

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

RANDOLPH DICKERSON,
CLINTON JACKSON,
A CLASS DEFINED BY THE UNITED
STATES FEDERAL DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
ON NOVEMBER 15, 1976,
AS "ALL PERSONS WHO ARE
PRESENTLY OR WHO MAY IN THE
FUTURE BE HOUSED AT THE
DELAWARE CORRECTIONAL CENTER
AWAITING TRIAL FOR ALLEGED
VIOLATIONS OF DELAWARE
CRIMINAL LAWS BECAUSE OF AN
INABILITY TO MAKE THE REQUIRED
BAIL", and A CLASS, DEFINED BY
THE UNITED STATES FEDERAL
DISTRICT COURT FOR THE
DISTRICT OF DELAWARE ON
NOVEMBER 15, 1976, AS "ALL
PERSONS PRESENTLY INCARCERATED
OR WHO MAY IN THE FUTURE BE
BE INCARCERATED AT DELAWARE
CORRECTIONAL CENTER AFTER
CONVICTION OF VIOLATIONS OF
DELAWARE CRIMINAL LAWS",

Plaintiffs,

vs.

PIERRE S. DUPONT, Governor
of the State of Delaware,
JOHN L. SULLIVAN, Commissioner
of the Department of Correction,
FREDERICK VAN SANT, Chief
of the Bureau of Adult
Corrections, and WALTER
REDMAN, Superintendent of
Delaware Correctional Center,

Defendants.

COMPLAINT FOR PRELIMINARY
AND PERMANENT INJUNCTION
AND DECLARATORY JUDGMENT

INTRODUCTION

Plaintiffs, including classes previously certified by the United States District Court for the District of Delaware, bring this action for injunctive and declaratory relief. They seek to enjoin defendants from using subsections (c), (d) and (e) of 11 Del. C. §6502 to determine the number of persons who can be housed at DCC. Plaintiffs seek a judgment declaring

Dickerson v. DuPont



PC-DE-001-001

filed 3/17/80

that those subsections, facially and as applied, violate Article I, §11 of the Delaware Constitution by permitting defendants to house persons in DCC in greater numbers than the facility was designed, in accordance with health and architectural standards, to hold.

PARTIES

1. Plaintiff, RANDOLPH DICKERSON, is a resident of Delaware who has been incarcerated at DCC since prior to 1976. He is serving a term of life imprisonment for violation of Delaware's criminal laws. At DCC, he has been housed in the Maximum Building, Medium 2 Building, and the Medium 1 Building. He is a member and representative of the class of convicted persons as defined and certified in Anderson v. Redman, No. 76-364, D. Del. (Order of November 15, 1976).

2. Plaintiff, CLINTON JACKSON, is a resident of Delaware who has been incarcerated at DCC since prior to 1976. He is serving a term of imprisonment for violation of Delaware's criminal laws. At DCC, he has been housed in the Medium 1 Building, Maximum Building, Pre-trial Building, and Medium 2 Building. He is a member of the class of convicted persons as defined and certified in Anderson v. Redman, No. 76-364, D. Del. (Order of November 15, 1976).

2. Plaintiff, A CLASS DEFINED BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE ON NOVEMBER 15, 1976, AS "ALL PERSONS WHO ARE PRESENTLY OR WHO MAY IN THE FUTURE BE HOUSED AT THE DELAWARE CORRECTIONAL CENTER AWAITING TRIAL FOR ALLEGED VIOLATIONS OF DELAWARE CRIMINAL LAWS BECAUSE OF AN INABILITY TO MAKE THE REQUIRED BAIL", is an unincorporated association created by an order of the United

States District Court for the District of Delaware in Anderson v. Redman, No. 76-364 (Order of November 15, 1976). The members of that class [pre-trial detentioners] are the beneficiaries of injunctive orders previously issued by the District Court which are currently being held in abeyance pending a final order in this action.

