



PC-FL-0007-0034

INDEX

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1					
2					
3					
4	CHESTER LAMBDIN	614	690	720	
5	COL. EDWARD PIPTA	727	738		
6	DR. RODRIGUEZ	740	754		
7	GARY LANE	759	764		
8	RONNIE WHITE	766	772	772	
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

1 THE COURT: Mr. Davis, Mr. Meginniss, are you
2 ready to call another witness?

3 MR. DAVIS: We have Mr. Lambdin on the stand,
4 your Honor.

5 THE COURT: Yes, that's right.

6 Mr. Lambdin, you will be testifying under the same
7 oath you took yesterday, be seated. State your name for
8 the record.

9 THE WITNESS: Chester Lambdin.

10 DIRECT EXAMINATION - Continued

11 BY MR. DAVIS:

12 Q Mr. Lambdin, let me show you an item which we will
13 mark the next numbered defendant's exhibit?

14 A Yes, that is a facility profile of Glades
15 Correctional Institutional that shows the various
16 buildings, and make-up of the institution.

17 Q When you say facility profile, is that a diagram or
18 map of the facility?

19 A It is a map of the facility, and alleged function of
20 the building.

21 MR. DAVIS: Your Honor, we offer this as the
22 next numbered exhibit.

23 THE COURT: Have you seen it?

24 MR. TUCKER: Yes, we have no objection.

25 THE COURT: All right. 41 is received.

1 (Defendant's Ex. 41 received into evidence.)

2 BY MR. DAVIS:

3 Q Does 41 exhibit the current layout of Glades
4 Correctional Institutional?

5 A Yes, I believe so.

6 Q Now, Mr. Lambdin, did you, pursuant to my request,
7 review the GCI records for the dorm assignments for an
8 inmate named George Jonas?

9 A Yes, I did.

10 Q Let me show you an item marked Ex. 42, and ask if
11 that is the record?

12 A Yes, that is an internal movement -- computerized
13 internal movement sheet that shows the housing assignment,
14 work assignment, etc., of Inmate Jonas during the entire
15 time he was at Glades Correctional Institution.

16 Q Is this one of the records of Glades Correctional?

17 A Yes.

18 Q And this is maintained as a computerized official
19 record of Glades?

20 A Yes.

21 MR. DAVIS: Your Honor, we offer Defendant's 42
22 into evidence.

23 THE COURT: How is that document described?

24 MR. DAVIS: This is a computerized internal
25 movement record for the Inmate George Jonas.

1 THE COURT: Counsel for the plaintiff, what is
2 your position?

3 MR. TUCKER: May we have a moment, Your Honor?

4 THE COURT: Yes.

5 MR. DAVIS: If it will help, I will ask him to
6 explain it.

7 MR. AMLONG: That would help, yes.

8 BY MR. DAVIS:

9 Q There are several columns, does Mr. Jonas' name
10 appear?

11 A Yes, his committed name, and DC number.

12 Q There is a column headed date, and a column next to
13 it headed LOC period. What does LOC stand for location?

14 A It stands for location.

15 Q Would you explain the connection between those two
16 columns?

17 A The date would indicate the date he was assigned to
18 that particular location.

19 Q And what does the location indicate. 6/4/84, the
20 location is B-009. What does that mean?

21 A It indicates that Jonas resides bunk 9.

22 Q And this?

23 A D bunk number 233.

24 Q And when was the last occasion when Mr. Jonas was
25 ever assigned to D dormitory?

1 A August 22, 1985.

2 Q Was that prior to your becoming superintendent at
3 GCI?

4 A Yes.

5 Q At any time while you were superintendent at GCI,
6 which was any time subsequent to January, 1986, was Mr.
7 Jonas ever assigned to D dormitory?

8 A No, sir.

9 MR. DAVIS: Your Honor, we offer this as Ex.
10 42.

11 THE COURT: All right. What is the position of
12 opposing counsel with respect to that document?

13 MR. TUCKER: We have no objection, Your Honor.

14 THE COURT: It is received without objection.

15 (Defendant's Ex. 42 received into evidence.)

16 BY MR. DAVIS:

17 Q Mr. Lambdin at any time since you have been
18 superintendent at GCI, has the dorm security staff
19 assignment for D dorm ever consisted of less than two
20 security guards on the two night time shifts?

21 A That is correct. Our policy is one in the day time,
22 and two night.

23 Q Two at night?

24 A Yes.

25 Q Has that been the case ever since you have been the

1 superintendent at GCI?

2 A Yes.

3 Q Do you ever have more than two assigned?

4 A Yes.

5 Q Do you ever have less than two?

6 A No.

7 Q Does the same apply to dorms A, B, C, in the main
8 compound?

9 A Yes.

10 Q Let me show you what will be offered as Defendant's
11 Ex. 43 in evidence and ask you to indicate to the court
12 what that is?

13 A This is an internal disciplinary report written on
14 inmate Joe Deshields.

15 Q And what is the -- Is that a document which is an
16 official record of Glades Correctional Institutional?

17 A Yes, it is.

18 Q That is an official document, public document?

19 A Yes, it is.

20 Q Does that document indicate that Mr. DeShields
21 receive disciplinary action?

22 A Yes, it does.

23 Q And, for what particular event did he receive
24 disciplinary action?

25 A He received disciplinary action--

1 MR. TUCKER: Objection, Your Honor, this
2 document speaks for itself. There is no reason for the
3 witness to describe what the document itself states.

4 THE COURT: Objection sustained.

5 MR. DAVIS: We offer it into evidence, Your
6 Honor, Ex. No. 43.

7 MR. TUCKER: No objection, Your Honor.

8 THE COURT: Received without objection.

9 (Defendant's Ex. 43 received in evidence.)

10 THE COURT: Now, that is being offered in
11 respect to Joe Deshield?

12 MR. DAVIS: Joe Deshield particularly in
13 reference to the testimony of Mr. Jonas.

14 THE COURT: All right. Let me see that map.

15 BY MR. DAVIS:

16 Q Let me show you what we will offer as Ex. 44 in
17 evidence on behalf of the defendant and ask you if you
18 recognize that?

19 A Yes, this is a request for administrative remedy or
20 appeal filed by Inmate Mark C. White of the Glades
21 Correctional Institutional dated April 5, 1989, and it has
22 two pages.

23 Q All right. Did you review all files at GCI
24 pertaining to correspondence received from Mark White to
25 the administrative staff from early -- from 4/1/89, through

1 4/5/89?

2 A Yes.

3 Q Was there any other document besides this received
4 from him?

5 A Yes, we received additional documents, various staff.

6 Q Were any of them received during that particular time
7 period, from 4/1, or 4/4/89?

8 A I believe they were. I will have to check. I don't
9 know.

10 Q Okay.

11 MR. DAVIS: Your Honor, we would offer this
12 into evidence as Ex. 44.

13 THE COURT: Any objection to that?

14 MR. TUCKER: Your Honor, this material, the
15 subject hasn't come up before. I don't see the relevance
16 of this matter to the business at hand this week.

17 THE COURT: What is the purpose of offering
18 this document, sir?

19 MR. DAVIS: This is the document submitted by
20 Mr. White immediately after his report of alleged sexual
21 assault, and we feel that it reflects his state of mind at
22 the time. It will be tied-up with other evidence in
23 addition.

24 THE COURT: This is an appeal or request for
25 administrative remedy.

1 MR. DAVIS: Right, authored by him.

2 THE COURT: The date of his problem was April
3 4th, and this date is April 5th.

4 MR. DAVIS: Right.

5 THE COURT: 1989.

6 MR. DAVIS: Right.

7 THE COURT: What is the basis for the
8 objection?

9 MR. TUCKER: Relevance, Your Honor. Even if
10 the purpose is to show the state of mind, it shows possibly
11 a state of mind regarding one issue at one point in time
12 following the rape. Other than that, this has no relevance
13 to the issue here at hand.

14 THE COURT: I will receive it over objection of
15 the plaintiff as to the relevance objection.

16 MR. DAVIS: Thank you, Your Honor.

17 (Defendant's Ex. 44 received into evidence.)

18 BY MR. DAVIS:

19 Q Mr. Lambdin, did you have occasion to review the
20 disciplinary reports for the one year period of December,
21 1988 through December 1989?

22 A Yes.

23 Q Let me hand you what would be offered into evidence
24 as the next numbered exhibit for the plaintiffs which I
25 believe will be 46 --

1 THE COURT: Next number is 45.

2 MR. DAVIS: 45.

3 THE WITNESS: It appears to be a series of
4 internal disciplinary reports.

5 BY MR. DAVIS:

6 Q Do these relate to apparent voluntary sexual acts at
7 GCI during that time frame?

8 MR. TUCKER: Objection, Your Honor, once again,
9 the documents speak for themselves.

10 THE COURT: The objection is sustained.

11 MR. DAVIS: I think, Your Honor, we are
12 entitled to identify the scope that the document serves.

13 THE COURT: Well, I think you have already
14 identified them as a series of internal disciplinary
15 reports. Beyond that, you are revealing the content of
16 them before they are received in evidence.

17 MR. DAVIS: Okay.

18 MR. AMLONG: Your Honor, as to all of these
19 prison documents coming in, we are additionally objecting.
20 This goes to 44 as well as to these items to the hearsay
21 within hearsay.

22 Obviously, these are official records, and can come
23 in that way, but, for example, on the one about Mr. White,
24 there are the observations by -- it is signed by the
25 superintendent, and says I talked to Lt. Peters, and Lt.

1 Peters said the reason you are in confinement because you
2 were using drugs. We are objecting not to the document
3 coming in as an official record, but we are objecting to
4 the hearsay within that document being offered for the
5 truth of any matter that it asserts.

6 MR. TUCKER: With regard to Defendant's 45,
7 there are numerous examples of hearsay within hearsay in
8 each of the reports when inmates are -- when alleged
9 statements of the inmates are included in the document
10 itself.

11 MR. DAVIS: We are not offering it to prove the
12 assertion by the inmates, the truth. We are offering it to
13 establish that at GCI inmates are engaging in voluntary
14 sexual acts do receive disciplinary punishment. These were
15 the items that the plaintiffs' expert Swanson testified
16 with respect to some of them.

17 THE COURT: All right. I will receive it for
18 the limited purpose of supporting the position that
19 disciplinary action is taken for consensual homosexual
20 acts. I guess that is what you are talking about.

21 (Defendant's Ex. 45 received into evidence.)

22 MR. DAVIS: There are acts in here of
23 heterosexual, and some single individuals, the vast
24 majority are homosexual acts involving two males.

25 THE COURT: All right.

1 MR. AMLONG: Does your limited admissibility
2 also extend to Ex. 44?

3 THE COURT: Yes.

4 MR. DAVIS: Your Honor, I have handed counsel
5 copies of documents which are pursuant to our agreement.

6 THE COURT: Are you referring to exhibits we
7 already received.

8 MR. DAVIS: Exhibits that we received yesterday
9 that we did not supply to counsel yesterday. Exhibits 6,
10 7, 8.

11 THE COURT: That is correct.

12 MR. TUCKER: That is correct.

13 THE COURT: Okay.

14 BY MR. DAVIS:

15 Q Let me next show you an item which we marked
16 Defendant's Ex. 30 and ask you if you can identify that?

17 A Yes, that is institute operating number 4, inmate
18 control, and accountable procedures.

19 Q Does this document accurately reflect the--

20 MR. TUCKER: Excuse me, Your Honor, I don't
21 believe we have a copy of this document.

22 MR. DAVIS: Oh, I'm sorry.

23 BY MR. DAVIS:

24 Q Does this accurately reflect the current Glades
25 Correctional Institutional operating procedure on inmate

1 control and accountability?

2 A Yes.

3 Q Is this again an official record of Glades
4 Correctional?

5 A Yes.

6 MR. DAVIS: Your Honor, we would offer this
7 into evidence. It is an official record.

8 MR. TUCKER: We have no objection to this
9 document, Your Honor.

10 THE COURT: What is the number of it,
11 Defendant's 30?

12 MR. DAVIS: Defendant's 30.

13 THE COURT: Received without objection.

14 (Defendant's Ex. 30 received into evidence.)

15 BY MR. DAVIS:

16 Q Let me show you what is marked into evidence
17 Defendant's 31?

18 A This is institution operating procedure 8856,
19 entitled Search or Seizures.

20 MR. TUCKER: Your Honor, before we proceed, I
21 have had a chance to peruse Defendant 30, and there is a
22 page missing from this document, page 36.

23 THE COURT: Page 36 is missing?

24 MR. TUCKER: Yes.

25 THE COURT: I am looking at this exhibit. I

1 don't see where the pages are numbered.

2 MR. TUCKER: There are pages at the very back.

3 MR. DAVIS: I have 36 on mine.

4 THE COURT: There isn't any 36 in this one that
5 has been handed to me either. Between 35, and 37 there is
6 nothing.

7 MR. DAVIS: When it went through the copy
8 machine, it didn't copy the double page.

9 MR. AMLONG: Your Honor, this could be solved,
10 if what these pages are sections excerpted from 33-3.0082
11 of the Florida Administrative Code, and if Mr. Davis wishes
12 to ask the court to judicially note that section of the
13 code, we would have no objection.

14 THE COURT: Well, it would be a lot easier for
15 us. We don't have it in our library for you to give us a
16 copy of it. We don't have Florida Administrative Code.

17 MR. TUCKER: It appears there may be more than
18 one page missing, but that page I specifically noted.

19 THE COURT: Check it over before we get to
20 reading these things, and be sure it is all complete. I
21 think that is all you need to do.

22 BY MR. DAVIS:

23 Q Now, since you became the superintendent at Glades
24 Correctional Institution, have you had occasion to review
25 the policies at GCI with respect to the patrolling of the

1 dormitories by the correctional staff?

2 A Yes.

3 Q And what is the policy in respect to the patrolling
4 of the dormitories?

5 A Each officer has been issued, signed for and trained
6 in the post orders for that dormitory assignment. Those
7 post orders require him to patrol that dormitory, make
8 security checks, make inmate counts throughout the night.
9 To patrol on an irregular basis, and move about the
10 dormitory in a continuance program and checks throughout
11 the dorm. He does have to go in the wicket to make phone
12 calls, and call security check-in, and various other
13 things, but post orders are marked.

14 Q Does he also have any function with medicines in the
15 wicket?

16 A Yes. The Federal Court in Costello v. Dugger
17 requires that we have over the counter medications, such as
18 Tylenol, in the dormitory, and issue the Tylenol and other
19 OTC medications to inmates.

20 Q Did you also have occasion to review the sexual
21 assault policy in effect at Glades when you became
22 superintendent?

23 A Yes, I did.

24 Q And what did you determine in respect to the sexual
25 -- rape and sexual assault policy in Glades at that time?

1 A I determined that we did, in fact, have an adequate
2 policy, procedures were good. I reviewed the files, and
3 determined that allegations were investigated, local law
4 enforcement officials were contacted in appropriate cases;
5 and in appropriate cases, the investigations were sent to
6 the State's Attorney, and there was, in fact, at least one
7 prosecution.

8 Q And did you make any alterations in those policies
9 after you had reviewed them?

10 A Yes, I did.

11 Q And what alterations did you make?

12 A I changed that they were, in fact, conducting rape
13 kit tests at the institution clinic.

14 Q This is prior to your arrival?

15 A Prior to my arrival.

16 Q What change did you make with respect to that?

17 A I assured that the rape test kits would be submitted
18 by the emergency room physician at Glades General Hospital.

19 And I made two changes, in addition to the change on
20 the rape test kit. I insured that each allegation, each
21 and every allegation would automatically be reported to the
22 State's Attorney.

