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WILLIAM H. EDEL
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KELLY FLEMMING, et al.,)
)
 Plaintiff,)
)
 v.)
)
 HAROLD W. CLARKE, et al.,)
)
 Defendant.)

4:CV93-3262

COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C. § 1983

I. Previous Lawsuits:

No previous lawsuits on this matter have been filed.

II. Present place of confinement:

Lincoln Correctional Center

A. The facts relating to this complaint were filed in a Step One prisoner grievance to John J. Dahm. He states that no relief will be given. A Step Two grievance was not filed due to the difficulties the administration was creating in obtaining these.

III. Parties:

A. Plaintiff: Kelly Flemming

Address: P.O. Box 22800, Lincoln, NE 68542-2800

B. Defendant: Harold Clarke is employed as Director at the Nebraska Department of Correctional Services.

C. Additional Plaintiffs:

Flemming v. Clarke



PC-NE-001-001

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U.S. DISTRICT COURT
LINCOLN

1. Robert Lott
2. Michael Day
3. James Brandon
4. Mark Pearce
5. Cedric Hamilton
6. John Horn
7. Donald Atkinson
8. Scott Brown
9. Luke Soule
10. George Shepherd
11. Eric McCain
12. Cornel Burnett
13. James Monie
14. Nate Jacobs
15. Charles Campbell
16. Paul Kavan
17. Terrance Johnson
18. Phillip Bowen
19. William Toney
20. Edward Ellison
21. Chris Bazer
22. Dana Jones
23. Jacquas Martin
24. David Ware
25. George Kohtz
26. Larry Douglas
27. Cornell Kellog
28. Michael Prim
29. Keith Jury
30. Richard Hatterman
31. Calvin White

D. Additional Defendants:

1. John J. Dahm, Warden, Lincoln Correctional Center for the facts alleged in complaint. Currently warden at the Omaha Correctional Center.
2. Robert P. Houston, Warden, Lincoln Correctional Center.

IV. STATEMENT OF CLAIM

1. The housing units are undersized, understaffed, and overcrowded to meet the needs of the population at the Lincoln Correctional Center (L.C.C.). The physical size of the rooms and general day areas are not adequate to meet the size of the population. There is a noise pollution problem in all areas of the institution due to overcrowding.

2. Most areas of the institution are understaffed to meet the needs of the population at L.C.C. This creates an immediate danger to inmates who can fall pray to predatory inmates. Since the institution was opened the number of violent acts of inmate v. inmate, inmate v. staff, and staff v. inmate has increased dramatically, while the number of staff has decreased.

3. The laundry facility at L.C.C. is inadequate to meet the needs of the population. The washing and drying machines are filled to overcapacity in an effort to get all of the laundry done. This creates a situation where the laundry is not fully cleaned and is unsanitary. The overloading of the machines is evident of the fact that they are consistently breaking down and the condition of the clothes when they are returned to the inmate.

4. The kitchen is inadequate, understaffed, and under-

funded to meet the needs of the population at L.C.C. The food itself lacks in nutritional value and content. Most meals are high in fat and undercooked. This is a result of the kitchen being forced to cook many more meals than it was designed to.

5. The medical staff is inadequate to meet the needs of the growing population at L.C.C. This is evident in the fact that it takes longer for inmates to get on the "sick-call" list. Also, the medical staff are forced to overbook its allotted times and many inmates are given only cursory examinations. This has created a dangerous situation to many inmates who have legitimate medical problems.

6. The library, law library, and legal aide services are understaffed and underfunded to meet the needs of the population at L.C.C. The law library is required by law to meet standards. Legal aides are necessary to assist inmates who are illiterate or unable to comprehend the law. Also, the equipment used by legal aides and inmates using the law library is inadequate. The typewriters are too few and consistently break down from constant use. Many inmates are having to wait too long to make a legal filing because of this situation.

7. The mental health facilities are understaffed and underfunded to meet the needs of the population at L.C.C.

Psychiatric evaluations are required for inmates who are up for parole or custody changes. There is a backlog of inmates who have been waiting from six to eighteen months for these evaluations. This also creates a situation detrimental to an inmates good mental health.

8. The increases of inmates has decreased the available resources that inmates had to rehabilitate themselves. This is evident in the fact that many and very possibly all of the programs available to inmates has either been closed or are being considered for closing. these include vocational training, college classes, and therapy programs. This creates a situation where by inmates are strictly warehoused.

9. The visiting room is inadequate to meet the needs of the population at L.C.C. The space available and the time slots available have decreased while the inmate population have increased. This is a strain on the marital and family relationships of every inmate who receives visits. It also contributes to inmates not receiving regular visits.

10. The above situations creates an atmosphere of tension among inmates. This increase of tension further contributes to the increases in violence and abuse.