4. Plaintiff, A CLASS DEFINED BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE ON NOVEMBER 15, 1976, AS "ALL PERSONS PRESENTLY INCARCERATED OR WHO MAY IN THE FUTURE BE INCARCERATED AT DELAWARE CORRECTIONAL CENTER AFTER CONVICTION OF VIOLATIONS OF DELAWARE CRIMINAL LAWS", is an unincorporated association created by an order of the United States District Court for the District of Delaware in Anderson v. Redman, No. 76-364 (Order of November 15, 1976). The members of that class [convicted persons] are the beneficiaries of injunctive orders previously issued by the District Court which are currently being held in abeyance pending a final order in this action.

5. Defendant, PIERRE S. DUPONT, is and was at all times relevant hereto the Governor of the State of Delaware. As head of the executive branch of the government, he is charged with the overall administration of the Department of Correction [DOC] and the correctional facilities it operates. He signed into law 62 Del. Laws c. 61.

6. Defendant, JOHN L. SULLIVAN [SULLIVAN], is and was at all times relevant hereto the Commissioner of Correction of the State of Delaware. Pursuant to 11 Del. C. §6517 and 29 Del. C. §§8903, 8904, he is responsible for the operation of the DOC and all institutions operated by it. DCC is a correctional facility operated by the DOC.

7. Defendant, FREDERICK VAN SANT [VAN SANT], is and was at all times relevant hereto the Chief of the Bureau of Adult Corrections of the DOC. Pursuant to 29 Del. C. §8903(2)a., he

has been delegated responsibility for the operation of correctional facilities for adult offenders in this state. The Bureau of Adult Corrections operates DCC.

8. Defendant, WALTER REDMAN [REDMAN], is and was at all times relevant hereto the Superintendent of DCC. He is charged with the day to day administration of DCC.

DCC

I. ORIGINAL CONSTRUCTION

9. DCC is located two miles north of Smyrna, Delaware. It was constructed during 1970-1971 and occupied in April, 1971. When it opened, DCC had four buildings to be used for housing pre-trial detentioners and convicted persons:

- (a) The administration, pre-trial, hospital and receiving room building;
- (b) The maximum security building;
- (c) The medium security building (now called the Medium 1 Building); and
- (d) The minimum security building (now called the Medium 2 Building).

RECEIVING ROOM SECTION

10. The Receiving Room is a section of the Pre-Trial and Administration Building. The Receiving Room has 4 cells, each being 13'8" long x 9'9" wide, and 11'4" high. Each cell has a toilet and sink in one corner. The front of each cell is open, allowing a person to look into the cell from the adjacent hallway. The cells were not designed or originally intended to be used to house inmates for extended periods. Each cell was to hold no more than 2 persons during the initial commitment processing. The initial processing would normally take no longer than 72 hours.

PRE-TRIAL SECTION

11. The Pre-Trial Section [Pre-Trial] of the Pre-Trial and Administration Building consists of 90 cells arranged in three tiers. Each cell measures 10' long, 6'6" wide, and 8'9" high. Each cell was designed and intended for occupancy by a single person, thus allowing the occupant 65 square feet of living space. No other areas or rooms in Pre-Trial were designed or intended to be used for living quarters. As originally designed, Pre-Trial was designed and intended for residency by pre-trial detentioners. The architectural design capacity of Pre-Trial is 90 persons.

HOSPITAL

12. The DCC Hospital has seven wards. Two wards, D and E, were designed to hold nine ill persons. A third ward, A, was to house four ill persons. Four other wards, B, C, F, and G, were designed to hold one ill person each. The Hospital was neither designed nor intended to be used for residency by non-ill persons. The Hospital has an architectural design capacity of 26 ill persons.

MEDIUM 1 BUILDING

13. The Medium 1 Security Building [Medium 1], originally called the Medium Security Building, contains 137 cells arranged in two wings of three tiers each. Each cell is 10' long, 6'6" wide, and 8'9" high. Each cell was designed and intended for occupancy by a single person, thus allowing the occupant 65 square feet of living space. No other area or rooms in Medium 1 were designed or intended to be used for living quarters. The architectural design capacity of Medium 1 is 137 persons.