23 MR. TUCKER: Your Honor, I didn't understand
24 the end of the phrase there.

25 (Answer read by the Reporter as above-recorded.)

1 BY MR. DAVIS:

2 Q In respect to the lighting in confinement, have you
3 at any time subsequent to the American Correctional
4 Association audit, have occasion to review and make any
5 determination in regard to the lighting in confinement?

6 A Yes, I have.

7 Q And what was that?

8 A We slightly upgraded the wattage and the light bulbs
9 to conform to the 20 foot candle requirement of ACA.

10 Q Did you have that tested to see if it did conform?

11 A Yes.

12 Q There is today a public address system at Glades
13 Correctional Institution, is that correct?

14 A That is correct.

15 Q Was that something which you added?

16 A Yes.

17 Q Would you explain to the court how that public
18 address system operates?

19 A It operates primarily to enable us to contact inmates
20 via the public address system and advise them of various
21 places that we want them to go and assist in the inmate
22 movement within the institution.

23 As a secondary benefit, we are able if the perimeter
24 or tower of officers were to see a small group of inmates
25 gathering that could potentially cause us problems, they

1 could make an announcement, and disburse those inmates.

2 Q Is that a loud speaking system over the entire
3 compound?

4 A Yes.

5 Q Did you review the policies with respect to the
6 control of contraband when you took over at Glades
7 Correctional Institution?

8 A Yes, I did.

9 Q And what did you determine with respect to the
10 contraband control policies when you took over?

11 A I determined they were adequate, and they were good,
12 effective in the policy.

13 Q Did you find it necessary to change any of the
14 policies themselves?

15 A No, sir.

16 Q What about the manner in which the policies were
17 carried out, did you do anything in respect to that?

18 A Yes, I wanted to make absolutely sure that we
19 complied with the search and control of contraband of the
20 policies. Wanted to make sure that we were aggressive in
21 pursuit of the contraband in conducting searches, and be
22 sure we documented everything we did.

23 Q What measures are taken in respect to the control of
24 contraband entering into Glades Correctional Institutional?

25 A There are four ways that people introduce drugs into

1 an institution. The first method is to throw the
2 contraband across the fence. Generally, they might put it
3 in a golfball, or softball, or roll it up in a small piece
4 of tape, takes two, three seconds to toss it across the
5 fence in a secluded spot, and somebody runs, and picks it
6 up, and tries to get away with it.

7 What we did to control that, on visiting day we have
8 officers that watch the fence line. We have our perimeter
9 patrols, and tower officers alert to constantly watch the
10 fence to make sure if, indeed, anyone does attempt to throw
11 anything across the fence, that we are aware of it, and
12 take steps to stop it. They continue from time to time to
13 throw it, and we continue from time to time--not from time
14 to time, we continue to catch it. I am sure that some are
15 successful in that area.

16 Q With respect to the control that you mention, and
17 watch towers, are they in effect on days other than
18 visitor's days?

19 A Yes. The second method of introduction, in any
20 institution not only GCI, would be staff, and what we did
21 to insure that we control that method is to have a good
22 training program to train all correctional staff about the
23 ways that inmates manipulate staff, and arrange for them to
24 introduce various contraband items. We conduct searches.
25 If we receive information that a staff member might be

1 bringing something into the compound, we conduct a strip
2 search. We conduct periodic strip searches of the entire
3 correctional shift on a periodic and often basis.

4 Q Have there been any prosecutions of staff?

5 A We prosecuted one clerical staff member and one
6 officer and it has been two, three years ago. It has been
7 a long time ago.

8 Q And what are the other methods of introduction, and
9 responses?

10 A The third method would be to introduce contraband
11 through outside work details. Inmates that have to, by
12 necessity, check out of the confines of the institution,
13 and we have about 5,000 acres of land, a lot of places that
14 inmates have to work. Inmates, they try and bring
15 narcotics to vehicles, lawnmowers, gas tanks, things of
16 that nature. To combat that, we conduct patting down
17 searches of inmates when they enter back into the
18 institution. We conduct periodic strip searches, and any
19 time we develop information that an inmate may be bringing
20 something in, we conduct a strip search.

21 Q Are efforts taken to obtain information from
22 confidential informants on the compound?

23 A Very much so.

24 Q Do you yourself have any confidential informants on
25 the compound?

1 A I have some.

2 Q Does that also pertain to other members of the staff?

3 A Yes.

4 Q And what other methods are there?

5 A The fourth method is for visitors to bring contraband
6 into the institution. Normally, during routine visiting
7 days, family members, other people who have been approved
8 to visit the inmate, and what we do to control that is when
9 an inmate goes to the visiting park and visits with a
10 family member, prior to entering back into the compound, we
11 conduct a thorough strip search of that inmate.

12 Visitors are periodically strip searched as we
13 develop information that they might be bringing contraband
14 into the institution.

15 Q Do you strip search all visitors?

16 A No, sir.

17 Q Why is that?

18 A Because we have been -- We are not permitted to do
19 so. If a person comes to the institution and requested a
20 visit, and we developed information that they may be
21 carrying contraband, we can strip search them before we let
22 them enter. If they decide they do not want to be strip
23 searched, we are not permitted to conduct a strip search.
24 They have an option of leaving.

25 Q Have you ever developed any difficulty over the

1 search procedures?

2 A Yes, we have had probably the most complaints I have
3 had in my four years. Typically would involve searches of
4 visitors and inmates. Typically on a Monday morning I
5 would get a phone call from some irate visitor complaining
6 about the search procedures, and why we were going too far
7 in our efforts to search people. We have had lawsuits
8 filed in the State Court, Federal Court, by inmates
9 challenging, alleging that we were too aggressive in our
10 search procedures.

11 Q Let me show you another item which we will offer into
12 evidence as Defendant's Ex. No. 46, and ask you if you
13 recognize these items?

14 A Yes, they are internal incident reports prepared by
15 staff involving largely search procedures.

16 Q Okay. And would you identify the time frame that
17 they cover?

18 A The first one is dated January 22, 1986 through July
19 2, 1989.

20 MR. DAVIS: Your Honor, we offer this into
21 evidence as a composite exhibit.

22 MR. TUCKER: First, Your Honor, we ask for what
23 purpose this is offered.

24 MR. DAVIS: This is offered to show that
25 searches are conducted and that they are to the extent

1 reflected herein, and that contraband is searched for, and
2 intercepted.

3 MR. TUCKER: As long as these documents are
4 offered for the sole purpose, and not offered for the
5 purpose of the truth of the statements of any of the
6 inmates, nor of the conclusions of the investigations
7 contained therein, we do not have an objection.

8 MR. DAVIS: I don't believe any of these, to my
9 knowledge, refers to anybody for that. We are not offering
10 it for the purpose of any substantive information against
11 any individual.

12 THE COURT: All right. They will be received
13 for that limited purpose.

14 (Defendant's Ex. 46 received into evidence.)

15 MR. DAVIS: That is--

16 THE COURT: 46. You mentioned an Ex. 31. I
17 don't have a note that it was offered.

18 MR. DAVIS: Okay. 31.

19 THE COURT: That is the one before this,
20 whatever it was.

21 MR. DAVIS: These are search procedures. That
22 is when there was an objection made to Ex. No. 30, and we
23 got side tracked.

24 THE COURT: Yes, I think so.

25 MR. TUCKER: Your Honor, counsel has now

1 provided a copy of Ex. 30, and we had additional pages
2 missing, and the copy that we were provided, those being
3 34A, and 38, and the 160, all of those coming at the rear
4 of the document, and we would --.

5 THE COURT: You are talking about Defendant's
6 30?

7 MR. TUCKER: Yes, we are. And we want to
8 insure that we will be provided a complete copy of that
9 document.

10 THE COURT: All right. Well, that we've done
11 already. We have instructed counsel to make it accurate.
12 Both the one in evidence, and the copy that is furnished to
13 opposing counsel.

14 Right now I want to know what about Defendant's 31.
15 Is there such a thing?

16 MR. DAVIS: Yes, Your Honor.

17 BY MR. DAVIS:

18 Q Mr. Lambdin, you have 31?

19 A Yes.

20 Q What is that?

21 A Institution operating procedure, 3860, search
22 procedures.

23 Q Is this the internal operating procedure for Glades
24 Correctional?

25 A Yes, it is.

1 Q Is this the current IOP for Glades Correctional?

2 A Yes.

3 MR. DAVIS: We offer this as Defendant's 31.

4 THE COURT: Any objection to that?

5 MR. TUCKER: Counsel, was this procedure
6 promulgated in 1988?

7 THE COURT: Is there any objection to this
8 document?

9 MR. DAVIS: We are offering it into evidence.

10 THE COURT: Any objection?

11 MR. TUCKER: What is the purpose for which it
12 is offered?

13 MR. DAVIS: To establish internal operating
14 procedures at GCI on special searches.

15 MR. TUCKER: As of September 1988?

16 MR. DAVIS: As of September 1988, and preceding
17 year.

18 MR. TUCKER: No objection, Your Honor.

19 THE COURT: All right. Received without
20 objection.

21 (Defendant's Ex. 31 received into evidence.)

22 BY MR. DAVIS:

23 Q Mr. Lambdin, let me ask you to refer to this, and
24 indicate, first of all, so the record can be clear on it,
25 there are at the upper right hand portion of the page, the

1 first page of the internal operating procedure itself,
2 there are little boxes which state date issued, date
3 revised. What does the date issued mean?

4 A Date issued is the original date which the original
5 operating procedure was issued.

6 Q And what happens subsequent to that?

7 A Every year, annually, the operating procedures are
8 reviewed, revised, and/or we decide they need no revision.
9 And if we decide they need no revision, we attach a
10 memorandum to the operating procedure so stating, the last
11 date, date revised would be the last date it was
12 interviewed and issued.

13 Q Okay. Was this revised in 1988?

14 A Yes, it was.

15 Q Was it reviewed in 1988?

16 A It was reviewed in 1988. It was not revised.

17 Q Okay. Was it also reviewed in 1989?

18 A Yes, it was.

19 Q And were there any changes for 1989?

20 A Yes, page one, section 56.05, only, was revised.

21 Q Mr. Lambdin, there has been some indication that in
22 the years prior to 1988, the staff overtime at Glades
23 Correctional ranked about 900 to a thousand hours per
24 month, is that correct?

25 A That is correct.

1 Q In the year 1988 overtime increased to 2,000 hours
2 per month. Was that also correct?

3 A That is also correct.

4 Q And what is involved in that overtime both prior to
5 1988, and then what accounts for the overtime increase in
6 '88?

7 A Well, most of our overtime involves supervision of
8 inmates from outside hospitals, or escorting inmates to and
9 from doctor's appointments, or hospital visits. The
10 increase in 1988 involve an increase amount of supervision
11 at the hospital. We were assigned--the department decided
12 that Glades would supervise inmates at Palms West Hospital.

13 In addition to the Glades inmates, we were
14 supervising inmates from Martin Correctional Institution in
15 Lantana, and Indian River Correctional Institution, so our
16 overtime increased dramatically.

17 Q Is that still the case, you operate the facility at
18 Palms West?

19 A No, sir, it is not. The department decided several
20 months ago that we would no longer do that, and the
21 hospital designated to receive those patients is changed to
22 a hospital in Miami.

23 Q And what has that done to the overtime necessary at
24 Glades Correctional?

25 A That has decreased the overtime.

- 1 Q Has the overtime, then, returned to the prior level?
- 2 A Yes.
- 3 Q There was some testimony with respect to advisability
4 of utilizing a time clock in the dormitories. In your
5 opinion, is that a feasible method of monitoring patrolling
6 of the dormitories?
- 7 A In my opinion, it is not feasible. It is
8 unproductive, and would be very, very difficult to
9 implement.
- 10 Q Why is that?
- 11 A I think the implementation of it in order to have a
12 procedure whereby someone does something on a periodic
13 basis, you have to designate the time that that person is
14 going to go and punch that time clock. Once you do that,
15 then, it is counter productive to good security measures.
16 You can't tell all the inmates you are going to be at a
17 certain point at a certain time.
- 18 Q How would having any particular time, however
19 arranged, affect the dormitory guard in the performance of
20 all of its duties in the dormitory?
- 21 A The officer in the normal course of performing his
22 duties, if it came time for him to punch the time clock,
23 and he was involved with the problem with an inmate,
24 involved with a security check, involved in issuing
25 medication to an inmate, or any other thing that constantly

1 takes place in the house or units, he could not expect to
2 be at that particular clock at a particular time even if
3 you buried it somehow, and that would be difficult. I
4 don't believe it would work.

5 Q Is there any way a dormitory guard can determine in
6 advance the possible need to distribute medication to an
7 inmate?

8 A No.

9 Q What types of medication may he distribute?

10 MR. TUCKER: Objection, Your Honor. I think
11 the relevance beyond the last question stated is
12 questionable as to the purpose here. He has testified that
13 medicine may have to be distributed. I don't see what
14 purpose these specific medicines have.

15 THE COURT: How about that?

16 MR. DAVIS: If he were dispensing medication
17 continually, that is one dimension. If he were dispensing
18 on an --

19 THE COURT: Objection overruled.

20 BY MR. DAVIS:

21 Q What type medications?

22 A Over the counter, Tylenol, and throat losanges,
23 things of that nature.

24 Q Can correctional officer, guard, forecast or
25 anticipate potential problems with inmates that required

1 his attention within the dormitory?

2 A He can never anticipate anything.

3 Q There was some discussion about the advisability of
4 separating the north compound from the main compound at
5 Glades Correctional. In your opinion, is that a feasible
6 proposition?

7 A That is not a feasible proposition.

8 Q Why not?

9 A If we separated and made two functional units, the
10 north compound would have to have a food service building,
11 dining hall, chapel services, medical building of some type
12 would have to be erected, religious services, laundry
13 services, all those things would have to be built on the
14 north compound.

15 Food service building alone would run in the
16 neighborhood of two million dollars. If you did all of it
17 that would have to be done it would be millions of dollars.
18 You could literally build a new institution easier than
19 that. And there has never been any problem to begin with,
20 so--

21 MR. TUCKER: Objection, Your Honor, he is going
22 beyond the ambit of the question, and I think the opinions
23 as to estimating costs have no basis.

24 THE COURT: Well, I think he finished his
25 answer. I will overrule the objection.

1 BY MR. DAVIS:

2 Q Has Glades experienced any problem of conflicts on
3 any recognizable degree of frequency between inmates of the
4 north compound, and the main compound caused by the inmate
5 movement between the two?

6 A None.

7 Q In respect to the protective confinement facility,
8 and the question of gain time, could you explain to the
9 court what is involved in gain time, first of all? What
10 types gain time there are, and how it works?

11 A Okay. The department has three types of gain time.
12 Basic gain time, or statutory gain time, is awarded to all
13 inmates at the time they are sentenced, 10 days per month
14 is automatically removed from their sentence at that time.

15 Q Is that ever affected by inmate status in protective
16 confinement?

17 A No. The second type gain time is incentive gain
18 time. Inmates may or may not earn incentive gain time.
19 They are eligible to earn between zero, and 20 days per
20 month incentive gain time. How much they earn of that zero
21 to 20 is determined by their work performance, when it has
22 to be, if those inmates that perform above a satisfactory
23 manner.

24 A program involving the total inmate, total
25 assessment of that inmate, work performance, disciplinary

1 record, everything determines in the classification
2 specialist how much gain time he should get that month.

3 Q Is there an opportunity for inmates in protective
4 confinement to work in protective confinement?

5 A Inmates in protective confinement have an opportunity
6 to avail themselves of the opportunity to work in the unit,
7 sweep, mop, so forth, within the unit itself.

