 90 days of delivery of the necessary materials. The dryers will be properly vented to the outside. Upon proper application to the Special Officer by the defendants, the funds for purchasing the necessary supplies for this project shall be obtained from the escrow account established by the December 15, 1995 Order. Defendants shall reimburse the escrow fund for the full amount of this procurement within 120 days of receipt of these funds from the escrow account.

5. By September 30, 1996, defendants shall develop and implement a plan to be approved by the Special Officer to ensure that essential parts and supplies are readily available for the repair/replacement of fire prevention equipment, and to monitor and remedy fire hazard conditions.

6. Defendants shall immediately begin to correct all exposed wooden roofs in the housing units with the installation of a thermal barrier between the roof and the interior of the

building; by February 15, 1997, defendants shall have repaired all ceilings in the housing areas and shall thereafter maintain the repairs. Upon proper application to the Special Officer by the defendants, the funds for purchasing the necessary supplies for this project shall be obtained from the escrow account established by the December 15, 1995 Order. Defendants shall reimburse the escrow fund for the full amount of this procurement within 120 days of receipt of these funds from the escrow account.

7. Defendants shall maintain all electrical wiring, appliances and equipment in a safe manner. Defendants shall repair or remove all hot wiring, improperly repaired line cords, covers of electrical boxes and broken receptacles and appliances.

B. Renovations

1. Defendants shall install fire rated doors to the stairways in the housing units within 60 days after delivery of the fire rated doors. Upon proper application to the Special Officer by the defendants, the funds for purchasing the necessary supplies for this project shall be obtained from the escrow account established by the December 15, 1995 Order. Defendants shall reimburse the escrow fund for the full amount of this procurement within 120 days of receipt of these funds from the escrow account.

2. By August 15, 1996, defendants shall assure that there is a 2-hour fire rated separation between the R & D storage room and the dormitory 17 area.

3. Defendants shall immediately render fully operational the fire alarm system in the new Adjustment Unit so that it transmits

to the Control Center.

4. By September 30, 1996, defendants shall house prisoners in the new Adjustment Unit. Nothing in this Consent Order shall prohibit use of the present Adjustment Unit, provided that all aspects of such use, e.g. staffing, environmental and fire safety, are in compliance with the orders entered in this case. Upon proper application to the Special Officer by the defendants, the funds for purchasing any materials or supplies necessary to open the new Adjustment Unit shall be obtained from the escrow account established by the December 15, 1995 Order. Defendants shall reimburse the escrow fund for the full amount of this procurement within 120 days of receipt of these funds from the escrow account.

C. Fire Evacuation Plans

1. Defendants shall immediately establish an appropriate schedule for the testing of housing unit smoke detectors and maintain a log (date, time, identification of individual detectors, and results of the tests). Each detector must be tested and calibrated at least annually.

2. Defendants shall ensure that fire drills are conducted in each housing unit on each shift at least four times a year; that the times and methods for fire drills vary; that the drills are unannounced; that the fire drills do not occur during shift changes; that prisoners shall participate in at least 50% of the fire drills; and that the defendants maintain an accurate log (date, time, comments) of the fire drills.

3. Defendants shall ensure that every Correctional Officer receives at least 1-2 hours of appropriate fire safety training per year; the defendants shall provide training in the use of self-contained breathing apparatus to Correctional Officers who are expected to use this equipment; the defendants shall include discussion of a fire safety issue during roll call on each shift on a weekly basis.

4. The defendants shall, by August 15, 1996, revise the individual housing unit fire evacuation plans to ensure that they are complete and accurate.

D. Fire Retardant Mattress

1. Defendants shall immediately begin to ensure that all prisoners have a fire retardant mattress or mattress cover; by October 31, 1986, all prisoners shall have a fire retardant mattress or mattress cover.

2. On laundry day, defendants shall inspect the mattresses to ensure that non-fire-retardant mattresses and mattresses that are damaged so that they cannot be effectively sanitized are identified and replaced in a timely manner. A notation indicating this mattress inspection will be included in the daily housekeeping checklist and this item will be completed each laundry day.

E. Fire Aisles

Defendants shall immediately paint the floors of all housing units, except dormitory numbered 17, to clearly mark required three foot wide ingress/egress aisles. Required exit

access aisles shall remain unobstructed and a minimum of three feet in width. Electrical power and extension cords shall not be permitted in access aisles. In dormitory numbered 17, this provision, II-E, shall be effective 60 days after entry of this order.

F. Exit Keys

By September 1, 1996, defendants shall submit to the Special Officer and plaintiffs' counsel, a system, consistent with sound key control practices, that makes exit keys readily identifiable.

G. Other provisions

1. Defendants shall monitor their compliance with these provisions in the bi-monthly compliance report submitted to plaintiffs.

2. Defendants shall be fined \$1,000.00 per day for each unexcused violation of the fire safety provisions in this Order.

III. GENERAL PROVISIONS

1. By December 1, 1996, defendants shall deposit one hundred thousand dollars (\$100,000) into the Registry of the Court.

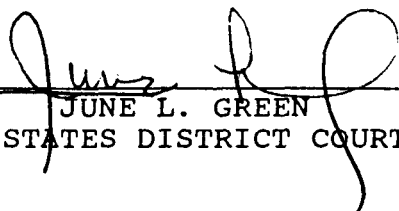
2. This deposit shall be returned to the defendants once they have complied with the terms of this Order for a period of six months (to begin running 180 days after the date of this Order or from the date that defendants achieve compliance with the terms of this Order, whichever comes first). If defendants fail to fulfill the requirements of this Order, monies shall be debited from the deposit and forfeited. The debit shall be calculated from the first day of noncompliance under this Order, according to the fine schedule established in this Order. Defendants may move, on

or after October 1, 1996, to be relieved (deferral or elimination) of the obligation to make the deposit on the basis of substantial compliance with the provisions of this Consent Order.

3. All prior court orders remain in effect except as specifically modified in this order and plaintiffs retain the right to seek the imposition of fines accrued to date pursuant to previous orders. However, with regard to the provisions of any previous order that are specifically addressed in this order, defendants shall be subject to fines for previous non-compliance only if defendants fail to comply with the relevant provisions of this order.

4. Defendants shall pay plaintiffs' counsel their reasonable attorneys' fees and expenses, including expert expenses, related to the motions set for hearing on July 18, 1996, and for the monitoring of the compliance with the fire safety and environmental Orders of this Court.

SO ORDERED:



JUNE L. GREEN
UNITED STATES DISTRICT COURT JUDGE

July 22, 1996
Date

Consented to:
Copies to:

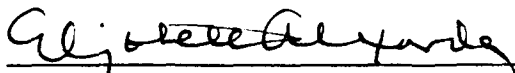
Attorneys for Defendants:

CHARLES F.C. RUFF
Corporation Counsel
MICHAEL E. ZIELINSKI
Deputy Corporation Counsel
Special Litigation Division
WILLIAM EARL
Assistant Deputy Corporation Counsel
Special Litigation Division



Maria Amato, Bar No. 414935
Assistant Corporation Counsel
Office of the Corporation Counsel
441 Fourth St., N.W., 6th Fl., So.
Washington, D.C. 20001
(202) 727-6295

Attorneys for Plaintiffs



Stuart H. Adams, Jr.
Elizabeth Alexander, Bar No. 412904
National Prison Project of the
ACLU Foundation
1875 Connecticut Ave., NW, #410
Washington, DC 20009
(202) 234-4830