MEDIUM 2 BUILDING

14. The Medium 2 Security Building [Medium 2], originally called the Minimum Security Building, consists of four tiers. Two tiers consist of 26 cells each. Each cell is 10' long, 6'6" wide, and 8'9" high. Each cell was designed and intended for occupancy by a single person, thus allowing the occupant 65 square feet of living space. The remaining two tiers are open dormitory rooms measuring 84' x 30'. Each dormitory was designed and intended to be occupied by 42 persons, allowing each person 60 square feet of floor space. As originally designed and intended, the persons housed in the dormitories were to be those who had been chosen to participate in work or educational release and who would be out of the building a large part of the day. No other area or rooms in Medium 2 were designed or intended to be used for living quarters. The architectural design capacity of Medium 2 is 136 persons. If persons housed in Medium 2 are there during substantial periods of most days, and if persons housed in the dormitories are to be afforded 75 square feet of living space in accordance with accepted minimum public health standards, the design capacity of Medium 2 is 120 persons.

MAXIMUM SECURITY BUILDING

15. The Maximum Security Building [Maximum] consists of 72 cells, nine of which were designed and intended for isolation. Each cell is 10' long, 6'6" wide, and 8'9" high. Each of the 63 non-isolation cells was designed and intended for occupancy by a single person, thus allowing the occupant 65 square feet of living space. No other area or rooms in Maximum were designed or intended to be used for living quarters. The

isolation cells were not designed for permanent housing but for occupancy only during short periods while punishment or segregation was being imposed on an inmate. The architectural design capacity of Maximum, exclusive of the isolation cells, is 63 persons.

16. Since 1971, no renovations have been made to the Receiving Room, Pre-Trial, Hospital, Medium 1, Medium 2 or Maximum for the purpose of creating any additional permanent living quarters.

II. SUBSEQUENT CONSTRUCTION

MA BUILDINGS

17. In 1975, DOC erected two prefabricated buildings at DCC for housing. One building, designated MA-1, was designed as a dormitory style residency building. MA-1 was designed and intended to be occupied by 45 persons, which allowed each person 75 square feet of living space. The other building, MA-2, was, subsequent to construction, subdivided into smaller group rooms. As originally constructed, MA-2 was designed and intended for occupancy by 45 persons. The architectural design capacity of MA-1 and MA-2 is 45 persons each.

VO-TECH BUILDING

18. In December, 1976, DOC placed toilet facilities and beds in what had originally been designed as bays in the Vocational Building. The two new dormitories were called Vo-Tech Dorm A [VTA] and Vo-Tech Dorm B [VTB]. VTA was

designed and intended to be occupied by 16 persons, allowing each person 75 square feet of living space. VTB was designed and intended to be occupied by 26 persons.

PI BUILDINGS

19. In July, 1977, DOC opened two new prefabricated buildings at DCC called PI-1 and PI-2. Each building was to provide living quarters in a dormitory setting. Each was designed and intended for occupancy by 50 persons, allowing each person 75 square feet of living space. The architectural design capacity of PI-1 and PI-2 is 50 persons each:

PRE-RELEASE BUILDING

20. In December, 1978, DOC opened the Pre-Release Building [Pre-Release] at DCC consisting of 59 cells. Each cell had 120 square feet of living space and was designed for occupancy by two persons. No other area or rooms in Pre-Release were designed or intended to be used for living quarters. The architectural design capacity of Pre-Release is 118 persons.

21. No other buildings beyond those described in paragraphs 8 through 19 have been constructed or erected at DCC since 1971 to provide living quarters for convicted persons or pre-trial detentioners.