8 Q And how long has that been effective at GCI?

9 A Since I have been there.

10 Q And what is the next item of gain time?

11 A Next item of gain time is what we call provisional
12 credits, and that is a department wide or computerized
13 awarding of gain time to inmates based on -- the reason for
14 it is because the department, state wide, has reached a
15 certain cap on the total number of inmates, and they award
16 x number of provisional credits per month based on the need
17 and population.

18 In order to be eligible for provisional credit,
19 inmates have to be convicted of certain type of crime.

20 There are certain inmates that do not receive provisional
21 credit.

22 Q Are those sex-offender type?

23 A Yes. And one -- another reason why they wouldn't
24 receive, they have to work at least enough to earn at least
25 one day of incentive gain time. So if an inmate in

1 protective confinement were to work for one day, or a
2 portion of the day, he would earn one, two, three days in
3 incentive gain time, and that would make him eligible to
4 earn the entire amount of provisional credit. If he were
5 not otherwise included in them.

6 Q In respect to rape investigations, there was mention
7 made of the possibility of utilizing polygraphs. Have you
8 ever been involved in the use of polygraphs for
9 interrogation involved in investigations?

10 A Yes, I have.

11 Q And do you utilize that at Glades Correctional
12 Institution?

13 A No, sir, I don't.

14 Q Why not?

15 A In my opinion they are totally unreliable, and they
16 are not permissible as evidence in court.

17 MR. DAVIS: I have no further questions, Your
18 Honor.

19 THE COURT: Let's take a few minutes recess,
20 gentlemen. Are you adhering to your projected schedule of
21 witnesses? Sounds like we are bogging down.

22 MR. DAVIS: No, your Honor. We have three more
23 witnesses Dr. Rodriguez, Mr. Lane and Col. Pipta, and Mr.
24 White.

25 THE COURT: Okay. We will be in recess a few

1 minutes.

2 (Thereupon, a short recess was taken.)

3 THE COURT: All right. You have questions on
4 cross-examination?

5 MR. TUCKER: Yes, we do.

6 MR. DAVIS: Your Honor, we don't intend to
7 offer the HRS document, only DOC.

8 THE COURT: What is this, Defendant's 12?

9 MR. DAVIS: 12.

10 THE COURT: While you are looking that over, as
11 I understand none of the witnesses are going to be very
12 long. Let's see if we could get them on. I would just a
13 soon go on until one, and get them on and off, if we can.

14 How about number 12, is there any objection to it?

15 MR. DAVIS: Counsel doesn't object, we will put
16 it all in.

17 MR. TUCKER: No objection.

18 THE COURT: Just for the record, how is it
19 described.

20 MR. DAVIS: Your Honor, these are enviormental
21 sampling and air quality and ventilation studies of the
22 confinement area at Glades Correctional.

23 THE COURT: In various confinement areas?

24 MR. DAVIS: Yes.

25 THE COURT: All right. It is received without

1 objection, number 12. Go ahead, please, sir.

2 (Defendant's Ex. 12 received into evidence.)

3 CROSS-EXAMINATION

4 BY MR. TUCKER:

5 Q Good morning.

6 A Good morning.

7 Q When the trial in the original LaMarca case ended in
8 December, 1985, you became superintendent right around that
9 time?

10 A Right around that time, yes.

11 Q You were actually appointed December 16, '85, and
12 were actually on the job in January '86, is that correct?

13 A That is correct.

14 Q And you stated in your deposition that you read both
15 of the LaMarca decisions that were authored by the
16 Magistrate, and by Judge Paine in this case, didn't you?

17 A That is correct.

18 Q So you were generally aware of the findings contained
19 in both of those documents, weren't you?

20 A Yes.

21 Q And you were aware there were some very specific
22 findings in terms of names, times, dates, places in those
23 opinions, weren't you?

24 A I was aware of the findings I read in the report, and
25 noticed particularly the major findings.

1 Q Okay.

2 A They were categorized. I don't know how many there
3 were, but under major headings.

4 Q After you had read those findings, you didn't discuss
5 the LaMarca decision with any Department of Corrections
6 officials after you became superintendent of GCI, did you?

7 A I don't believe I did. It is possible I would have
8 talked to him about it in general, but in detail, no.

9 Q You don't recall any specific conversation with any
10 specific administrator with regard to the opinions, do you?

11 A No, sir, I don't.

12 Q You testified earlier that all staff at GCI are
13 either directly or indirectly under your supervision, is
14 that correct?

15 A That would be correct, yes.

16 Q You have regular meetings with administrators, staff
17 members, department heads, is that correct?

18 A That is correct. Let me make one distinction. The
19 medical department is under--for administrative functions,
20 operational functions, I supervise it, but for medical
21 matters, I don't make medical decisions. Medical
22 decisions, the doctor makes. Other than that, I do.

23 Q The medical department is actually on the grounds of
24 GCI, is that correct?

25 A Yes.

1 Q Near where your office is?

2 A It is not very far.

3 Q And you have fairly regular communication, or you
4 would see the doctors fairly regularly, wouldn't you?

5 A Yes.

6 Q Now, in your earlier testimony you described that --
7 or Inspector Peters described that he had regular contact
8 with you with regard to investigations that he performed on
9 sexual battery cases that had been reported, isn't that
10 correct?

11 A Yes.

12 Q And that would be from the period of January '86
13 through May '89, approximately, is that correct?

14 A That is correct.

15 Q And I would assume that it is true that you continued
16 to have regular communication in order to followup on those
17 investigations with the current institutional inspector, is
18 that correct?

19 A I have the same relationship with the current
20 inspector as I do with Inspector Peters.

21 Q Is that Inspector Carlton Williams?

22 A Yes.

23 Q So you were aware of the investigation of each report
24 of sexual battery over the period from January 1986 to the
25 present, is that correct?

1 A That is correct.

2 Q With that awareness you never had a specific
3 discussion with the Glades psychiatrist, Dr. Medina,
4 regarding any homosexual rape or psychiatric counseling
5 that he may have provided or may not have provided, did
6 you?

7 A No, I did not. Medical staff have protocols that
8 they follow, abide by, and my chief officer advises me that
9 they do follow those protocols.

10 Q You never had any discussion with the psychologist,
11 Gary Lane, with regard to homosexual rape, have you?

12 A That is true. Again, they have specific protocols.

13 Q You've never given Mr. Lane or Dr. Medina, or the
14 medical staff, an opinion or recommendation that they
15 should provide counseling immediately upon the report of a
16 rape, have you?

17 A They have a protocol involving that, that I believe
18 was introduced earlier, and my chief officer advises me
19 that they follow not only that protocol, but all protocols.

20 MR. TUCKER: I would move to strike the
21 response as nonresponsive, and ask the witness to answer
22 the question which I asked.

23 THE COURT: Well, I think he has answered it.
24 I deny the motion.

25 BY MR. TUCKER:

1 Q In the year 1989, in our review of the disciplinary
2 reports, and incident reports, it appears there were
3 approximately 20 prisoners who may have been caught in the
4 act of some sort of sexually related act, does that sound
5 correct based on your review of the documents?

6 A I would say it is approximately correct, I haven't
7 conducted a count, strictly approximately.

8 Q And in looking at those documents, it appears only
9 one of those persons has ever been placed in confinement
10 for a violation of the rules.

11 Does that sound approximately correct based on your
12 knowledge?

13 A I would have to go back and look at all the
14 disciplinary reports.

15 Q Have you done that?

16 A I would have to do it now and actually count them up
17 before I accept whether it is one or two. You may be
18 perfectly right. I didn't do a calculation.

19 Q Okay.

20 A But in trying to finish the answer, in determining
21 discipline on an inmate, an inmate may receive -- the
22 penalties meted out for a disciplinary report a large part
23 depend on the inmate's past disciplinary record. We try to
24 do progressive discipline.

25 Some inmates would rather be in confinement than to

1 lose the gain time. It depends on the individual. You
2 can't make a judgment without going back and knowing all
3 the facts about each individual, and what things the
4 disciplinary team considered in administering discipline.

5 Q Well, there is a vast difference between the inmates
6 who had come before such a board, isn't there, in what they
7 may feel about what sort of punishment is the worst
8 punishment that they could receive, is there not?

9 A There is rules of prohibitive conduct that specify
10 the minimum and maximum penalties for each offense and
11 there are 30 or 40 different offenses that an inmate may
12 commit and be charged.

13 When an inmate is charged with an offense, one of the
14 things they look at is has he been charged with other
15 previous disciplinary reports, and we try if we can to
16 administer progressive discipline. In some cases, we take
17 gain time, and don't confine. The department's policy is,
18 if an inmate isn't a threat to institution security, we try
19 to keep them on the compound.

20 It depends on the total picture is all I am saying.

21 Q But as a general matter, you would agree, would you
22 not that the loss of gain time is not viewed by the general
23 inmate population as serious a punishment as being placed
24 in confinement, would you not?

25 A I disagree with you wholeheartedly. The loss of gain

1 time means that inmate spends additional time in prison,
2 and that is very much punishment, and I would say more
3 severe than disciplinary confinement.

4 Q It is a punishment, but when you are placed in
5 confinement, you do not have general access to the
6 facilities on the grounds?

7 A That is true.

8 Q You have limited exercise?

9 A We have more exercise.

10 Q There is less exercise available to a person in
11 confinement than to a person on the general population,
12 isn't there?

13 A Technically, that is correct, but also we have--

14 Q The visitors --

15 THE COURT: Let him finish.

16 THE WITNESS: Also, we have provided five or
17 six more times more exercise for all inmates in confinement
18 than is required. We must by rules provide two hours of
19 exercise after the first 30 days of confinement. What we
20 do is provide one hour per day, five days a week for
21 inmates in confinement commencing when he is confined. It
22 is not perfect, but it is far better than any one I know.

23 BY MR. TUCKER:

24 Q Even with that provision of exercise, an inmate on
25 general population still would have the ability to obtain

1 more exercise, and more activities than a person in
2 confinement, does he not?

3 A I can't argue with that. In a technical sense they
4 are permitted to. If they aren't working in a normal
5 course of the day, an inmate would be assigned to a job,
6 and he would not be able to exercise. So, in a sense, in
7 the evening hours, after work, and after supper, 5:30, or 6
8 o'clock, up until the time it gets dark, depending on
9 whether it is summertime or wintertime, they have, perhaps,
10 two hours of exercise time on the yard, or perhaps one. In
11 some cases it is dark at 5:30, and there is really very
12 little difference.

13 Q The ability to have visitors when you are in
14 confinement is also more limited than when you are in the
15 general population, isn't it? You have to make a special
16 request, and go through a number of extra levels of
17 administration in order to be able to obtain visitation?

18 A Absolutely. If an inmate is in disciplinary
19 confinement, he has committed a rules' violation. He is
20 not permitted visits.

21 Inmates in administrative confinement, depending on
22 the reason he is in administrative confinement may or may
23 not visit. They have to make a request, and we have to
24 evaluate what they are in there for, what the ramifications
25 would be if they were permitted to go out and visit.

1 Inmates in protective custody, all alleged or we have
2 reason to believe that they may be in danger, whether it is
3 true or not, has no bearing on anything. He has told us,
4 or we have decided that is life may be in danger. Whether
5 it is true or not has no bearing on it, and you simply
6 cannot allow an inmate who has made that allegation to go
7 out and mingle with the general population. If I did that,
8 and an inmate became injured in any way, even if he slipped
9 and fell, if anything, I would be negligent and liable, and
10 we have to be very, very careful and very controlled when
11 we take inmates out of confinement, and let them mingle
12 with the population, or even be out there in the open.

13 Q It is more difficult to obtain visitation privileges
14 when you are in confinement than when you are in the
15 general population?

16 A Yes, it is, under the conditions I have just
17 described.

18 Q Now, you testified in your deposition there is a
19 fairly thorough process that is used once your staff
20 receives an allegation of a sexual battery, is that
21 correct?

22 A I don't believe I used the term fairly thorough. I
23 said there was a thorough.

24 Q There is --

25 A If I said it, I don't believe I said it.

1 Q There is a process that is used and employed by the
2 staff members in order to investigate sexual battery, is
3 that correct?

4 A Yes.

5 Q And that process is not found in a written document,
6 is that correct?

7 A The basis that we use deals with rules that specify
8 any crime, crimes in general, and it is not specifically
9 that particular crime.

10 Q You stated in your deposition, didn't you, that the
11 process used in investigating a sexual battery is not found
12 in a written policy?

13 A No, not in those terms, I did not. I think I
14 testified just what I said. DOC rules are the rules that
15 govern actions that we take in the event of a crime.

16 Q Now, that process basically includes notification of
17 a shift supervisor taking a victim to an infirmary, going
18 to a hospital, you receive notification, and then you
19 stated that you refer the case to the State Attorney's
20 Office, isn't that correct?

21 A Well, it depends, as far as notification to the shift
22 supervisor. It depends on whether or not the inmate
23 reports it to the shift supervisor, or if he sends us a
24 letter 9 months after it happens, and he is someplace else.
25 He could send the letter to somebody other than the shift

1 supervisor.

2 Q These would be in the normal process that you
3 described earlier?

4 A In the normal process if he reported the allegation
5 to someone under the shift supervisor.

6 Q Okay.

7 A The process entails if an allegation is made, and all
8 allegations are made under different circumstances, or most
9 of them are, then the reporting person, the person who sees
10 the report, and assures it gets to the proper people, and
11 then the colonel, of course, would be notified. I would be
12 notified, inspector notified, and we would commence the
13 investigative process.

14 Q Not every one of these cases is referred to a State
15 Attorney at the end of the process, are they?

16 A Repeat the question.

17 Q Inspector Peters testified that not every one of
18 these cases is actually referred to the State Attorney,
19 that decision rests with you, so not every one of the cases
20 is referred by you to a State Attorney, isn't that correct?

21 A That is not correct. I testified previously that one
22 of the changes I implemented, it would be automatically
23 referred to a State's Attorney irregardless of.

24 Q Would Mr. Peters' understanding of that process be
25 incorrect?

1 A If he testified to that, and I would have to go back
2 and look at it, they are, and in each and every case, for
3 the past four years, they have been referred to the State
4 Attorney.

5 Q That process does not provide for the provision for a
6 mental health counselor for a person who has reported a
7 rape at Glades, does it?

8 A The protocol that the medical staff utilizes, specify
9 that treatment provided by medical staff, what we are
10 interested in initially is to remove the inmate, and get
11 the inmate to our infirmary, and transport to Glades so he
12 could receive whatever treatment in addition to the
13 examination determine medical findings recording the
14 allegation that he can receive any help or treatment that
15 physician deems he needs at the time.

16 Q When the inmate is at the infirmary, or when he goes
17 to the hospital, he is not accompanied by a rape treatment
18 counselor, is he?

19 A No.

20 Q Or, is he?

21 A No.

22 Q Now, using the process you described over the past
23 few years in order to describe the process reporting a
24 rape, your conclusion is, you have not found a confirmed
25 sexual battery in the four years?

1 A My conclusion, I do not make that decision.

2 Q You stated you agreed with the State Attorney's
3 conclusions, did you not?

4 A No, I did not. Let me tell you what I told you. I
5 do not make decisions on whether there is a prosecutable
6 case or not. What I said was that the State's Attorneys
7 have the option to do whatever they feel that is necessary.
8 And I said that I did not disagree with the State's
9 Attorneys decision that he didn't have a prosecutable case.
10 I didn't say whether or not I felt he had or had not been
11 assaulted. I simply said I agree that the prosecutor, that
12 the prosecutor did not have a prosecutable case, and I am a
13 lay person, and I don't have any control over it, and
14 whether he has a prosecutable case or not, I simply don't
15 know. That is his expertise.

