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*Sorry your copy looks used -  
it has been! Since I have no copy  
service etc. etc., I used this one as my  
working draft - Hope you don't mind -  
I have given away this first one and hope I  
can bring the defendants around I have been promised  
everything by Vince H. -  
Let me know if you have anything on Salts -*

May 11, 1984

*Allen*

The Honorable Edward C. Reed  
Judge, U.S. District Court  
300 Booth Street, Room 5003  
Reno, Nevada 89509

Dear Judge Reed,

Attached find a copy of the First Progress Report on Compliance with Stipulated Settlement Agreement in the case of Shapley vs. O'Callaghan, NO. CU-R-77-221-ECR.

It is my intention to make the second progress report in early September with the final report being made in January, 1985.

The Court and all parties have received copies of this report. I will be happy to answer any questions that you may have about the process or contents of this report.

Sincerely yours,

*Allen F. Breed*  
Allen F. Breed  
Court Auditor

AFB/vb  
Encl.  
cc: Vernon Housewright  
Charles Zeh  
Claudia Wright ✓  
Ernest E. Adler

Shapley v. O'Callaghan



PC-NV-005-004

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

BILLY SHAPLEY, et al.,	)	
	)	
Plaintiffs	)	CASE NO. CV-R-77-221-ECR
	)	
vs.	)	First Progress Report On
	)	
MICHAEL O'CALLAGHAN, et al.,	)	Compliance With Stipulated
	)	
Defendants	)	Settlement Agreement
	)	
	)	

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This is a class action which concerns conditions of confinement at the Nevada State Prison (NSP), a maximum security institution which is a part of the Department of Prisons, State of Nevada. Parties presented, and the Court approved, a Stipulated Settlement Agreement on August 19, 1983. As an integral part of the settlement, parties agreed to retain an independent auditor to observe and report upon compliance with the terms of the Agreement. The Auditor was instructed to prepare reports summarizing findings and evaluations three (3) times during the sixteen (16) month period of the Agreement and provide copies of such reports to counsel for both parties and to the Court. This is the first of the three required reports.

As an introduction to this progress report, it is important that the reader recognize a framework of conditions around which it was prepared.

1. The writer was not officially appointed by the Court as Auditor until February 8, 1984. Time allowed for only two relatively short visits to the Nevada State Prison after that date, and this first progress report should be considered as general observations and not specific findings.
2. The Agreement contemplates a period of sixteen (16) months during which the defendants are obligated to improve certain conditions of confinement of the Plaintiff class. This interim period commenced on August 19, 1983, and will conclude on December 19, 1984, unless the plaintiffs or defendants show good cause upon motion filed prior to termination why the Agreement should be modified, or the Court's jurisdiction continued. The Auditor has the authority, sua sponte,

- to extend the period of this Agreement for an additional twelve (12) months to allow for compliance.
3. As a part of the Agreement, the defendants are required to act immediately to comply fully with the Consent Decree entered in the case of Craig vs. Hocker. CV-R-2662-BRT, dated July 18, 1980. Therefore in reporting as to compliance on this Agreement, all issues addressed in Craig vs. Hocker will be incorporated for review. It should initially be noted that few, if any, of the time requirements originally established in Craig vs. Hocker were met.
  4. Since the provisions of Part I, A, of the Craig vs. Hocker Agreement apply equally to the inmates of Protective Custody and Administrative Segregation classes, the report will cover both groups under the Administrative Segregation section.
  5. The Auditor wishes to express his appreciation for the professional manner in which counsel for both plaintiffs and defendants have approached the compliance process, and for the assistance they have given in terms of orientation to the case. The Department of Prisons has been most cooperative in providing an "open door policy" with unobstructed access to staff, inmates, programs, files, records and other documents. Without their assistance and cooperation the current task would not be possible.
  6. The following format will be used in the writer's audit report:
    - I. SPECIFIC AGREEMENT
    - II. OBSERVATIONS (This will be changed to FINDINGS in the Second and Third Progress Reports)
    - III. RECOMMENDATIONS

## I Agreement     APPENDIX I - Physical Facilities

### A. Renovations

Defendants shall:

1. Subject to appropriations:
  - (a) remodel the plumbing and electrical system in both A and B blocks and refurbish the same.
  - (b) create forty-six (46) new larger cells of no less than 60 square feet on the third and fourth floors of A and B blocks.
2. Regardless of appropriations levels:
  - (a) repair or replace locking devices and systems in said cell blocks throughout the institution and
  - (b) operate A and B blocks consistent with life/safety and public health codes.
3. In the event appropriations referred to in Paragraph (1) are not forthcoming, limit the population to the current occupancy of 103.