DCC'S DESIGN CAPACITY

22. Using the architectural design capacity of 136

persons for Medium 2, the present architectural design capacity of DCC for permanent residential living quarters is as follows:

(a) Pre-Trial	90
(b) Maximum	63
(c) Medium 1	137
(d) Medium 2	136
(e) MA-1	45
(f) MA-2	45
(g) VTA	16
(h) VTB	26
(i) PI-1	50
(j) PI-2	50
(k) Pre-Release	<u>118</u>
TOTAL	776

23. In Anderson v. Redman, the District Court found that the design capacity of DCC, in February, 1977, was:

(a) Receiving Room	8
(b) Pre-Trial	90
(b) Maximum	63
(c) Medium 1	137
(d) Medium 2	120
(e) MA-1	45
(f) MA-2	45
(g) VTA	16
(h) VTB	<u>26</u>
SUBTOTAL	550

By adding the architectural design capacities of the subsequently constructed PI-1, PI-2, and Pre-Release, the present design capacity of DCC is 768.

MINIMUM PUBLIC HEALTH STANDARDS
FOR CORRECTIONAL INSTITUTIONS

24. Minimum public health standards for correctional institutions, in existence now and in 1971, require that single cells contain 60 square feet of floor space and 500 cubic feet of air space. Minimum public health standards for correctional facilities, in existence now and in 1971, require that where living quarters are provided in a dormitory, the number of persons housed in the dormitory shall be determined by allotting 75 square feet of living space to each person. In a dormitory in a correctional facility, minimum public health standards require one flush toilet for every 8 persons.

THE EFFECT OF 11 DEL. C. §6502

25. Pursuant to 11 Del. C. §§6530(d), 6531 and the Rules for the Treatment of Inmates in Delaware Correctional Facilities, persons confined at DCC are entitled to living quarters meeting the architectural design capacity of DCC and minimum public health standards.

26. Pursuant to 11 Del. C. §6502(c), (d), and (e), SULLIVAN, VAN SANT, and REDMAN are given authority to house at DCC a number of inmates in excess of the capacity for which the facility was architecturally designed. Further, 11 Del. C. §6502(c), (d), and (e) allow SULLIVAN, VAN SANT, and REDMAN to house a number of persons at DCC without regard to the minimum public health standards.

27. 11 Del. C. §6502(c), (d), and (e), allow SULLIVAN, VAN SANT, and REDMAN to provide living quarters to persons held at DCC which fail to meet health and privacy standards required by the other state statutes and regulations. The provisions allow SULLIVAN, VAN SANT, and REDMAN to house persons in cells, dormitories, and buildings in numbers in excess of the architectural design capacity of those areas.

28. The provisions of 11 Del. C. §6502(c),(d), and (e) permit SULLIVAN, VAN SANT, and REDMAN to house persons at DCC in living quarters not meeting minimum public health standards.

DEFENDANTS' ACTIONS

29. Relying upon 11 Del. C. §6502(c),(d), and (e), SULLIVAN, VAN SANT, and REDMAN have housed and continue to house at DCC persons in greater numbers than the architectural design capacity of that facility. Relying upon 11 Del. C. §6502(c),(d), and (e), SULLIVAN, VAN SANT, and REDMAN have housed and continue to house at DCC persons in cells and dormitories in greater numbers than the cells and dormitories were designed to hold. In addition, relying upon those same provisions, SULLIVAN, VAN SANT, and REDMAN have housed and continue to house at DCC persons in rooms or areas which were not designed or intended to be used for living quarters and which do not meet minimum public health standards.

30. Since June, 1979, SULLIVAN, VAN SANT, and REDMAN have housed persons at DCC in greater numbers than the design capacity of that facility. Since June, 1979, SULLIVAN, VAN SANT, and REDMAN have housed persons at DCC in areas never designed for living quarters. Since June, 1979, SULLIVAN, VAN SANT, and REDMAN have housed persons in buildings and areas at DCC in excess of the building's and area's architectural design capacity. Attached to this complaint are charts indicating the population at DCC for each day from January 1, 1980 through March 11, 1980. These sheets show that SULLIVAN, VAN SANT, and REDMAN are housing persons at DCC in numbers greater than the design capacity of the institution and its buildings and areas.