16 Q Using the standard of a prosecutable case which
17 you've employed to make those determinations or which you
18 review, or have looked at which have been made by the State
19 Attorney, there has not been a case of a prosecutable
20 sexual battery at Glades in the last four years in your
21 opinion, isn't that correct?

22 A Well, I have not made any determination. What I have
23 done is provide the State's Attorney with the investigative
24 reports, and/or the Sheriff's Department provided the
25 State's Attorney with the investigative reports, and he

1 makes those decision. I have no control over the State
2 Attorney's acts.

3 Q Do you believe that Mark White was assaulted?

4 A I don't know.

5 Q Do you know if any persons have been assaulted?

6 A I really do not -- I just have to look at the
7 investigative report, and I don't draw conclusions.

8 Q Do you recall specifically making a determination
9 whether it is a prosecutable case or not that any person at
10 Glades in the last four years was sexually assaulted?

11 A I think I just said I don't determine prosecutable
12 cases.

13 Q I am not asking about prosecutable cases?

14 A I thought--

15 MR. DAVIS: That was the question that counsel
16 previously asked him, and now he is not asking him another.
17 That leaves the question blank.

18 THE COURT: Rephrase your question. I think
19 you can cover it.

20 BY MR. TUCKER:

21 Q Without regard to whether there is a prosecutable
22 case, in your opinion, has there been a case of sexual
23 assault in the last four years?

24 A My opinion is, I honestly do not know. There have
25 not been a single allegation to where we had enough

1 evidence to where the State's Attorney had a prosecutable
2 case. I don't make those decisions. I just don't make
3 them.

4 Q To your knowledge, no person in the medical
5 department has obtained any training in rape treatment in
6 the last four years, have they?

7 A I think the chief officer will be here in a few
8 minutes, and will be able to provide that information for
9 you, as to what training they receive.

10 Q To your knowledge, there hasn't been any specific
11 rape training, has there?

12 A To my knowledge, no, his knowledge may be different
13 than mine.

14 Q You are aware of the difficulty of visual
15 surveillance of the dorms at Glades, with respect to the
16 shower, restroom, and T.V. room areas?

17 A I think we have adequate visibility. It is not
18 perfect, but it is adequate. Building is patrolled, and
19 certainly maintained adequate supervision.

20 Q Without a roving patrol, you cannot maintain an
21 adequate visual supervision?

22 A You could go further and say if there is no one
23 there, you cannot maintain full supervision.

24 Q An officer in the wicket cannot maintain full
25 control?

1 A For the specific moment he is in the wicket, he could
2 not, if--

3 Q Or for a longer period of time that he is in the
4 wicket?

5 MR. DAVIS: Excuse me, Your Honor.

6 THE COURT: Yes, let him finish up. You tend
7 to start your next question before he may be through.

8 THE WITNESS: For that moment that he is in the
9 wicket, the other officer is, perhaps, patrolling and
10 supervising the dorm, or perhaps they are both, but from
11 the wicket, you can't see into the day room.

12 For example, what they do is maintain active patrol
13 at all times. Every 30 minutes they have to do a security
14 check of the entire dormitory on the windows, doors, and
15 things of that nature, and they have to go all the way
16 around, all the dormitories, in order to do that, and they
17 also have to count every inmate on the hour at night. They
18 do maintain adequate supervision.

19 BY MR. TUCKER:

20 Q Now, if both officers were in the wicket at the same
21 time, they wouldn't be able to control the dorm, would
22 they?

23 A I disagree they wouldn't be able to control the dorm.
24 I think the record in the past four years demonstrates they
25 have done a fantastic job in controlling the dorm.

1 Q They wouldn't be able to maintain proper visual
2 surveillance over the blind spots that might exist in the
3 day room, or the shower, or restroom, would they, if there
4 were two officers in the wicket for the same period of
5 time?

6 A Well, they have far better supervision in my personal
7 opinion in an open base setting like Glades than they would
8 in a large cellblock where they would have no supervision,
9 but I disagree with you. I think they can maintain good
10 supervision in the dorm.

11 Q If both officers are in the wicket at the same time,
12 do you believe they are able to maintain visual
13 surveillance over the restroom?

14 A They are able to see the entire length of the
15 dormitory into the restroom.

16 Q The patrols are used in order to be able to better
17 view the restrooms, aren't they?

18 A The patrols are used to provide supervision, and
19 constantly monitor the activities of that institution.

20 Q And part of the monitoring would be able to provide
21 visual surveillance on the restroom, and dormitory area?

22 A To provide supervision on the entire dorm, and the
23 bathrooms are part of the dorm.

24 Q With regard to security, there have been times in the
25 past, four years, possibly for a period of as long as a

1 year, when one of the metal detectors at Glades weren't
2 working?

3 A The metal detector at the front gate has always
4 functioned very, very well. The metal detector between the
5 main compound, and the north compound is open to
6 condensation, and we constantly have maintenance problems
7 with that particular metal detector. It is very difficult
8 to operate one in an open-type setting even though it has a
9 cover over it. There is still condensation that we have
10 difficulty with it. We constantly fix it; and, so, I agree
11 with you.

12 Q You testified earlier this morning that in your
13 opinion there is a trickle of contraband which comes into
14 the compound from the outside, isn't that correct?

15 A A trickle, no I didn't say that. Repeat your
16 question.

17 Q Did you testify there is a trickle solely with regard
18 to the material that might be thrown over the fences?

19 A Strictly when I said trickle, I was talking about the
20 throwing across the fence, and they throw it, and we catch
21 it, and a trickle gets through.

22 Q Now, you wouldn't have us believe there is only a
23 trickle or small amount of contraband that does exist on
24 the compound, would you, because, if we went out there
25 today, there probably would be contraband on the compound,

1 wouldn't there?

2 A What I said, I addressed four areas, and those,
3 basically, are the only four areas that contraband is
4 introduced into any of the institution. I said a trickle
5 with regard to the throwing across the fence, successful
6 throwing across the fence situation, and I said a trickle,
7 I didn't use the term trickle, but I will now.

8 With staff, when you get to the third option, and
9 that is the inmates that are outside in the vehicles, and
10 all the traffic coming in the institution, you get more
11 contraband coming in; and when you get to the fourth area,
12 which is the visiting, people in the visiting park, and
13 families, so forth, the first two areas are trickles, and
14 then the third and fourth area, they have more success for
15 the reasons I outlined.

16 Q Now, we also discussed double bunking in the
17 protective confinement cells, in all the confinement cells,
18 didn't we?

19 A I believe we did. I don't specifically recall.

20 Q Is it your understanding that double bunking in those
21 cells is allowed by Costello?

22 A That is my understanding.

23 Q But it is not required by Costello, is it?

24 A No. It is not required by Costello, and let me
25 explain Costello.

1 The department, as a department, entered into an
2 agreement with Federal Court in Costello, Dugger, and
3 together they agreed on a whole host of items that we would
4 do, and then the court agreed if you do this, this is fine.
5 It doesn't prohibit us from single celling. It doesn't
6 prohibit us from having less inmates in the dorm, or less
7 inmates in the institution, it establishes caps.

8 Q And there is a cap on the number of persons to be
9 placed in protective confinement at Glades, and that is 16,
10 is that correct?

11 A No, that is not right.

12 Q Sometimes there are more than 16 persons placed in
13 confinement in protective confinement at Glades, isn't that
14 correct?

15 A There are no caps on the number of inmates that can
16 be placed in protective confinement at Glades. We have
17 eight cells that are primarily designated to house
18 protective confinement, and--

19 Q And sometimes the person is in protective
20 confinement--

21 MR. DAVIS: Excuse me.

22 THE COURT: Let him finish.

23 THE WITNESS: We have eight cells that are
24 primarily designated for protective confinement inmates,
25 and we have other cells that are designated for

1 administrative confinement inmates. If we do have more
2 than 16, we simply move them to the administrative
3 confinement cell, and house them. The cell -- really, it
4 is the status of the inmate, and protection provided
5 whether they are on this side of the hall, or that side of
6 the hall.

7 BY MR. TUCKER:

8 Q But sometimes there are more than 16 persons in
9 confinement who are in the category of protective
10 confinement?

11 A On some cases, overwhelming majority of times,
12 probably 98 percent of the time it would be less than 16.

13 Q You described earlier your understanding of what
14 Costello says, but it does not specifically address the
15 issue of homosexual rapes with regard to this case, does
16 it?

17 A Costello addresses all areas of over-crowding, food
18 service, and health of the inmate. Anything involving
19 health of the inmate is addressed. Whether they
20 specifically address that, that is considered health, and
21 they address anything having to do with health related
22 matter.

23 Q You aren't specifically aware it addresses the issue
24 of homosexual rapes at Glades, are you?

25 A No, sir, I don't believe I ever said that I did.

1 Q I didn't say that.

2 Q Now, one of the documents tendered earlier,
3 information regarding protective confinement states that
4 inmates should normally be placed in single cells, is that
5 your understanding of the code provision?

6 A If you let me read it. If it says normally?

7 A This says should normally, yes. Doesn't mean they
8 have to be.

9 Q Do you have an understanding of the American
10 Corrections Association standard with regard to this issue?

11 A Yes, I am generally familiar.

12 Q And what is that standard?

13 A American Correctional Association prefers to have
14 single cells. They prefer that everything be in an ideal
15 situation. They do not consider it to be a mandatory
16 standard.

17 Q Would you agree it would be ideal if that is what
18 could be provided?

19 A What I would consider ideal would be to have --
20 always to have less inmates. The ideal situation is one in
21 which I would always prefer that; but what I operate on is
22 what we are authorized to do, and we abide by whatever the
23 court permits us to do in a very tough situation.

24 Q Since the decision in 1985, and since you became
25 superintendent at Glades, the dorms on the north compound

1 have been created out of what was once the cannery?

2 A That is correct.

3 Q And once that process was completed, the number of
4 inmates that could be at Glades increased from
5 approximately 800 to approximately 1200, is that correct?

6 A From 886 to 1217.

7 Q Now, when that increase took place, there was no
8 creation of additional confinement space at Glades, was
9 there?

10 A That is correct. Again, if you allow me to expand on
11 my answer, we have a new confinement unit. The moneys have
12 been appropriated, materials delivered, some materials have
13 been delivered. We are, in the next few weeks, going to
14 commence building.

15 Q For the past four years there has not been any
16 additional confinement space, has there?

17 A For the past four years, there has not. We have been
18 planning, trying to draw plans, and secure moneys from the
19 legislature, and those type things take some time. You
20 can't simply get a lot of money quickly. You have to go
21 through a process, and we commenced that some time ago, and
22 we are in the next six months, we will have a new
23 confinement unit at GCI that will more than double the
24 total capacity.

25 THE COURT: More than double what?

1 THE WITNESS: Double the total confinement
2 capacity.

3 BY MR. TUCKER:

4 Q And the contemplated plans for that confinement unit,
5 the new unit contemplate continuing practice of double
6 bunking in confinement, don't they?

7 A Right now, yes, it does.

8 MR. TUCKER: May I have permission to approach
9 the witness, Your Honor?

10 THE COURT: Yes.

11 BY MR. TUCKER:

12 Q For the record, I am handing the witness a copy of
13 Plaintiffs' No. 8 which are plaintiffs' interrogatories,
14 and I would direct your attention to the bottom of that
15 page where you find the number of days for which a person
16 is in protective custody -- the length of their stay in
17 protective custody, is that correct?

18 A That is correct.

19 Q Now, I took a look at the number of days, and for 10
20 of those inmates, the number of days were given. Does that
21 look to be correct?

22 A Yes.

23 Q And for six of those 10 inmates the stay in
24 protective custody was a stay of 40 days or more, is that
25 correct?

- 1 A How many?
- 2 Q 40?
- 3 A In how many cases?
- 4 Q Six of the 10?
- 5 A Yes.
- 6 Q Those are the names of the persons who have reported
7 a sexual battery within the last four years, isn't that
8 correct?
- 9 A It would appear to be so.
- 10 Q Now, you have the ability to request a transfer from
11 Tallahassee by telephone and by confirmation by teletype,
12 don't you?
- 13 A Yes, I can do that.
- 14 Q And in some cases, you have done that rather quickly,
15 haven't you?
- 16 A It would appear some are transferred more quickly
17 than others.
- 18 Q There are some prisoners, in fact, who have been
19 transferred within a day or two when you deem it necessary,
20 is that correct?
- 21 A It would appear so, yes.
- 22 Q Not --
- 23 A Yes, I don't have any problem with that.
- 24 Q Okay. Looking at this figure, if you accept my
25 calculation of the average being 59 days, these transfers

1 have not been completed as quickly as you have completed
2 other transfers for other reasons, have they?

3 A What we do, when we transfer inmates, whether it be
4 inmates in confinement, or inmates in the general
5 population, depends on where that inmate is going to go,
6 what type of programming, and services, so forth, are
7 available to the inmate when he arrives at the other
8 institution, and depending on the backlog of inmates coming
9 into that facility, some institutions are easy to get to,
10 depending on the programming, than others. Some are
11 transferred quickly, some intermediate, and I must say they
12 are all transferred very quickly, really.

13 Q For these persons who reported sexual battery, there
14 was, in fact, one person in protective confinement for more
15 than six months?

16 A Six months, and 19 days.

17 Q But I --

18 A But I don't know the reason for that, and, generally
19 speaking, there is always a reason to explain it, and I
20 don't know what institution he went to, or how long it took
21 to complete any investigation or anything. I just simply
22 don't know. I accept your--

23 Q That figure was indeed provided by you?

24 A Yes, absolutely, I accept that.

25 Q Now, I would like also to direct your attention to

1 question number 7 in plaintiffs' interrogatories. You
2 stated earlier when you became superintendent of Glades in
3 January, 1986, you conducted a review of the operating
4 procedures at Glades?

5 A Yes, that is correct.

6 Q Earlier we provided questions to you for which you
7 provided answers regarding changes that may have been made
8 in policies at Glades?

9 A Yes.

10 Q And these are your answers to those questions?

11 A That's correct.

12 Q With regard to question 7A, isn't it true that the
13 policy with regard to the transfer of so-called wolves has
14 not been changed since January, 1986?

15 A When I arrived at Glades, after I reviewed the
16 Magistrate's findings, court findings, I checked into our
17 procedures for transferring management problems in inmates.
18 I do not refer to people as wolves. They are people with a
19 -- management problem inmates.

20 Q That is how they were referred to?

21 A That always bothered me. We don't have any wolves,
22 tigers, or anything like that. They are management problem
23 inmates. The policy, there have been numbers of inmates
24 transferred previously, I thought our policy was good.
25 What I did, I thought with the classification staff, and my

1 assistance, correctional staff, told them to be extremely
2 aggressive in identification, and transfer of management
3 problem inmates, and we would document such transfers, and
4 we have done so, and we have transferred approximately
5 sixty management problem inmates each year.

6 Q That policy hasn't changed since January '86, has it?

7 A I think the policy was good when I arrived, and I
8 think continues to be good.

9 Q With regard to question B, provision of protective
10 confinement, the policy with regard to that issue, also,
11 hasn't changed since January, '86, has it?

12 A Protective custody for inmates. Give me a minute to
13 read it.

14 No, inmates continue to be placed in protective
15 confinement upon request, or if we feel that an inmate, if
16 we receive information that an inmate is in danger, we
17 place the inmate in protective confinement on an
18 involuntary basis. Our interest is to make sure if there
19 is any danger, we take him out of population, and place him
20 in protective custody.