### II. Observations

No appropriation was provided by the State Legislature, and consequently there has been no remodeling or refurbishing of A and B blocks of the Nevada State Prison.

The Agreement calls for a limit on the population of these two blocks of 103 inmates if remodeling was not done. In reviewing the population counts for the past several months it is noted that the defendants are generally complying with this limit. There are several examples within the two month audit period when the population count reached 104. However, it is obvious that administration has made a good faith effort to remain within capacity levels.

The Agreement also requires that the locking devices in these two blocks be repaired or replaced and that padlocks no longer be used. The defendants have expended approximately \$7,000.00 in the repair of locks and the use of padlocks on cells has been discontinued. The adequacy of repair will be further reviewed in the next report.

Life/safety and public health codes will be addressed extensively during an inspection of the prison by the State Fire Marshall and the State Public Health Sanitarian in May. Of immediate concern, however, are the numerous penetrations between cells and the pipe chases, access doors to chases which are not rated assemblies, sewage leaks in chases, the appearance of cross connections in the water supply and the lack of vacuum breakers to prevent backsiphonage.

### III. Recommendations

- A. Previous sanitation and fire safety reports should be reviewed and maintenance orders again written for projects that have not been completed.
- B. Weekly inspections should be made by an administrative staff member with a written copy of his/her findings

made to the Warden.

- C. Greater attention should be given to daily housekeeping.
- D. Implement prison fire and evacuation plan.

## I Agreement

### "B. Capacity

1. Design Capacity is that capacity as designed equal to the number of inmates beds excluding infirmary beds. The current design capacity at N. S.P. is 418 plus 11 shortline beds.

2. Critical capacity is that level of safe operation for an extended period with some double-celling. Currently, critical capacity at N.S.P. is 514 plus 11 shortline beds.

3. Emergency capacity is that level of safe operation for no longer than a ninety (90) day period. Currently, emergency capacity at N.S.P. is 604 plus 11 shortline beds.

4. Future capacities shall adhere to these generic definitions.

5. Under no condition shall the emergency capacity be maintained beyond a ninety (90) day period.

6. Upon the conclusion of this agreement, recreational programs, staff, and other programs will be in place such that it will be unnecessary for inmates who are double-bunked to be confined in their cells more than twelve (12) hours daily, absent exigent circumstances.

## II Observations

This Agreement calls for specific population limits on capacity at the design, critical, and emergency levels. With several exceptions of a minor nature, the defendants have remained within the critical capacity level.

It should be called to readers' attention that upon the conclusion of this Agreement, "recreational programs, staff, and other programs will be in place such that it will be unnecessary for inmates who are double-bunked to be confined in their cells more than twelve (12) hours daily". The defendants are not currently meeting this standard where double-celling has become necessary.

## III Recommendations

A. Additional bed space which is developed should be added to the design capacity as those beds come on line, and all parties notified of the change (eg. Federal beds).

B. Plans should be immediately developed to provide programming that will allow inmates who are double-celled to remain out of their cells at least twelve (12) hours per day.

## I Agreement

## APPENDIX II

### Education, Vocational, Work and Recreational Opportunities

1. In accordance with the institutional classification process, each inmate shall be assigned a job, and/or the opportunity to participate in an educational, vocational, recreational, or physical educational program with reasonable equipment and facilities.

## II Observations

It should be noted that the defendants are attempting to comply with this standard with extremely limited resources. They should be commended for their efforts to obtain funding and program outlets from sources other than the Legislature when this normal option has been denied to them. Having said this, the Auditor must state that only a limited number of inmates at the Nevada State Prison are involved in programming. For those who are participating in the industry, educational, or work programs, the experiences provided are excellent for a prison setting. The opportunities for education, work or physical education for many of the protective custody cases and almost all those in administrative segregation are minimal.

## III Recommendations

A. A specific plan should be developed to involve all main-line, protective custody and the majority of those assigned to administrative segregation in a worthwhile program of industry, work, education and recreation.

B. A specific employee should be designated as "Program Manager" with the responsibility to plan and coordinate prison programs.

C. Greater use should be made of the gymnasium during early evening, weekend and holiday periods.

D. Additional recreation supplies and equipment should be made available for use during outdoor exercise periods.

## I Agreement

"2. Consistent with the above, defendants agree:

- (a) units 1 and 4 will have individual recreation yards.
- (b) general population will be given greater gymnasium usage.
- (c) NSP shall offer an ABE, GED or high school diploma program to serve 80-120 inmates initially. In this regard, every effort will be made to develop this program through the Carson or other local, State school district.
- (d) institute additional vocational programs. An industrial program evaluation will be conducted by the Federal Bureau of Prisons. This study will provide information for the implementation of the overall prison industrial program.
- (e) establish Alcoholics Anonymous and substance abuse groups."