CLAIMS FOR RELIEF

31. By housing persons at DCC in greater numbers than the architectural design capacity of the facility SULLIVAN, VAN SANT, and REDMAN violate the provisions of Article I, §11 of the Delaware Constitution.

32. The provisions of 11 Del. C. §6502(c),(d), and (e), which allow SULLIVAN, VAN SANT, and REDMAN to house persons at DCC in greater numbers than the architectural design capacity of the facility violate the provisions of Article I, §11 of the Delaware Constitution.

33. By housing persons in cells and dormitories in greater numbers than the achitectural design capacity of the area, SULLIVAN, VAN SANT and REDMAN violate the provisions of Article I, §11 of the Delaware Constitution.

34. The provisions of 11 Del. C. §6502(c),(d), which allow SULLIVAN, VAN SANT, and REDMAN to house persons at DCC in cells and dormitories in greater numbers than the architectural design capacity of those areas, violate the provisions of Article I, §11 of the Delaware Constitution.

35. By housing persons in areas not designed for living quarters, SULLIVAN, VAN SANT and REDMAN violate the provisions of Article I, §11 of the Delaware Constitution.

36. The provisions of 11 Del. C. §6502(c),(d), and (e), which allow SULLIVAN, VAN SANT, and REDMAN to house persons at DCC in areas not designed for living quarters, violate the provisions of Article I, §11 of the Delaware Constitution.

THE FEDERAL LITIGATION

37. In February, 1977, the classes of pre-trial detentioners and convicted persons obtained from the District

7
Court an injunctive order enjoining SULLIVAN, VAN SANT, and REDMAN from housing at DCC a number of inmates in excess of its design capacity. Anderson v. Redman, 429 F. Supp. 1105 (D. Del. 1977). Such order was based on concessions that housing in excess of design capacity violated state law and regulations. Copies of the February order and subsequent orders are attached as Exhibits A and B to this complaint. Such orders were binding on SULLIVAN, VAN SANT, and REDMAN.

38. With the passage of 62 Del. Laws c. 61 (June 8, 1979), SULLIVAN, VAN SANT, and REDMAN asked the District Court to vacate its prior orders restricting the number of persons permitted to be housed at DCC on the basis that 11 Del. C. §6502(c), (d), and (e) substantially modified the requirements of the state law upon which the District Court had based its injunctions.

39. The District Court, finding that abstention was appropriate on the issue of the constitutionality of 62 Del. Laws c. 61 under the Delaware Constitution, stayed its orders until the validity of the new statute could be determined in the state courts. This petition seeks a declaration concerning the constitutionality of 62 Del. Laws c. 61 under Article I, §11 of the Delaware Constitution.

IRREPARABLE HARM

40. Persons, whether pre-trial detentioners or convicted persons, are assigned to housing at DCC on space availability. Any person held at DCC may be housed in any area based upon the availability of bed space.

41. Plaintiffs, due to defendants' actions, are forced to live in quarters that do not meet minimum physical health standards. They have no adequate remedy at law. An injunction against those conditions is the only appropriate remedy.

WHEREFORE, plaintiffs pray:

- (a) that the Court declare that the provisions of 11 Del. C. §6502(c), (d), and (e) are null and void because they conflict with Article I, §11 of the Delaware Constitution;
- (b) that the Court enjoin SULLIVAN, VAN SANT and REDMAN, their officers, successors, or agents, from acting in any manner under the provisions of 11 Del. C. §6502(c), (d), and (e);
- (c) that the Court declare that the housing of a number of inmates at DCC in excess of its design capacity, as determined by its architectural design and minimum public health standards, violates Article I, §11 of the Delaware Constitution;
- (d) that the Court award any and all further relief as the cause may require; and
- (e) that costs to be assessed against defendants.