21 Q And that hasn't changed since January, '86?

22 A That is true, and we comply with it.

23 Q On the next page, it is also true the policy with
24 regard to investigation of reported homosexual rapes has
25 not changed since January, 1986?

1 A I think I testified that the basic policy was good,
2 and that investigations were conducted. We did refer them
3 to the law enforcement officials, etc.. I did say I made
4 two changes.

5 Q One of those changes is contained in 7E where you
6 decided that the forensic exam is now performed at a local
7 hospital?

8 A Yes, that is correct.

9 Q Now, if you look another page over at question 7F, it
10 is also true, isn't it, that the provision of mental health
11 care for victims of homosexual rape has not changed since
12 January of 1986?

13 A I believe we have had a protocol issued to medical
14 staff, and I believe it was 1987. I have to check the
15 date. That protocol is, in effect, to the medical staff.

16 Q That protocol was not included in the answer to 7F,
17 was it?

18 A No, it wasn't, but I agree with my answer.

19 Q Now, with regard to your answer to 7G, the policy
20 regarding control of contraband has not changed since
21 January, 1986, has it?

22 A I believe -- my testimony is that I reviewed the
23 policy, and it was a good policy, and we simply set out to
24 make sure that we, in fact, implemented the policy where
25 possible, and we have done that.

1 Q And that policy has not changed?

2 A The written policies have not changed, because they
3 were excellent policies to begin with.

4 Q The policy found in your answer to question 7H
5 regarding efforts taken to insure that correctional
6 officers patrol the dorms has not changed since January of
7 '86, has it?

8 A The policies remain that officers patrol the dorms.
9 I have found no evidence when I arrived to indicate that
10 they did not. What I did, again, was set about to
11 institute some procedures to make sure that they were
12 properly monitored, and to make absolutely sure that they
13 were patrolling.

14 Q And that policy hasn't changed, has it?

15 A The implementation was my implementation, and there
16 were two superintendents or three, whatever, prior to that,
17 the policies were good, and I set about to make sure they
18 were followed, and I had no evidence that they weren't
19 followed previously.

20 Q Following your review of the decisions contained in
21 Magistrate Nimkoff's opinion, and in Judge Paine's opinion,
22 what, if anything, have you changed?

23 A What I would prefer to do is take each category, and
24 I will be happy to tell you what I have done.

25 Q I would ask you to answer the question that I have

1 given you.

2 A What I did simply is review the findings, and,
3 basically, found as I have already answered here, what I
4 found, and the changes that I made in order to make sure
5 that we were in compliance. One -- for example, what I did
6 with the allegation of pornographic movies, I investigated,
7 I found no evidence to indicate that they were doing it,
8 but I called the staff together and told them just that. I
9 didn't have any evidence that it had been done, but if any
10 time in the future it did, staff member responsible would
11 be responsible.

12 Q You eliminated pornographic movies?

13 A I don't know that pornographic movies existed. I
14 looked at each one of the findings in the same light.

15 MR. TUCKER: May I have a moment?

16 THE COURT: Yes.

17 MR. TUCKER: I have no further questions.

18 THE COURT: Any redirect?

19 MR. DAVIS: Just a brief question, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. DAVIS:

22 Q In respect to the bunking of inmates in protective
23 confinement, you've indicated that there are currently
24 eight cells in protective confinement, is that correct?

25 A That is correct.

1 Q In the future you expect to have substantial more
2 cells in protective confinement?

3 A We will have additional 40, 43 beds, 23 cells.

4 Q Now, currently with eight cells in protective
5 confinement, if there are four, five, six, seven, eight
6 inmates in protective confinement, are they double bunked,
7 or are they assigned to individual cells?

8 A They are single bunked.

9 Q And, in the future, how would that policy affect with
10 the additional cells? Would they be double bunked at any
11 time when you have less inmates than the number of total
12 cells?

13 A We will have two beds in each cell, but in all
14 likelihood, it would be a rare occasion when more than one
15 inmate stays in a cell.

16 Q What is the policy at Glades in respect to the
17 patrolling of the confinement area by the confinement
18 officer?

19 A The confinement officer has to patrol the entire
20 confinement area, and check each and every cell, look into
21 each and every cell, as a minimum, every hour on the hour.
22 He has to sign off and certify that he does that. He does
23 it more often than that. That is the minimum.

24 Q Let me show you an item to be offered as a next
25 exhibit, and ask you if that shows a typical log.

1 MR. TUCKER: I object, that is going beyond the
2 scope of cross.

3 THE COURT: Was there anything on the cross of
4 the subject?

5 MR. DAVIS: It had to do with the protection of
6 the inmates in the protective confinement unit, and the
7 patrolling, or custody of the inmates is an element of that
8 safety.

9 MR. TUCKER: I object, this goes beyond the
10 cross.

11 THE COURT: I think it does. I don't recall
12 there is anything in that area on cross. I sustain the
13 objection.

14 MR. DAVIS: All right. We would proffer this
15 into evidence, then, as the defendant's next exhibit.

16 THE COURT: All right. What number are you
17 giving it?

18 THE CLERK: 47.

19 BY MR. DAVIS:

20 Q Is this an official document of Glades Correctional?

21 A Yes, it is.

22 MR. TUCKER: We would object. This is an
23 effort to circumvent the exhibit, and we want to insure
24 that it will not become an exhibit.

25 THE COURT: Well, it is marked for

1 identification only.

2 MR. DAVIS: No further questions.

3 THE COURT: I have a couple questions I want to
4 ask.

5 EXAMINATION

6 BY THE COURT:

7 Q I ask you, sir, what work programs for inmates are
8 either available or required?

9 A For inmates?

10 Q Yes.

11 A We have about 250 inmates assigned outside the fence.

12 We have what we call a Pride Program for inmates that are
13 paid a nominal fee, prison industry program, harvesting
14 squads, warehouse, people that work in the warehouses.

15 Q Agricultural warehouses?

16 A Agricultural warehouses, receiving warehouses. We
17 have receiving meat plant where they receive, process, and
18 ship meats; various landscaping duties, tractor drivers,
19 various farm equipment operators, a host of clerical people
20 that work for Pride. Inside the compound we have, of
21 course, food service.

22 Q Well, all of which you mentioned before has been
23 outside?

24 A Yes.

25 Q Okay.

1 A Inside we have inmates that work in food service and
2 prepare food and so forth. They work in the laundry.
3 Dormitory housing to keep the dormitory clean. They work
4 on the yard to maintain the grounds. They work in the
5 maintenance department. These are outside, too. Electric
6 squad, a carpenter squad, masonry, covers whole area of
7 maintenance of the institution.

8 We have construction inmates that build buildings,
9 and renovate, inmates built, or renovated the canning
10 plant, and built the new dormitory. Various other jobs.

11 We probably have the best or most expansive work
12 program in Florida in terms of numbers of inmates that
13 work.

14 Q Now, this work that is done on the outside, what
15 happens to the produce of that work, is it utilized by the
16 institution or other Governmental units? Is it sold or
17 what? You say the work done by the harvesting squad,
18 agricultural houses, meat plant, landscaping duties?

19 A Those prisoners work for prison industries, commonly
20 referred to as Pride. They are involved in those
21 institutions, the product of their labor goes back into, is
22 sold to various other public agencies, schools, and so
23 forth, by Pride.

24 Q You mentioned something about 5,000 acres that is a
25 part of your institution, is that right?

1 A We have a total of about 5,000 acres.

2 Q Is this agricultural land?

3 A About 4,000 acres are agricultural.

4 Q And what about the other thousand?

5 A The other thousand would consist of the institution,
6 and surrounding acreage in and around the institution, and
7 the buildings, staff housing, bachelor quarters, a lot of
8 buildings outside, and some is not utilized, it is vacant.
9 Some citrus. We have a few orange groves. That would be
10 agricultural.

11 Q Is any of this, the produce of these labors and the
12 materials that you have sold to private industry, any of it
13 used other than by the State of Florida?

14 A I don't believe so. Like I said, I am not familiar
15 with precisely who they sell to, but I know it is for the
16 benefit of other tax supported agencies. We purchase from
17 Pride ourselves. It is an opportunity to get some goods
18 produced cheaper than you could perhaps buy it in private
19 industry, to save tax money.

20 Q All right. In your landscaping work, you do produce
21 plants, and sod, and that sort of thing?

22 A Yes.

23 Q For whoever finds it useful?

24 A We have a horticultural program, an instructor from
25 the Palm Beach County School Board that teaches academic

1 classes, and they go out and produce the plants.

2 Q All right. Is this work required or simply on a
3 voluntary basis that they participate in the activities?

4 A Inmates are required to work if they are medically
5 able to work. If the medical staff feels they are for
6 whatever reason not able to work, they don't work. If they
7 are medically able, we assign inmates to work details.
8 What we do is try to match the skill with the work to be
9 performed.

10 Q And how many hours are they expected to work per day,
11 or week, or per month, whatever?

12 A They work the same work week, 8 to 5, Monday through
13 Friday.

14 Q And are they paid?

15 A The inmates assigned to Pride are paid. They are
16 paid a nominal fee, depending on the skill level. Inmates
17 that do not work for pride are not paid.

18 Q Those are the ones that keep up the facility itself.
19 They are not Pride employees?

20 A That is correct, and they are not paid.

21 THE COURT: All right. Thank you.

22 You gentlemen have any questions on those subjects?

23 MR. DAVIS: No.

24 MR. TUCKER: No.

25 THE COURT: You may step down.

1 Who is your next witness.

2 MR. MEGINNISS: The defendants would call Col.
3 Pipta.

4

5 EDWARD C. PIPTA, DEFENSE WITNESS SWORN

6 THE COURT: Be seated. State your name, spell
7 your last name.

8 THE WITNESS: Edward C. Pipta, P i p t a.

9 THE COURT: Proceed.

10 DIRECT EXAMINATION

11 BY MR. MEGINNISS:

12 Q Where are you employed?

13 A Glades Correctional Institutional.

14 Q What are your duties?

15 A Correctional officer, chief two, in charge of the
16 security department.

17 Q I am going to ask you to speak into the microphone.

18 Do you have a rank associated with this position?

19 A Colonel.

20 Q How long have you been a colonel?

21 A About a year and a half, I believe, I was a major.

22 Q What were your duties when you were a major?

23 A Same as now.

24 Q The position has upgraded?

25 A Yes.

1 Q How long have you been in charge of security at
2 Glades Correctional Institution?

3 A Since September '84.

4 Q Would you describe what your normal day is, how you
5 perform your duty, sir?

6 A Yes. Normal day usually begins by reviewing the
7 paper work of all the activities that took place the
8 previous day. Then it is touring the compound, looking for
9 breaches of security, checking locks, doors, windows,
10 talking to the staff, talking to inmates. Counseling
11 staff, counseling inmates. Finding -- coordinating with
12 the shift on duty, medical, escorts for trips for here to
13 doctors, reviewing inmates in confinement. It goes on and
14 on, sir.

15 Q And you have various people working under you?

16 A Yes.

17 Q And they have ranks in the organization?

18 A Yes.

19 Q Would you briefly describe who works for you, and
20 briefly what they do?

21 A I have presently two correctional officers, chief 1's
22 that are the rank of major, and their duties are just
23 practically identical to mine. Under them we have captains
24 who are shift supervisors, lieutenants, who are also shift
25 supervisors. Appropriate line of sergeants on duty for a

1 particular shift, plus correctional officer 1.

2 Q All right, sir, have you ever had occasion to receive
3 correspondence from inmates?

4 A Yes.

5 MR. MEGINNISS: I would like to approach the
6 witness, if I may, and ask him to identify this document,
7 Your Honor.

8 THE COURT: All right, sir.

9 BY MR. MEGINNISS:

10 Q I am handing you what appears to be several sheets of
11 yellow paper, and I would like to ask you if you recognize
12 that?

13 A Yes, I do.

14 Q And do you recall receiving this?

15 A Yes.

16 Q Would you briefly state what it is?

17 A Well, it is a letter from an inmate by the name of
18 Haveard who was in confinement basically advising me of
19 circumstances that had taken place months before he wrote
20 this particular letter.

21 Q Does the letter purport to have a date?

22 A September 2, '87.

23 MR. MEGINNISS: I would like to tender this
24 subject to objection into evidence as defendant's next
25 exhibit.

1 THE COURT: That will be 48, I believe.

2 MR. AMLONG: I object to this. This is hearsay
3 in that it is an out-of-court statement by Mr. Haveard. It
4 is being offered for the truth of what it contains. I
5 haven't had a chance to read the entire letter yet. Mr.
6 Haveard was here and available for cross-examination, and
7 identification of this letter if it was his. To introduce
8 it at this juncture is improper impeachment of Mr. Haveard.
9 He has never had a chance to explain this.

10 THE COURT: How about that, Mr. Meginniss?

11 MR. MEGINNISS: May it please the court, with
12 further questions, I believe I can establish after receipt
13 of this letter, this witness did converse with Mr. Haveard,
14 all I was trying to do within his course of employment, he
15 normally receive, or may receive letters of this type, and
16 asking him to identify it, and this is one that he
17 received.

18 THE COURT: I sustain the objection to this
19 letter on the basis of what is shown so far. Seems to me
20 the objection is a good one.

21 MR. MEGINNISS: May I further pursue this line
22 of questioning to establish whether or not he did interview
23 Mr. Haveard?

24 THE COURT: Yes, I think you can do that.

25 BY MR. MEGINNISS:

1 Q All right, Col. Pipta, you did talk to Mr. Haveard
2 after the receipt of this letter?

3 A Yes.

4 Q Would you tell the court what he told to you, and
5 what you told to him?

6 A He basically was saying the same thing that is in the
7 letter, but the thing I said to him, I questioned him to
8 the fact how he could have been taken in by the particular
9 inmates that he named in this letter in today's modern
10 time, and modern prisons.

11 What has happened in this letter is the normal way
12 inmates were taken in 20 or 30 years ago in the
13 correctional system.

14 Q Did you ask him to explain the delay in the
15 submission of this letter to you between the incident, and
16 the time of the date of the letter?

17 A I don't recall that.

18 Q Do you recall when he told you that the incident
19 occurred?

20 A Yes. It was months ahead of time. If I read this
21 whole letter, it probably states it in here, but it was
22 months, 6, 7 months before I received this letter.

23 Q All right. So he did relate to you an incident that
24 occurred some months previous to that?

25 A Right, yes.

1 MR. MEGINNISS: For that purpose, Your Honor, I
2 would like to ask that it be submitted into evidence to
3 verify there was quite a delay between an incident to which
4 Mr. Haveard testified --

5 THE COURT: I think I have to continue to
6 sustain the objection. I believe it is still a good
7 objection.

8 MR. MEGINNISS: I would like to proffer it into
9 evidence.

10 THE COURT: All right. It is marked for
11 identification Ex. No. 48. And that will be part of the
12 record, but for identification only.

13 BY MR. MEGINNISS:

14 Q Now, Col. Pipta, a lot has been said about the
15 security in the dormitories, and the way it is patrolled,
16 who is in overall in charge of the security of the
17 dormitories?

18 A I guess I would be, sir, in charge of security,
19 period.

20 Q Did you ever have occasion to visit the dormitories
21 in the evening?

22 A Yes.

23 Q Do you do this on a frequent basis?

24 A I do it unannounced. Depends on what you mean by
25 frequent.

1 Q Do you do it as much as once a month?

2 A At least once a month, yes.

3 Q Do you have anyone else who does that other than the
4 people who are actually assigned to the dormitories?

5 A Yes, my administrative lieutenant does unannounced
6 inspections, tours, and also officers in charge, captains,
7 and lieutenants.