## II Observations

Units I and IV both have individual recreation yards.

The exercise area for Unit IV has no benches, tables, drinking fountain or recreation equipment, although weights have been ordered.

The general population has access to the gymnasium, but often the hours are in competition with industry, school or work assignments.

The prison is now offering academic educational programs, but not at the level set forth in the Agreement. An excellent working relationship has been developed with the local school district which is funding the program.

No indication could be found that the Federal Bureau of Prisons had conducted a industrial program evaluation.

There currently exists a twelve (12) session substance abuse informational program conducted by the prison psychologist. Currently, there are no other substance abuse programs, nor have the defendants been able to start an Alcololics Annonymous program.

### III Recommendations

A. Immediate attention should be given to providing necessary tables and benches and recreation equipment for Unit IV. Either drinking fountains or portable water containers should be provided for all recreation areas.

B. A plan should be developed to make greater use of the gymnasium during evenings, weekends and holidays. Protective custody inmates should be allowed to use the gymnasium on a scheduled basis.

C. Greater effort should be expended in developing additional substance abuse programs.

### I Agreement

" Appendix III - Classification

To provide for the security of the institution and the safety of the inmates, defendants will implement by September 1, 1983, the NIC Model Classification System recommended in the August, 1982 Krisberg/Austin Report. Contingent upon funding by NIC, the defendants shall also implement an additional risk assessment program designed by Rans/Fowler."

### II Observations

The initial classification process called for in the "NIC Model" has been instituted at the two reception centers. The re-classification element of that Model has not yet been introduced into the Department.

There has been little opportunity for orientation or training into the new classification system, and, in fact, the policy and procedures covering this activity have not yet been disseminated to staff. There is little understanding on the part of staff or inmates as to what the model requires or how it operates.

Currently, there is a classification assessment, actively being carried out by an independent contractor (L. Rans) which will hopefully provide some assurance to the defendants that the model they have adopted is a responsible and safe system.

In actual practice, the current initial classification process consists of the former Nevada model being used parallel with the new NIC model. This duplication of effort grows out of a lack of confidence at this juncture in the new system. This cross-checking may serve a useful purpose as staff institutes a new model of decision making while having the support of their old system for verification..

### III Recommendations

- A. Promulgate policy and procedures on new classification systems to staff and inmates.
- B. Institute a Department-wide training program on the new classification system.
- C. Immediately utilize the NIC model reclassification procedures.
- D. Keep accurate records on "override decisions" made and reasons for such decisions.

### I Agreement

#### "Appendix IV - Administrative Regulations (Standards)

To provide for the orderly, efficient and secure operation of the prison the defendants shall revise their operations and procedures manual using and cross referencing DOJ standards, ACA standards or applicable state statutes."

Defendants shall also complete and implement a document entitled "Strategic Management Model with Tactical Response System" to provide for accountability in the management of the facility.

### II Observations

The defendants are in the process of revising their operations and procedure manual into a document entitled Administrative Regulations, and a great deal of time and effort has already been put into the project. It is currently estimated that the project will be completed in six (6) months. The writer reviewed the format, style, and a cross section of the content and found it to be of high professional quality.

A document entitled "Strategic Management Model with Tactical Response System" has been developed in rough draft and is receiving the personal attention of the Department's Director.

### III Recommendations

A. Satisfactory progress is being made regarding this Agreement. I would encourage the greatest possible involvement of staff in review of the new operations and procedures manual before it is finalized.

### I Agreement

#### "Appendix V - Living Conditions

Defendants agree to provide adequate food, clothing, shelter, sanitation and personal safety. In order that this provision is implemented, defendants agree to the following:

##### A. Sanitation

Defendants agree to quarterly inspections of the entire institution in accordance with state and local public health codes and regulations by the State Public Health Authorities. Any exceptions to the requirements of the code, statutes and regulations noted by the Health Inspector will be handled in the following manner:

1. Where the regular maintenance budget permits, an immediate work order will be issued and performed.
2. Where a work order exceeds the regular maintenance budget, such repair may be postponed until the next appropriations period, absent exigent circumstances requiring immediate repair. In the event of exigent circumstances of a life/safety nature, as certified by the Public Health authority, an emergency appropriation shall be immediately requested if funds are not available. See ACA standards.