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DATED: _____

JANUARY, 1980

POPULATION COUNT AT DELAWARE CORRECTIONAL CENTER
AT TIME OF 4TH CHECK ON 4:00 O'CLOCK P.M. TO 12:00 MIDNIGHT SHIFT

AREA	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>
PRE-TRIAL	121	121	121	121	121	120	120	121	121	121	121	121	121	121	121
PI-1	53	53	53	53	53	53	53	53	53	53	53	53	53	53	53
PI-2	53	53	53	53	53	53	53	53	53	53	53	53	53	53	53
MED 1	167	167	167	167	167	167	167	167	167	167	167	167	167	167	167
MED 2	148	148	147	147	147	147	147	147	148	148	148	148	148	148	148
MA-1	50	49	50	50	50	50	49	49	49	50	50	50	50	50	49
MA-2	49	49	49	50	50	50	50	50	49	50	49	48	48	50	50
VTB-A															
VTB-B															
MAX	66	66	66	66	66	67	67	66	65	64	62	63	64	65	65
HOSP	40	39	37	40	39	39	36	37	37	40	39	40	39	39	38
PRE-RELEASE	118	118	118	118	118	118	118	118	118	118	118	118	118	118	118
REC RM	22	28	23	27	28	28	28	32	43	27	28	31	33	34	33
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TOTAL	887	891	885	892	892	892	888	893	903	891	888	892	894	898	895

JANUARY, 1980

POPULATION COUNT AT DELAWARE CORRECTIONAL CENTER
AT TIME OF 4TH CHECK ON 4:00 O'CLOCK P.M. TO 12:00 MIDNIGHT SHIFT

AREA	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20</u>	<u>21</u>	<u>22</u>	<u>23</u>	<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>29</u>	<u>30</u>	<u>31</u>
PRE-TRIAL	121	121	121	121	121	121	121	121	121	121	121	121	121	121		121
PI-1	53	53	53	53	53	53	53	53	53	53	53	53	53	53		53
PI-2	53	53	53	53	53	53	53	53	53	53	53	53	53	53		53
MED 1	167	167	167	167	167	167	167	167	167	167	167	167	167	167		167
MED 2	148	148	148	148	148	148	148	148	148	148	148	148	148	148		148
MA-1	50	50	50	50	50	50	50	50	50	50	50	50	50	50		50
MA-2	50	50	50	50	50	50	50	50	50	50	50	50	50	50		50
VTB-A	65															
VTB-B																
MAX	66	66	66	66	65	65	64	64	64	64	64	63	62	61		64
HOSP	39	38	38	39	40	40	41	39	37	38	39	40	41	41		37
PRE-RELEASE	118	118	118	118	118	118	118	118	118	118	118	118	118	118		118
REC RM	34	43	36	37	39	40	42	45	37	38	42	44	49	48		35
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TOTAL	899	907	900	902	904	905	907	908	898	900	905	907	912	910		896

FEBRUARY, 1980

POPULATION COUNT AT DELAWARE CORRECTIONAL CENTER
AT TIME OF 4TH CHECK ON 4:00 O'CLOCK P.M. TO 12:00 MIDNIGHT SHIFT

AREA	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>
PRE-TRIAL	121	121	121	121	121	121	121	120	121	121	121	121	121	121	121
PI-1	53	53	53	53	53	53	53	52	52	52	52	52	52	52	52
PI-2	53	53	53	53	53	53	53	52	52	52	52	52	52	52	52
MED 1	167	167	167	167	167	167	167	167	167	167	167	167	167	165	167
MED 2	148	148	148	148	148	148	148	148	148	148	148	148	148	148	148
MA-1	50	50	50	50	50	50	50	50	50	50	50	50	50	50	50
MA-2	50	50	50	49	50	50	50	50	49	49	50	50	50	50	50
VTB-A								16	16	16	16	16	16	16	16
VTB-B								26	26	25	26	26	26	26	24
MAX	64	66	66	66	66	67	67	62	63	63	61	61	62	63	63
HOSP	37	38	39	41	36	36	35	30	30	32	29	29	30	28	29
PRE-RELEASE	118	118	113	118	118	118	118	118	118	118	118	118	118	118	110
REC RM	33	36	36	39	42	48	51	4	5	7	6	11	15	18	12
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TOTAL	894	900	901	905	904	911	913	895	897	900	896	901	907	907	894