8 Q And would you briefly describe or tell the court how
9 these patrols, if they are patrols, are done?

10 A By myself, sir?

11 Q No, by the officers that are assigned?

12 A Yes.

13 Q How many officers do you have there?

14 A Well, depending on the shift, sir, the second shift
15 which is commonly known as the day shift, 8 to 4, as a
16 minimum would be one officer assigned, as a minimum. On
17 the evening shift, 4 to 12, and the first shift, 12
18 midnight 8 in the morning would be two officers assigned as
19 a minimum.

20 Q All right. Let's take the evening hours, or dark
21 shifts, how do the officers perform their duties?

22 A Well, they continually have to tour the dormitories.
23 During the dark duties, we speak now at nighttime, once the
24 lights are out in the dormitory, every hour, a count of the
25 inmates has to take place.

1 Normally, that is done somewhere near on the hour.
2 It may be, for example, the first one would be 11 o'clock
3 when lights go out, and the second one 12 o'clock, or
4 quarter of 12, 12:15, so it wouldn't become exact period of
5 time, where somebody could time them, one o'clock, 1:15,
6 two o'clock, quarter to two, and this goes on until 6
7 o'clock in the morning.

8 In addition, on the half hours of -- or thereabouts,
9 there are complete checks made by the officers in the
10 dormitory of which we call security checks. I failed to
11 say the counts they make on the hours are called in the
12 control room, and put in the control room log. The
13 security checks that are made on the half hours are to
14 check all the windows, all the doors, all the other areas
15 of the dormitory, such as bathrooms, shower rooms, between
16 all beds, and that is done on half hour, so they have very
17 little time to spend any time anywhere except patrolling
18 the dormitories and coming back to their station to the log
19 that this has been done, or call it into the control room.

20 MR. AMLONG: Your Honor, I object to Col.
21 Pipta's testimony as to this, and move to strike it on the
22 grounds of competence. If he wants to testify what the
23 policy is, that is one thing. Unless Mr. Meginniss
24 establishes that he witnesses doing this, or has some other
25 way of establishing competency, I move to strike.

- 1 THE COURT: Motion denied, objection overruled.
- 2 BY MR. MEGINNISS:
- 3 Q Now, Colonel, with respect to the security checks, do
4 you have any idea how long it takes?
- 5 A To make a security check?
- 6 Q Yes.
- 7 A Well, we have different size dormitories.
- 8 Q Take dormitory D?
- 9 A I would have to say it would safely take to do a good
10 thorough check approximately 25 minutes, maybe 30.
- 11 Q Now, the same thing for the count, how long does that
12 take?
- 13 A The count, to insure that you have a living,
14 breathing person in a bed is going to take you about 15, 20
15 minutes a night.
- 16 Q And how is the count conducted to insure you have a
17 breathing living body?
- 18 A The officer has to walk through and see that this is
19 there. He has to count a physical living breathing human
20 skin.
- 21 Q Did you ever experience working a dormitory in making
22 these patrols?
- 23 A Yes, years ago.
- 24 Q Were you ever directly in charge of a dormitory?
- 25 A Yes, as a correctional officer 1, working in one,

1 yes.

2 Q Briefly, how about outside patrol, is there outside
3 patrol going on?

4 A Yes.

5 Q Briefly describe what the duties of that person might
6 be beginning with the rank that he normally has.

7 A Well, a person who directly is responsible to the
8 officers in the dormitory would be the sergeant. Each
9 dormitory has a sergeant assigned to it.

10 The sergeant's duties are to do the same duties of
11 outside, in other words, security checks from the outside
12 of all the windows and doors.

13 In addition to that, assist the correctional officer
14 in supervising the counts as he watches to make sure nobody
15 is moving in a period of a count, assuring that the officer
16 is doing his job as policy prescribes.

17 Q Outside security is responsible for how many
18 dormitories?

19 A On our main compound, we have one sergeant for two
20 dormitories. There are four dormitories, one for each two
21 dormitories.

22 Q What about the outside security, do they ever come in
23 inside?

24 A Yes, if there is a problem of any nature in the dorm,
25 inmates behavior--he is up out of bed when he should be in

1 it--and officer seems to be having a problem with getting
2 him in bed, the first thing they do is call for the
3 sergeant. The sergeant will enter the dormitory, and
4 resolve the problem, either assuring that the inmate is in
5 his bed, or taking him to the Captain's office.

6 Q Outside any problem, would that security man have
7 occasion to go inside?

8 A Yes, just for a normal routine check during the
9 evening.

10 Q How often are these checks made, if you know?

11 A He is supposed to make as a minimum during hours of
12 darkness a minimum of two checks on the outside, and
13 minimum of two on the inside.

14 Q Now, you say the counts are called in to the main
15 security station?

16 A Yes.

17 Q Who is in charge of main security?

18 A There is a sergeant in the control room. Control
19 room sergeant.

20 Q Is this reported then by him to anyone?

21 A No, sir. He clears the count, if the count is not
22 what it is supposed to be, he would immediately report that
23 to the captain.

24 Q And where is the captain?

25 A The Captain's office is inside the main compound,

1 about the center of the main compound.

2 Q Would the captain have any occasion to review or look
3 at the dormitories?

4 A Yes. The captain and lieutenants, we have both at
5 the institution, and usually both are on duty at all times.
6 Yes, their post orders tell them they will do this.

7 Q And all of this is recorded in writing, I take it?

8 A Yes.

9 MR. MEGINNISS: You may inquire.

10 CROSS-EXAMINATION

11 BY MR. AMLONG:

12 Q Good afternoon, Col. Pipta. How long have you been
13 correction officer chief there?

14 A Since September, 1984.

15 Q All right. So, you were the correctional officer
16 chief during the trial portion of the first trial in this
17 action?

18 A No, sir.

19 Q Well, that trial took place in December 1985, so you
20 were correction officer?

21 A Yes, okay, I am not sure when it was.

22 Q Have you ever had a chance to read Judge Nimkoff's
23 recommended order in that case?

24 A No, sir, I am not familiar with it.

25 Q Have you ever had a chance to read Judge Paine's

1 opinion in that case?

2 A I am not familiar with it.

3 Q The routine that you just described about how you
4 have two officers assigned to each dorm, and the two
5 officers make patrols, and security checks, and the
6 sergeant roams back and forth, that is the same procedure
7 that was in effect in December, 1985, was it not?

8 A Yes.

9 Q Have you changed anything?

10 A No, sir. It has always been those.

11 Q There have been no changes in either procedure, in
12 either policy or execution since December '85, is that
13 correct?

14 A Not that I am aware of at this time.

15 Q So, if Judges Nimkoff and Paine found that although
16 the officers were supposed to be in constant patrol in the
17 dorms, that this did not occur, there is nothing that would
18 have changed that?

19 A I don't know what they found.

20 Q I am saying assume they found that there have been no
21 changes to assure that the officers do patrol?

22 A I am not going to assume anything, sir. I am going
23 to tell you how it is.

24 Q Has any officer ever been disciplined for not making
25 those patrols?

1 MR. MEGINNISS: May counsel please identify the
2 time period?

3 BY MR. AMLONG:

4 Q Since December '85, do you recall disciplining of any
5 correctional officer for failing to make the required
6 patrols?

7 A I don't recall at this time, sir.

8 Q And that sort of thing would come through you since
9 you are the boss of security?

10 A Hopefully.

11 MR. AMLONG: Nothing further.

12 THE COURT: Anything else?

13 MR. MEGINNISS: Nothing further, Your Honor.

14 THE COURT: Thank you, you may step down.

15 (Witness excused.)

16 THE COURT: Who is our next witness?

17 MR. DAVIS: Dr. Rodriguez, Your Honor.

18 ORLANDO CHRISTOPHER RODRIGUEZ, DEFENSE WITNESS SWORN.

19 THE COURT: Please be seated. State your name,
20 please, sir.

21 THE WITNESS: Orlando Christopher Rodriguez.

22 THE COURT: Proceed.

23 DIRECT EXAMINATION

24 BY MR. DAVIS:

25 Q Dr. Rodriguez, if you could sit close to the

1 microphone so you could be heard, that may assist us.

2 Would you tell us where you reside, where you live?

3 A I live on Miami Beach, but I stay five days during
4 the week in Belle Glade.

5 Q All right. And where are you employed?

6 A I am employed for Glades Correctional Institutional.

7 Q And what is your position?

8 A I am chief health officer.

9 Q As chief health officer, are you a physician?

10 A Yes.

11 Q And would you tell the court briefly your medical
12 background?

13 A I am a graduate of the School of Medicine of Madrid
14 University, Spain, 1957. I came to this country in 1958,
15 and I took my training in Ohio. I had one year of rotating
16 internship, and I went into general practice training. I
17 had two years general practice training, and two year
18 fellowship in intending medicine, and the hospital I was, I
19 was chief of the resident program.

20 Q All right. And as the chief health officer at Glades
21 Correctional Institution, is it your function to receive
22 and promulgate among the staff the health protocols?

23 A Yes.

24 Q Would you tell the court what the procedure is, since
25 January 1st, 1985, what the procedure has been for the

1 health staff at Glades Correctional for receipt of a
2 complaint of an inmate patient of a sexual assault?

3 A Well, we do have two procedure. We have one prior to
4 1987, July, 1987, and then we have another one now, from
5 '87 to this date.

6 Q And what was the procedure prior to '87?

7 A The procedure before was that the person that would
8 be working in the emergency room at the institution, we
9 have a case of alleged rape, inmate will be brought to by
10 an officer, or he might come on his own will, and I would
11 proceed to examine the patient.

12 We do a visual examination, and also we do a rectal
13 examination. We take a swab in the rectal area. We have a
14 rape kit where we collect evidence, and we will send it to
15 the Sheriff's Office. That was before 1987.

16 After 1987, then we implemented a different
17 procedure, where any inmate that come to the clinic and
18 with alleged rape, we will proceed to have a visual
19 inspection, and refer him to the local hospital, Glades
20 General Hospital, usually.

21 Q So at the present time you only do a visual
22 examination?

23 A That is all we do, visual examination. After that,
24 we send him to the hospital. The inmate after he returns
25 to the hospital, he will be referred for psychological or

1 psychiatric care.

2 Q And is that pursuant to any protocol?

3 A Yes, there is a protocol to that effect.

4 Q Let me show you what is marked Plaintiffs' No. 7, and
5 ask you if that is the protocol?

6 A Yes, sir, this is the protocol. It was reviewed by
7 me in 1989, July, 1989.

8 Q You subsequently reviewed it to its implementation?

9 A Right.

10 Q Does that Ex. 7 also include protocol for HIV
11 testing?

12 A Well, HIV testing will involve any time there is some
13 kind of--

14 Q I am sorry, the exhibit there, does that refer to HIV
15 testing?

16 A Yes, sir.

17 THE COURT: Is this Defendant's Ex. 7?

18 MR. DAVIS: This is Plaintiffs' 7.

19 THE COURT: It is already received.

20 MR. DAVIS: Right.

21 BY MR. DAVIS:

22 Q Have you instructed the medical staff at Glades
23 Correctional in the implementation of that protocol?

24 A Yes, we do have several staff meetings where we --
25 after implementation, we bring about review of all the

1 policies, and procedures.

2 Q Would you briefly tell the court what the health
3 staff consists of at Glades Correctional?

4 A At Glades Correctional, we have eight registered
5 nurses now. We have eight medical certified technicians.

6 Q Let me ask you about the medical technicians. Are
7 any of those graduates of medical school?

8 A Yes, they are from foreign medical school.

9 Q Do they hold a Degree of M.D.?

10 A In their country, they have to take, after that, they
11 have to take ECF and G, which will equal them to medical
12 school here, and they have to pass a license in the state
13 where they want to practice.

14 Q These are graduates of medical school that have not
15 yet been licensed to fully practice medicine?

16 A No, they can't do that.

17 Q In addition to eight registered nurses, and eight
18 medical technicians, is there any other staff at Glades?

19 A Yes, we have a licensed physician in the State of
20 Florida.

21 Q And who is that?

22 A Dr. Dow.

23 Q Is Dr. Do -- are Dr. Do and you the two licensed
24 physicians on the staff?

25 A Yes.

1 Q Spell his name?

2 A D o.

3 Q And is that essentially the health staff at Glades
4 Correctional?

5 A No. We have more additional staff. We have a
6 psychiatrist, Dr. Medina. We have psychologist, he is a
7 psychologist, specialist. We have also pharmacist. We
8 have dental department with two dentists, and two dental
9 assistants.

10 Q In respect to the HIV procedure which is a part of
11 the exhibit that you have in front of you, is there any
12 counseling associated with the giving of that?

13 A Yes, we have two counseling in that area. We have
14 the pre-testing counseling, and the post-testing
15 counseling.

16 Q In this HIV is a test given for inmates that may have
17 been exposed to the aids virus?

18 A Yes.

19 Q Let me show you what is to be marked the Defendant's
20 next numbered exhibit, and ask you if that is a copy of the
21 medical department records maintained under your
22 supervision?

23 A Yes, this is daily log on the patients Dr. Do sees,
24 and the other one is Dr. Medina, psychiatrist.

25 Q Which is Dr. Do's sheet, and which is Dr. Medina's

1 sheet?

2 A This one here, the front is Dr. Do.

3 Q I notice there are two dates on these, one 4/4/89,
4 and the other April 5th, '89, could you identify which
5 sheet the one dated 4/4/89 is?

6 A April 4th, '89 is Dr. Do, and the following date is
7 Dr. Medina.

8 Q On the sheets, is there any indication of visitation
9 by Mark White?

10 A Yes, sir. There is a name here, Mark White.

11 Q And where does that appear on the first sheet?

12 A Under number 17.

13 Q Number 17?

14 A Yes.

15 Q And is there any reference to Mark White on Dr.
16 Medina for April 5th, '89?

17 A Yes, there is one here, number 6.

18 Q Number 6?

19 A Right.

20 MR. DAVIS: Your Honor, we offer this into
21 evidence as the next numbered defense exhibit.

22 MR. LIPMAN: Objection, Your Honor, the
23 document wasn't prepared by Dr. Rodriguez. I have not
24 heard any indication that it is maintained by him in his
25 capacity as the medical officer of Glades.

1 MR. DAVIS: He indicated it was an official
2 record of the medical department which comes in under the
3 governmental exception of the Rule.

4 THE COURT: I think it gets into that exception
5 to the hearsay rule all right. I will receive it over that
6 objection. That is Defendant's 49.

7 MR. DAVIS: 49, Your Honor?

8 THE COURT: Yes.

9 (Defendant's Ex. 49 received into evidence.)

10 BY MR. DAVIS:

11 Q Let me show you what will be offered as Defendant's
12 No. 50 into evidence, and ask you if these are records
13 which are also generated by the medical department, and if
14 they are maintained under your medical department, and if
15 they are maintained under your custodian supervision.

16 My question, are these official records which are
17 maintained?

18 A In our medical records, yes.

19 MR. DAVIS: Your Honor, we offer these as
20 Defendant's Ex. No. 50.

21 THE COURT: Objection to these?

22 MR. LIPMAN: Same objection as the previous
23 exhibit.

24 THE COURT: All right. Received over that
25 objection.

1 (Defendant's Ex. 50 received into evidence.)

2 BY MR. DAVIS:

3 Q Doctor, let me ask you to refer to specific items in
4 here, and identify them, please. First the last page of
5 this exhibit, would you indicate what that is?