11. Inmates filed grievances to John J. Dahm. His response was that individual complaints should be handled

by unit staff. He acknowledged that he was aware of the overcrowding, but he did not state anything that he could or would do. Part of Mr. Dahm's area of responsibility at the Lincoln Correctional Center as warden is to ensure that the prisoners remain free from an Eighth amendment violation of cruel and unusual punishment.

12. Mr. Harold W. Clarke has acknowledged, in an open session of the legislature that he is aware of the overcrowding at L.C.C. Also, it is part of his area of responsibility to ensure that there are no Eighth amendment violations of cruel and unusual punishment at the Lincoln Correctional Center. Mr Clarke is aware of the situation but has been unwilling or unable to change this situation.

13. The physical space of the rooms at the Lincoln Correctional Center is designed to house one (1) inmate. Currently they are being used to house two (2) inmates. This increases the chance that an inmate may be assaulted and is a danger to inmates physical as well as mental health. Rooms are overloaded and increase the spread of communicable diseases. The defendants have all been a part of the policy that created this situation.

14. Robert P. Houston is the current warden of the Lincoln Correctional Center and it is his responsibility to

ensure that the facility is not in violation of the Eighth
Amendment.

V. Relief

1. That the current population at L.C.C. be downsized to that of ninety-five (95) percent of it's rated design capacity. This should be implamented by releasing three inmates for every one that is brought into the institution until the capacity is at ninety-five (95) percent. Then policy should be inmplamented so that for every one inmate who comes into the institution, one must be released.

2. That staff levels at the institution be increased to meet the needs of the institution.

3. That the defendants be mandated to keep all the current rehabilitation programs in place.

4. That the visitation facilities be updated to meet the needs of the population. Also, that the time slots available be broadened to meet these needs.

5. That the laundry, medical, and kitchen staffs be increased to meet the needs of the population. That these facilities be upgraded to a standard that would be adequate.

6. That the law library, library, and legal aide staffs and facilities be upgraded, updated, and increased to meet the needs of the population. This would include legal materials and books.

7. That the current mental health programs be kept running and that the staffs of these programs be increased to meet the needs of the population.

8. The defendants be ordered to return cells back to a one man occupancy level.

9. The defendants be ordered to make and implement policy to enforce this entire relief section.

VI. The plaintiffs request that counsel be appointed to represent their claim. Being that prisoners have limited resources and abilities to contact potential lawyers, compounded by the fact that there are multiple plaintiffs, the plaintiffs have been unable to retain counsel.

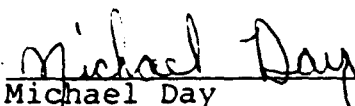
SIGNED this 19 day of June, 1993.



Kelly Flemming



Robert Lott



Michael Day

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James Brandon

Mark Pearce
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Cedric Hamilton
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John Horn
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Nate S. Jacobs
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Charles Campbell
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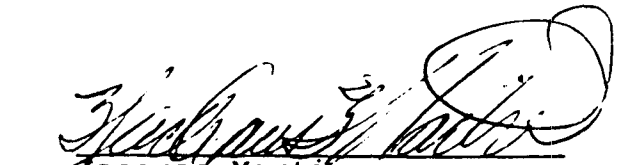
Phillip Bowen
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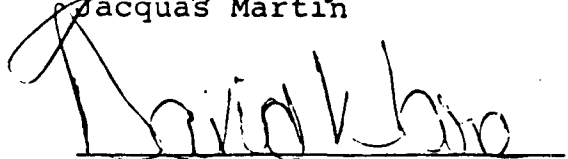
William H. Toney
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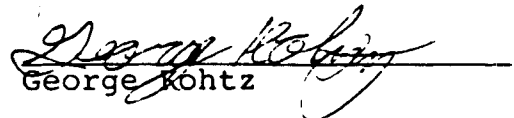
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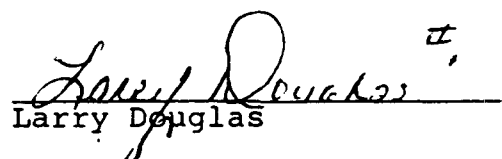
Chris Bazer
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Dana Jones
Dana Jones


Jacques Martin

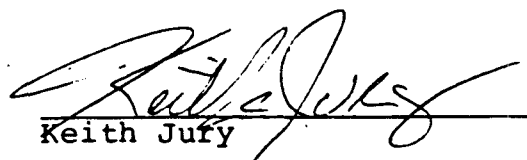

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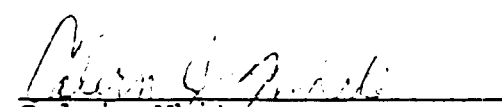

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