FEBRUARY, 1980

POPULATION COUNT AT DELAWARE CORRECTIONAL CENTER
AT TIME OF 4TH CHECK ON 4:00 O'CLOCK P.M. TO 12:00 MIDNIGHT SHIFT

AREA	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20</u>	<u>21</u>	<u>22</u>	<u>23</u>	<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>29</u>	<u>30</u>	<u>31</u>
PRE-TRIAL	121	121	121	121	121	121	121	121	121	121	121	121	121	121		
PI-1	52	52	52	52	52	51	52	52	52	52	52	52	52	52		
PI-2	52	52	52	52	52	52	52	52	52	52	52	52	52	52		
MED 1	167	167	167	166	166	167	167	167	167	167	167	167	167	167		
MED 2	148	148	148	148	147	147	148	148	148	148	148	148	148	148		
MA-1	48	48	50	50	49	50	50	50	50	50	50	50	50	50		
MA-2	50	50	50	50	50	49	50	50	50	50	50	50	50	50		
VTB-A	16	16	16	16	16	16	16	16	16	16	16	16	16	16		
VTB-B	26	26	26	26	26	26	26	26	26	26	26	26	26	26		
MAX	64	64	64	62	63	61	61	61	61	61	61	59	60	59		
HOSP	27	27	28	31	31	32	32	31	31	31	30	30	31	30		
PRE-RELEASE	145	115	118	118	118	118	116	118	118	118	118	118	118	118		
REC RM	14	15	14	18	30	25	17	18	21	30	34	35	32	14		
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TOTAL	900	901	906	910	921	915	908	910	913	922	925	924	923	903		

MARCH, 1980

POPULATION COUNT AT DELAWARE CORRECTIONAL CENTER
AT TIME OF 4TH CHECK ON 4:00 O'CLOCK P.M. TO 12:00 MIDNIGHT SHIFT

AREA	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>
PRE-TRIAL	120	121	121	120	120	118	118	121	121	120	120				
PI-1	52	52	52	52	52	52	52	52	52	52	52				
PI-2	52	52	52	52	52	51	52	52	52	52	52				
MED 1	166	166	166	165	165	166	166	167	167	167	167				
MED 2	147	146	148	147	148	148	147	147	147	148	147				
MA-1	50	49	48	50	50	16	44	44	44	46	45				
MA-2	50	50	50	50	50	26	50	50	50	50	50				
VTB-A	16	16	16	16	16	16	16	16	16	16	16				
VTB-B	26	26	26	26	26	26	26	26	26	26	26				
MAX	60	60	65	64	66	65	64	63	64	64	62				
HOSP	33	34	29	31	30	31	32	32	31	31	33				
PRE-RELEASE	118	118	118	118	117	118	118	118	118	118	118				
REC RM	14	13	13	14	13	6	5	5	12	11	10				
=====															
TOTAL	904	903	904	905	905	893	890	893	900	901	898				

HENRY ANDERSON, et al.,
Plaintiffs,
v.
WALTER REDMAN, et al.,
Defendants.

At Wilmington this 16th day of February, 1977,
the Court having issued an Opinion on this date following
trial and briefing and the parties having waived oral argument,

I. Design criteria limitations.

- * The one and only exception to this requirement is in the case of the four receiving room cells, in which two detentioners/inmates may be placed.

7

B. After July 1, 1977, there shall be no double celling nor shall any area not designed or converted for permanent residence use be employed to house inmates on a permanent or temporary basis. Specifically, walkways in pre-trial and the library and television room in pre-trial, the hospital except for the physically and mentally ill and those segregated for their own safety, the staff dining room and two library rooms in medium and the library in minimum, or any other area of DCC not designed or converted for permanent housing of inmates in accordance with paragraph I A, shall not be used for housing, permanent or temporary, of any inmate at Delaware Correctional Center. Further, after July 1, 1977, the hospital shall be used as quarters for those who are physically ill and for an aggregate of no more than 10 inmates segregated for their own protection or who are emotionally disturbed.