6 THE COURT: Last page of number 50?

7 MR. DAVIS: Yes.

8 THE WITNESS: This is the form we use from the
9 emergency room at our institution.

10 BY MR. DAVIS:

11 Q Is that in particular an emergency report for a
12 particular inmate?

13 A Yes. It has the name of Mark White, and he was seen
14 April 4th, 1989 at 2:45 P.M..

15 Q All right. Did that include a complaint of alleged
16 sexual assault?

17 A He said here April 3, 1989, he was raped time twice,
18 at 12 midnight and 3 a.m., 4/3/89, in DC number 5, by
19 another inmate under force.

20 Q All right. Who saw him on that occasion?

21 A According to this, Dr. Do.

22 Q Dr. Do?

23 A Yes.

24 Q Was there any indication of reference at that time
25 for counseling?

1 A Yes, here it says will see the doctor again in
2 morning for counseling.

3 Q All right, sir.

4 THE COURT: I can't read that, will see
5 something again in the morning for counseling.

6 MR. DAVIS: I think that is M.D..

7 Is that M.D.?

8 THE WITNESS: Will see M.D. again in the
9 morning for counseling, and I don't know the other word.
10 Testing, I don't know.

11 THE COURT: Yes, might be testing. Okay.

12 BY MR. DAVIS:

13 Q Let me go two sheets from that, and ask you what that
14 item is, entitled Glades General Hospital?

15 A Well, we do receive several of these forms, when we
16 send patients to Glades General Hospital to the emergency
17 room. We get some of the copies from the records there,
18 and this seems to be a record from Glades Hospital, the
19 emergency room.

20 Q Is this pursuant to the policy of referring sexual
21 assault victims to the local hospital for the forensic
22 examination?

23 A Yes.

24 Q And is this the referral for Mark White?

25 A It says here, Mark White, yes.

1 Q Okay. Going two more pages forward to a sheet, would
2 you identify what this sheet is first?

3 A Well, this is one of the progress notes that we use
4 in our medical record.

5 Q And what is the bold heading at the top?

6 A Glades Correctional Institution.

7 Q And what is the first date in the left-hand column?

8 A March 23, 1989.

9 Q Do you have any entries in that?

10 A Of myself?

11 Q Yes.

12 A Yes, sir.

13 Q And where is your entry?

14 A My entry April 6, 1989, 8 o'clock in the morning.

15 Q Where did you see the inmate April 6, 1989?

16 A Well, I do make rounds every evening in confinement,
17 and I go cell by cell, and I ask if there is anything wrong
18 with them, if they need any medication, if anybody is sick,
19 so we could bring them to the clinic, and examine them, or
20 if it is a minor thing, and we can treat them there.

21 In this case I happen to see Mr. White in
22 confinement, and seems like he has some kind of a problem
23 with his nose, and he asked for nasal spray, and I order
24 nasal spray for him.

25 Q Was that the only complaint he indicated?

- 1 A Yes, if it is anything else, I would have written it.
- 2 Q Now, the entry above it, 4/4/89, can you identify
3 whose entry that is?
- 4 A Well, that is from the nurse working the evening,
5 Mrs. Joch, and she is a registered nurse, a nurse
6 supervisor in the evening.
- 7 Q All right. What is that entry in reference to?
- 8 A It seems to be in reference to Mr. White and it said
9 -- You want me to read what she wrote?
- 10 Q Just describe the function of that entry?
- 11 A The nurse, she saw this inmate, and she questioned
12 him, and he was feeling nervous, and, so forth, and she
13 wrote here in the progress report.
- 14 Q Was there a referral to Dr. Medina here?
- 15 A Yes, after the assessment, she said call Dr. Medina,
16 and Dr. Medina, too anxious, something anxious, and he
17 recommended 75 milligrams PO by mouth, BID, twice a day,
18 Visteril, and then to see Dr. Medina in a.m., on April
19 5th, 1989, 9 o'clock.
- 20 Q So that --
- 21 A Telephone order by Dr. Medina.
- 22 Q She telephoned Dr. Medina, and prescribed medication
23 for him?
- 24 A Yes, and scheduled an appointment for the following
25 day.

1 Q Scheduled an appointment for the 5th at 9:15?

2 A Right.

3 Q Going to the first page in the group, could you
4 identify what that page is?

5 A Well, this is the progress note, or progress report,
6 on the mental -- we have two different kind. We have one
7 for the medical department, and one for the mental, and
8 this is one progress report on the mental health care.

9 Q And--

10 A Dated April 5th, 1989.

11 Q What time?

12 A 9:15 in the morning.

13 Q Who authored the report?

14 A Dr. Medina.

15 Q And who is the patient?

16 A The patient is Mark White.

17 Q Let me then move forward from that note, and also--
18 Incidentally, is there an indication that Dr. Medina had
19 previously been seeing the patient?

20 A Yes. Two entries here from the progress report, one
21 October 6, 1982, and one November 10, 1988.

22 Q Okay. And on the next page?

23 A There is one here, September 24, 1988, October 6,
24 1982.

25 Q Is that '82, or '88?

1 A '88, I am sorry.

2 Q Now, going forward to the next page, which is dated
3 4/18/88, would you identify what the purpose of that
4 particular entry is?

5 A Well, this is the progress report from the medical we
6 use, dated April 18, 1989, and it is signed by Dr. Do,
7 staff physician, and I believe this is in reference to the
8 fact that this man after having alleged that he was
9 involved in a rape, so forth, he probably went to HIV
10 testing.

11 Q This is HIV testing note?

12 A Counseling.

13 Q Does the note indicate whether he had counseling in
14 regard to the HIV testing procedure?

15 A Yes, sir, yes.

16 Q And who gave him the counseling?

17 A In this case, Dr. Do.

18 Q Is that the procedure which your department follows
19 today? That is, that the physician, you, or Dr. Do who is
20 prescribing the test does the counseling for HIV testing?

21 A We don't do counseling any longer. We do prescribe
22 the test. We don't do the counseling. We have special
23 counseling now, where they are trained, and at the present
24 time we have three persons involving this counseling. One
25 is a nurse supervisor, and the other one is a medical

1 technician, and the other a nurse practitioner.

2 Q And these people are trained for sexually related
3 disease and problems?

4 A Yes, they hold certificate to that effect.

5 MR. DAVIS: No further questions, Your Honor.

6 THE COURT: Any cross?

7 MR. LIPMAN: Yes, Your Honor.

8 THE COURT: We are going to have to stop at one
9 o'clock. We have a telephone conference for people
10 out-of-town coming in at that time.

11 CROSS-EXAMINATION

12 BY MR. LIPMAN:

13 Q Dr. Rodriguez, the HIV testing that you referred to,
14 that is required under Florida law, is that correct?

15 A Yes, sir.

16 Q Are you aware of that?

17 A Yes.

18 Q Do you know when that requirement came into effect?

19 A I don't know exactly what date.

20 Q The examination of Mr. White as reflected on the last
21 page of this Ex. 50, do you have that before you, doctor?

22 A You mean the one that was conducted at the emergency
23 room, at Glades General Hospital?

24 Q Yes.

25 A Yes, I have that page.

1 MR. LIPMAN: May I approach the witness, Your
2 Honor?

3 THE WITNESS: Is that the one?

4 BY MR. LIPMAN:

5 Q Right here. You see where I yellowed, under scored a
6 portion of the physical, physician's report of the last
7 page of the emergency room, right here?

8 A Yes.

9 Q It states visual exam, redness to anal orifice, is
10 that correct?

11 A Correct.

12 Q Would that be consistent with -- would that finding
13 be consistent with a sexual assault?

14 A Could be.

15 Q That you would expect redness of the anal orifice?

16 A Could be.

17 Q All right. When you or Dr. Do or not are on duty,
18 are there any physicians that are present in the medical
19 center?

20 A You mean other physician beside me, and Dr. Do?

21 Q Yes.

22 A Well, the other physician is Dr. Medina, who is a
23 licensed physician in Florida.

24 Q And he acts as both a psychiatrist, and general
25 physician?

1 A No, he is just a psychiatrist.

2 Q So, when you or -- when both you and Dr. Do are not
3 on duty, there are no other acting physicians except for
4 Dr. Medina who is a psychiatrist?

5 A No. Maybe Dr. Medina might not be there, either, we
6 have certain hours of working in the institution, although
7 we are on call on weekends.

8 Q Who is on duty when you and Dr. Do are not on duty?

9 A We have a nurse practitioner that comes three times a
10 week, and we refer patients to the hospital, Glades General
11 Hospital, if it is a case that needs to be referred there.

12 Q And last week, how many hours did you and Dr. Do,
13 were you on duty at the hospital?

14 A Well, Dr. Do work 40 hours a week. I work sometime
15 longer than that.

16 Q You had indicated that sometime in 1987, the rules
17 were changed for sexual assault victims?

18 A Yes.

19 Q And you indicated that you refer those inmates who
20 have indicated that they have been sexually assaulted for
21 psychiatric care?

22 A Yes. We have alerted the staff and taught the staff
23 that was the procedure.

24 Q Since January 1986, other than Mark White, could you
25 name any other inmates that have been referred for

1 psychiatric care to Dr. Medina?

2 A You mean 1986?

3 Q Yes, since January, 1986, other than Mark White, what
4 other inmates have been referred?

5 A I don't recall. I recall having sent two patients to
6 Dr. Medina. I would say in '85, '84, I don't know '86, two
7 patients to Dr. Medina, I recall around that time.

8 Q All right.

9 MR. LIPMAN: Your Honor, I have a few more
10 questions.

11 THE COURT: We are going to have to stop.

12 MR. LIPMAN: I will be quick afterwards.

13 THE COURT: All right. I hoped we got through
14 not only Dr. Rodriguez, but several others.

15 We will be in recess, it has to be about 2:15. We
16 have one other hearing, plus this telephone thing, and we
17 have to get a bite to eat. We will recess until 2:15.

18 (Thereupon, a recess was taken at 1:00 p.m.)

19 (Thereupon, court reconvened at 2:30 p.m.)

20 THE COURT: Doctor, have a seat. Sorry we kept
21 you all through lunch. Those things happen.

22 BY MR. LIPMAN:

23 Q I just have a few more questions.

24 Dr. Rodriguez, just to expedite this, let me refer
25 you to the exhibit we have been going over. This is

1 Defendant's Ex. 50, and some earlier portion of the
2 proceedings I asked you about Dr. Medina's report of April,
3 1989, in which he had seen Mr. White.

4 There is no reference, is there, as to the length of
5 time that he saw the inmate, is there?

6 A No, sir.

7 Q There is no indication that he saw him for any
8 subsequent time for the rape or alleged assault that
9 occurred. He was seen for other things?

10 A Not according to his record.

11 Q Is there any reference that you can discern in Dr.
12 Medina's records that would indicate that an alleged
13 assault had occurred?

14 A No, sir.

15 MR. LIPMAN: I have no further questions.

16 THE COURT: All right. Redirect, sir?

17 MR. DAVIS: I have no further questions, Your
18 Honor.

19 THE COURT: Thank you, Dr. Rodriguez, you are
20 excused.

21 (Witness excused.)

22 GARY LANE, DEFENSE WITNESS PREVIOUSLY SWORN.

23 THE COURT: Please be seated. You've testified
24 previously, haven't you, Mr. Lane?

25 THE WITNESS: Yes.

1 THE COURT: State your name for the record.

2 THE WITNESS: Gary Lane.

3 THE COURT: You may proceed.

4 DIRECT EXAMINATION

5 BY MR. DAVIS:

6 Q Mr. Lane, you testified previously. Are you acting
7 chief of the psychology department at Glades Correctional?

8 A Acting psychologist, yes.

9 Q Okay. Let me show you what would be offered as the
10 next defense exhibit. Defendant's 51, and ask you if you
11 recognize that?

12 A Yes, I do.

13 Q Is this a document which is an official record of the
14 psychology department of Glades Correctional?

15 A Yes.

16 MR. DAVIS: Your Honor, we would offer Ex. 51.

17 MR. AMLONG: Without objection.

18 THE COURT: All right. It is received without
19 objection.

20 (Defendant's Ex. 51 received into evidence.)

21 BY MR. DAVIS:

22 Q Would you describe what this document is?

23 A Yes, this is a mental status evaluation that is
24 performed on the inmates when they have been in confinement
25 for 30 days, and 30 days thereafter. This is a copy of one

1 done on Mark White.

2 Q And what is the date of that?

3 A This is April 6, 1989.

4 Q And who was it that performed -- What did you refer
5 to it as?

6 A This is a mental status evaluation.

7 Q Who perform the mental status evaluation of Mark
8 White?

9 A This is done by the mental therapist.

10 Q And there is another indication on there, or another
11 stamp appears, what is that?

12 A This is to indicate that the Ph.D. psychologist
13 present at that time had reviewed this, and approved it.

14 Q And who was that?

15 A Doctor Pamela Green.

16 Q Let me show you Defendant's 52 into evidence, and ask
17 you if you recognize this document?

18 A Yes.

19 Q And what is this?

20 A This is a mental status evaluation which would be
21 done in response to the Chaplain's request. This is an
22 evaluation prior to the inmate receiving final approval for
23 marriage.

24 Q And who is the inmate?

25 A This inmate is Mark White.

1 Q And who authored the evaluation?

2 A I did this evaluation.

3 Q And also contains a second signature. Who is that?

4 A That would be Dr. Pamela Green.

5 Q And what function did she serve in respect to this
6 evaluation?

7 A She was my supervisor at that time. All information
8 that went into this had to be approved by her prior to my
9 signature.

10 MR. DAVIS: Your Honor, we would offer exhibit
11 52 into evidence.

12 THE COURT: What is the date of it?

13 MR. DAVIS: The date of it is 12/22/88.

14 THE COURT: Any objection, gentlemen?

15 MR. AMLONG: Your Honor, this is the first time
16 I have seen this. I acknowledge that it is a business
17 record, and an official record. It may contain internal
18 hearsay which I haven't had a chance to look at.

19 MR. DAVIS: We have no purpose -- no intention
20 of introducing it for the proof of anything, secondhand
21 hearsay, or hearsay upon hearsay.

22 MR. AMLONG: What is the purpose of introducing
23 it?

24 MR. DAVIS: The purpose is to show the prior
25 evaluation of the patient to fit in with the post-event

1 evaluations of the patient, and to show, among other
2 things, the patient was receiving psychological services
3 for some period of time. The document refers to additional
4 services.

5 MR. AMLONG: Your Honor, this predates the
6 alleged rape by -- the dates of testing are four and five
7 months prior to it. The actual date of the generation of
8 the report is four and a half months prior to it. I am
9 further objecting to its relevancy. We are not saying they
10 don't have a psychological department. We are saying they
11 don't provide counseling to rape victims. At this time, he
12 was not a rape victim.

13 MR. DAVIS: I think, Your Honor, in reviewing
14 the post-event records, they fit in with the pre-event
15 records to indicate the patient had received a course of
16 treatment, and also showed he knew he was through the
17 psychology department, and was familiar with psychological
18 services. He felt that he needed them. And that it was
19 not a situation of somebody who had never been treated or
20 had received or had delivered to him psychological
21 services. The man was one fully familiar with the receipt
22 or delivery of the psychological services, in addition to
23 showing his evaluation beforehand.

24 THE COURT: I will receive it over objection of
25 counsel for the plaintiff.

1 (Defendant's Ex. 52 received into evidence.)

2 BY MR. DAVIS:

3 Q Mr. Lane, you testified several days ago in respect
4 to a question involving your training in the area of rape
5 crisis management, and I believe your testimony was that
6 you had not had any specific courses in rape crisis
7 management. Is that correct?

8 A That is correct.

9 Q Had you in your training had, or in the course of
10 your preparation for your degree, received training in
11 crisis management technique?