II. Reduction to Emergency Capacity - On March 15, 1977, and thereafter, the total population of Delaware Correctional Center shall not exceed 600 inmates.

III. Specific limitations on inmate population at Delaware Correctional Center.

A. The following shall be deemed to be the original design capacity of Delaware Correctional Center which also meets the design criteria limitations set forth in section I:

1) Receiving room cells	8
2) Pre-trial	90
3) Minimum	120
Cells	52
Dorms	68
4) Medium	137
5) Maximum	63
6) MA-1	45
7) MA-2	<u>45</u>
Total Original Design Capacity	508

B. The total maximum inmate population (classification capacity) capacity of Delaware Correctional Center as constructed at time of trial shall not after July 1, 1977, exceed 475 inmates ideally broken down as follows, but in no event shall the inmate

population exceed the design capacity of any one building as set forth in paragraphs III A:

1) Receiving room cells	8
2) Pre-trial	90
3) Minimum	111
Cells	48
Dorms	63
4) Medium	126
5) Maximum	58
6) MA-1	41
7) MA-2	<u>41</u>
Total Classification Capacity	475

C. Exceptions to paragraph B above:

- 1) Between the date of this decree and March 15, 1977, the maximum inmate population at the Delaware Correctional Center shall be 700. Between March 15, 1977 and June 30, 1977, the maximum inmate population at Delaware Correctional Center shall be 600. After July 1, 1977, the maximum inmate population at Delaware Correctional Center shall be 475.
- 2) In the event of new construction, the maximum inmate population shall be increased to 92% of the number of inmates capable of being housed in the new construction in accordance with paragraph I and design capacity increased to 100% of the number of inmates capable of being housed in the new construction in accordance with paragraph I.
- 3) The actual inmate population at Delaware Correctional Center may, consistent with the following two limitations, rise above the maximum inmate population capacity as defined in paragraph III B and C (2), but under no circumstances shall the actual population be increased above the design capacity as defined in paragraph III A and as may be increased by the design capacity of additional construction, if any:
 - a) That the actual inmate population not exceed the classification capacity as defined in paragraph III B for more than 72 consecutive hours.

- b) That the actual inmate population not exceed the classification capacity as defined in paragraph III B for more than an aggregate of 30 calendar days in each calendar year.

V. This Order shall be binding upon the individual defendants, their successors in title and function.

VI. The Court will retain jurisdiction until July 1, 1977, for purposes, inter alia, of reviewing weekly compliance reports and entertaining suggestions for governance thereafter.

Wesley M. Schwartz
United States District Judge

John G. Townsend III
D. of DE.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HENRY ANDERSON, et al.,
Plaintiffs,
v.
WALTER REDMAN, et al.,
Defendants.

Civil Action No. 76-364

O R D E R

At Wilmington this 17th day of May, 1978, after hearing on defendants' motion pursuant to Rule 60(b)(5) and (6),

IT IS ORDERED THAT:

1. All reference in the February 16, 1977 Order as to fixing the maximum actual inmate classification population in terms of classification capacity is withdrawn.
2. The actual inmate population in Delaware Correctional Center shall not exceed the design capacity of Delaware Correctional Center as set forth in this Court's February 16, 1977 Order.
3. Defendants' request to not to include emotionally disturbed inmates or inmates placed in the hospital for protective custody as part of the population count or, alternatively, to increase the design capacity to 660 to reflect 10 beds of the 26 beds in the hospital of Delaware Correctional Center is denied.
4. Based on the representations of counsel and movants' papers, the design capacity of Delaware Correctional Center is 650 and the actual inmate population at Delaware Correctional Center shall not exceed 650 unless there is new construction subsequent to this date in which event the design

capacity shall be increased in accordance with paragraph I of the February 16, 1977 Order.

5. Except as modified in this Order, the February 16, 1977 Order shall remain in full force and effect.

6. This Order shall be binding upon the individual defendants, their successors in title and function.

Thomas M. Sullivan
United States District Judge