12 A Yes, I have.

13 Q What is crisis management technique?

14 A The course work toward the doctorate degree that I am
15 taking now does have course work in psychotherapy and
16 counseling which incorporates crisis intervention as part
17 of the crisis management, and part of the course. This is
18 dealing with any psychological trauma that may befall an
19 individual, and how to deal with that psychological trauma,
20 various methods of dealing with it.

21 Q Would the principles and the crisis management
22 technique be applicable to a range of traumatic crisis
23 problems, including rape crisis?

24 A Yes, we put all psychological trauma under the
25 heading of the crisis management in this particular case.

1 MR. DAVIS: Your Honor, no further questions.

2 THE COURT: Cross-examination, please.

3 MR. AMLONG: Your Honor, may I have a moment to
4 finish my review of this.

5 THE COURT: Yes, go ahead.

6 CROSS-EXAMINATION

7 BY MR. AMLONG:

8 Q Mr. Lane, crisis management technique to rape
9 victims, have you ever applied those crisis techniques to
10 any of the inmates at Glades Correctional Institution?

11 A I have applied no crisis management technique to any
12 rape victim.

13 Q What is the educational background of Jose' Rendone,
14 the rehabilitation therapist?

15 A Mr. Rendone has a Bachelor of Science Degree in the
16 social sciences, and Master's Degree in Divinity.

17 Q He is not employed as a psychologist, is he?

18 A No.

19 Q How long does it take to do a mental status
20 examination of an inmate in confinement?

21 A Anywhere from 10 to 15 minutes.

22 Q Do you have any idea how long this one took?

23 A No.

24 Q And nowhere on here does it note he had been a rape
25 victim, does it?

1 A No.

2 Q Would his being a rape victim be significant?

3 A If it were significant to him, and he brought this
4 out at that time, it would certainly be put on this sheet,
5 yes.

6 Q He had a preexisting adjustment disorder with anxious
7 mood, in remission, and withdrawing, independent of a
8 personality trait, did he not?

9 A Are you basing this on the evaluation I did?

10 Q Yes.

11 A Yes, that was the diagnosis that I rendered in this
12 case.

13 Q And that diagnosis of adjustment disorder preceded
14 the rape?

15 A Yes.

16 Q All right. Thank you.

17 MR. AMLONG: No further questions.

18 MR. DAVIS: No further questions, Your Honor.

19 THE COURT: Okay, you may step down, thank you,
20 sir.

21 (Witness excused.)

22 RONNIE WHITE, DEFENSE WITNESS SWORN

23 THE COURT: Please be seated.

24

25

DIRECT EXAMINATION

1
2 BY MR. DAVIS:

3 Q State your name, please.

4 A Ronnie White.

5 Q Mr. White, where do you reside?

6 A Clewiston, Florida.

7 Q What is your employment?

8 A I work at Glades Correctional Institution.

9 Q What is your position?

10 A I am a correctional training officer.

11 Q And what function does correctional training officer
12 perform?

13 A Basically he co-ordinates training for the staff at
14 the institution.

15 Q Which staff does that apply to?

16 A All the staff.

17 Q And in respect to the -- to your background, could
18 you give the court some indication of that, both, your
19 education and in respect to your work?

20 A I have a Bachelor's Degree in Criminal Justice. I
21 started off my career with the Department of Corrections as
22 an officer. I worked as a probation and parole officer,
23 classification officer, and training officer.

24 Q How long have you been employed at Glades
25 Correctional?

1 A Since September '88.

2 Q Prior to that?

3 A Martin Correctional Institution.

4 Q Would you tell the court, please, what the amount of
5 training is required of a new recruit for a correctional
6 officer position at Glades Correctional?

7 A Upon his being hired, he goes through a 40 hour
8 orientation to the rules and regulations of the
9 institution, and some of the State rules and regulations.
10 Then when the Basic Recruit Academy is scheduled, he is
11 required to successfully complete a 480 hour program
12 established by the Florida Department of Law Enforcement
13 Division of Standards and Training.

14 Q All right. Let me show you what would be offered as
15 Defendant's Ex. No. 53 into evidence. Let me ask you if
16 you recognize, or are familiar with these documents?

17 A Yes, I am.

18 Q Are these documents records of Glades Correctional
19 Institutional?

20 A Pardon me?

21 Q Are these documents of Glades Correctional
22 Institution?

23 A The first three pages of are the mandatory subjects
24 established by the training department in Tallahassee for
25 the entire state.

1 Q Are those the training regulations that apply to
2 Glades Correctional?

3 A Yes.

4 Q And those are, in fact, at Glades?

5 A Yes.

6 Q And what is the final page?

7 A The legal size page is a copy of the orientation
8 schedule that is run when we have enough people to
9 establish orientation for new employees.

10 Q The final page on this sheet, is that the 40 hour
11 initial course that you refer to?

12 A Yes, sir.

13 MR. DAVIS: Your Honor, we offer Ex. 53 into
14 evidence.

15 THE COURT: Gentlemen, do you have any
16 objection to that?

17 MR. AMLONG: No, Your Honor.

18 THE COURT: All right. It is received without
19 objection.

20 (Defendant's Ex. 53 received into evidence.)

21 BY MR. DAVIS:

22 Q After a recruit is hired, and he received the 40 hour
23 training, does he receive any further training?

24 A Yes, he does.

25 Q And what is that?

1 A He goes through the Basic Recruit Academy at Palm
2 Beach Community College, Glades campus.

3 Q And what does the curriculum consist of in terms of
4 hours?

5 A It is a minimum requirement of 411 hours, and the
6 program that Palm Beach Community College puts on is 480
7 hours.

8 Q So that is in excess of the required minimum?

9 A Yes.

10 Q Let me show you what will be offered into evidence as
11 Ex. 54 of the defendant, and ask you if you recognize the
12 documents there?

13 A Yes, I do.

14 Q And what do these documents reflect?

15 A The first five pages is the curriculum summary of the
16 basic recruit program, and then the schedules that follow
17 is the basic recruit schedule presented by Palm Beach
18 Community College, Glades campus.

19 Q All right.

20 MR. DAVIS: Your Honor, we offer this as
21 Defendant's Ex. 54 into evidence.

22 THE COURT: Objection?

23 MR. AMLONG: No.

24 THE COURT: It is received without objection.

25 (Defendant's Ex. 54 received into evidence.)

1 BY MR. DAVIS:

2 Q Going back to 53, you described the legal size page,
3 what is the document that is on the letter size page on Ex.
4 No. 53?

5 A These are topics that are considered mandatory
6 training areas by the Bureau of Staff Development in
7 Tallahassee.

8 Q And what purpose do they serve in the training of the
9 correctional officer staff at Glades Correctional? Are
10 these part of the basic original training program?

11 A Some of them are part of the basic curriculum, but
12 they are in addition to the training they have to have
13 every year.

14 Q Is that then a continuing educational curriculum?

15 A Yes, it is.

16 Q How many hours of continuing educational curriculum
17 from that list is required each year?

18 A Of this particular list?

19 Q How many hours of continuing educational courses are
20 required?

21 A Correctional officers are required to have 40 hours
22 of training each year.

23 Q Do they come from that list of topics?

24 A Some of them do, yes.

25 Q Is there additional training that officers have

1 available to them besides the prescribed courses that are
2 evidence here?

3 A Yes, there is.

4 Q What is that?

5 A The Department of Criminal Justice Standard and
6 Training have established a set of 33 courses of
7 approximately 40 hours each that the officers have an
8 opportunity to take, and once they take 240 hour blocks,
9 they received salary and benefits for it.

10 Q Is there a term for those courses?

11 A They are advanced courses.

12 Q Now, within the basic curriculum, the required
13 curriculum which a correctional officer must receive at
14 Glades Correctional, is there any training which teaches
15 the correctional officers to be sensitive to the needs and
16 the problems of inmates?

17 A Would you repeat that, please?

18 Q Is there any portion of the curriculum which
19 instructs the correctional officers in the needs of the
20 inmates and the importance of being sensitive to those
21 needs?

22 A In the Basic Recruit Academy, we have approximately
23 an 86 hour block of interpersonal training, and in that
24 block, quite a few subjects are taught in that area.

25 Q Does that teach the staff to recognize problems that

1 inmates might have that might require additional services?

2 A Yes.

3 MR. DAVIS: Your Honor, I have no further
4 questions.

5 THE COURT: Cross.

6 CROSS-EXAMINATION

7 BY MR. TUCKER:

8 Q Good afternoon. Mr. White, do you have any training
9 specifically in the investigation of homosexual rape?

10 A Do I?

11 Q Yes, sir?

12 A No.

13 Q Do you teach any courses in your training position on
14 that subject?

15 A On--

16 Q On the subject of investigation of homosexual rape?

17 A No, I don't.

18 Q Have you ever investigated a homosexual rape at
19 Glades?

20 A I have never investigated anything.

21 MR. TUCKER: No further questions.

22 THE COURT: Redirect.

23 REDIRECT EXAMINATION

24 BY MR. DAVIS:

25 Q You are not the instructor of the entire course, are

1 you?

2 A No.

3 Q Is there a faculty which teaches at the Palm Beach
4 Community College that teaches this curriculum?

5 A The biggest majority of people that teach the
6 curriculum are people that have been certified through
7 Criminal Justice Training and Standards, and not
8 necessarily the faculty of the college.

9 Q Are members of the faculty also involved in the
10 program?

11 A We have people that are adjunct faculty members, yes,
12 that teach.

13 MR. DAVIS: No further questions.

14 THE COURT: All right. You can step down,
15 thank you, sir.

16 (Thereupon, the witness was excused.)

17 MR. DAVIS: Your Honor, at this time, the
18 defense would rest.

19 MR. AMLONG: The plaintiffs have no rebuttal.
20 Your Honor.

21 THE COURT: You are saying plaintiffs have no
22 rebuttal?

23 MR. AMLONG: No rebuttal.

24 THE COURT: All right. That winds up the
25 presentation of the evidence, then. I want you to check

1 before you leave to be sure we have all the exhibits that
2 have been offered in evidence either for receipt in
3 evidence, or for identification.

4 MR. DAVIS: Your Honor, there is one problem,
5 that is the document identified by counsel as what were the
6 back pages of the original copy we have did not get copied
7 on the other copies. We need to copy those, and provide
8 them to counsel, and to the court.

9 THE COURT: All right. Suppose you take that
10 exhibit. Which one is it? I don't remember the number
11 offhand.

12 MR. TUCKER: I believe that was Ex. 30.

13 THE COURT: Seems to me it was Defendant's No.
14 30, operating procedures, or was it 31?

15 MR. DAVIS: 30. We will copy the entire --
16 this is a double sided original.

17 MR. AMLONG: Why don't we substitute that as
18 the exhibit.

19 MR. DAVIS: That is fine.

20 MR. AMLONG: I believe the videotape was
21 admitted.

22 MR. DAVIS: If we could have, Your Honor, since
23 I think we have indicated the opportunity to provide some
24 objections on some other matter through the time that we do
25 our -- to address objections in the proposed findings, if

1 we should see anything in the video tape if we could raise
2 it at that time.

3 I don't see it being a real problem. The vast
4 majority of the videotape will be admissible. If we have
5 any objections, it would be to the verbal.

6 THE COURT: Only to the audio part of it?

7 MR. DAVIS: Right, that the only thing we would
8 have objection to, and we could note what those are, and
9 the court could make your ruling on it.

10 MR. AMLONG: The only part of the audio that is
11 going to be in evidence is the part that the court reporter
12 transcribed because she was sitting there listening to the
13 audio, whenever it was fast forwarded, there was no audio,
14 and since we are having this transcribed.

15 MR. DAVIS: That is true as far as testimonial,
16 or presentational evidence, but the real evidence contains
17 dialogue which was not transcribed, which will still be in
18 evidence because it was part of the exhibit. It has
19 evidentiary value. I see it being no serious problem. We
20 will indicate which wording, and since we have been
21 provided with a videotape, we could indicate what time
22 sequence it is, and what the words are, and what our
23 objection is, and the court can rule on that basis, leaving
24 the videotape in evidence.

25 THE COURT: Okay. If you want to make a

1 stipulation in that respect, go ahead and do so. I tell
2 you, frankly, I am not planning to look at the videotape
3 again. You may want to have your stipulation for whatever
4 review there might be.

5 MR. AMLONG: That is fine, if you have any
6 objection, specify them. All the material that has been
7 transcribed by the court reporter would not be subject to a
8 non-contemporaneous objection.

9 MR. DAVIS: We have no objection what is
10 previously heard, and transcribed.

11 THE COURT: All right. I will count on you to
12 take care of that and I will approve it whatever it is. Go
13 over the rest of the exhibits, and be sure they are all
14 here. We will keep them for awhile. In this case, it is
15 going to have to go to the appellate court. We will have
16 the clerk keep these exhibits, and send them up.

17 MR. DAVIS: Actually, it is not on appeal. The
18 court order, it did not have jurisdiction, because it was
19 not final. Once--

20 MR. AMLONG: I have a strong idea you are going
21 to do just that.

22 MR. DAVIS: One or the other of us of us will.

23 MR. AMLONG: So it is going up anyway. If it
24 would facilitate if the court would keep the exhibits.

25 THE COURT: Ordinarily, we like the lawyers to

1 take the exhibits back. Just recently we were informed
2 that the appellate court is bent out of shape because we
3 enter into the stipulations which is contrary to some
4 appellate rule that we are supposed to keep them. We are
5 probably going to have to do that now in all cases. We
6 might as well start with this one.

7 MR. AMLONG: The court will take comfort in the
8 fact you won't have to keep this for more than 30 days.

9 MR. DAVIS: There is one other evidence. That
10 is the motley collection of shanks we have.

11 THE COURT: You said you would photograph
12 those.

13 MR. DAVIS: I didn't want to waste the entire
14 roll of film with one picture. Within the next few days,
15 when we use up the roll, we will send copies of the print
16 to counsel, and a copy to the court as an exhibit, which
17 would be the next numbered exhibit, I guess.

18 THE COURT: Okay, I will make a note of that.

19 MR. DAVIS: That will be 55. We will mark it
20 as Defendant's 55.

21 THE COURT: And then in 30 days you will let us
22 have your proposed disposition of this case along with
23 whatever briefing. It will be sixty days, if you take all
24 the time we are allowing. And then we will take a look at
25 it.

1 Is there anything else we ought to put in the record,
2 gentlemen?

3 MR. DAVIS: No.

4 MR. AMLONG: No.

5 THE COURT: If not, I appreciate your
6 presentation. It has been a very good one from the
7 standpoint of lawyers on both sides.

8 The ball is in our court now.

9 MR. AMLONG: Your Honor, I was speaking with
10 your law clerk, I believe the court personnel use Word
11 Perfect, and I was proposing in addition to submitting
12 written proposals that we submit discs with the proposals.

13 THE COURT: Okay, that will be real helpful.

14 (Thereupon, the hearing was concluded.)

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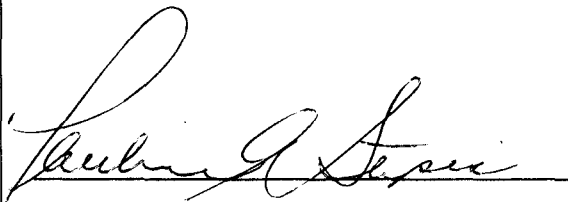
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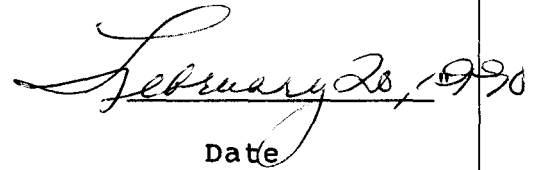
CERTIFICATION

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"I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled
matter.



Official Reporter



Date