##### B. Fire Safety

Defendants agree to promulgate and maintain a fire plan dated October 26, 1982, for the Nevada State Prison which will be the governing document for fire safety. State and local fire codes will be observed. Such fire plan and codes will be monitored by the Nevada State Fire Marshall on a regular basis and regular inspections and reports will be made by the Nevada State Fire Marshall's Office. Further, the Fire Marshall will direct all fire code violations and deficiencies in compliance to the Director of Prisons for immediate corrective action."

### II Observations

This is both a very broad ("the defendants agree to provide adequate food, clothing, sanitation and personal safety") and a very specific Agreement in which certain inspections and follow-up procedures will be instituted. I will first report on the specific requirements:

#### 1. Sanitation

Quarterly inspections of the institution are being made by State Department of Public Health. Exceptions are being

noted and work orders are being issued. In general, I found that follow-up resulting from the inspections was being carried out. In reviewing past inspection reports it is sometimes difficult to determine what work orders are not being carried out because of insufficient maintenance funds. The State Sanitarian is satisfied that the prison staff are responsive to situation of a life/safety nature.

This area of institution operation will be carefully reviewed by the writer and public health officials during the month of May.

## 2. Fire Safety

The defendants have developed a fire plan which is currently under review by the State Fire Marshall. It is hoped that this document will be released shortly and immediately promulgated. Regular inspections have been made of the prison by a representative of the State Fire Marshall's office, and he reports that the Department has been responsive in correcting fire code violations and deficiencies. This area of institution operation will also be carefully reviewed by the writer and a Deputy Fire Marshall during the month of May.

Insofar as the broad requirements to provide adequate food, clothing, sanitation and personal safety are concerned, the Auditor must comment in only the most general of terms. Each of these conditions of confinement are crucial in their impact on inmate's lives and the effectiveness of institution management. The brief observation periods and the lack of specific data, however, precludes any findings at this time.

The Department is headed by a progressive and thoroughly experienced administrator. His commitment to providing a prison environment which is safe, fair, humane and effective is known nationally. The Nevada State Prison is administered by one of the most experienced and able Wardens in the U.S. In the short time he has been in Nevada he has brought the Maximum Security Prison from a state of chaos and extreme danger to one that is reasonably safe, and, within the resources provided, well managed. Having stated this, the writer would further suggest that the two administrators just commended would be the first to admit that much yet needs to be done to bring the N.S.P. into compliance with these standards. The comments that follow are meant to be brief and general. Items and issues discussed came to the immediate attention of the Auditor during his two visits to the prison.

## 1. Food

The menus are well planned, the food is adequately prepared and cooked, and the quantity and quality of meals appears to meet all standards. Housekeeping standards in the kitchen and storerooms could be upgraded. It would appear that more inmates could be safely fed in the dining room rather than taking their meals in cells. Food sent to cells in hot trays seldom meets minimum levels of warmth by the time it is served to the inmates. (This is especially true of breakfast.) One must question the sanitation process in using utensils and containers to serve food (cake, coffee, soup,

etc.) in the living units that have never been sterilized in the dishwashing machine. Except for Unit VII, meals are served to inmates in their cells by other inmates with little or no staff supervision. Inmate porters in the living units do not wash their hands before serving meals, wear hair nets, or even wear clean clothes.

Meal hours for those confined to their cells begin at about 8:00AM to 8:30AM, and the evening meal is served between 2:30PM and 2:45PM. There is most often a 17 hour period between dinner and breakfast.

## 2. Clothing

The quality of clothing appears to be satisfactory, but there are often shortages in quantity and sizing. Part of the problem appears to be inadequate laundry equipment to service the needs of the current population. There is obviously an absence of adequate clothing for outdoor exercise for those inmates confined in Unit VII.

Pillow cases and sometimes sheets are in short supply, and it would appear that there are not enough blankets to meet N.S.P. standards.

Serious questions arise as to the adequacy of sterilization of mattresses. A policy has been recently promulgated that a new mattress will be issued to each inmate upon his arrival at the prison. This mattress will then be moved with the inmate and destroyed or sterilized upon his departure. The policy is in effect, but as yet is not being generally followed. Old mattresses were found in all living units and were being issued to inmates on transfer. There does not appear to be any procedure in operation to assure that old mattresses are destroyed, nor is there any public health approved system for sterilizing used mattresses.

## 3. Shelter

The newly constructed living units, although poorly designed, for management purposes, appear to meet all shelter standards. Housekeeping standards could generally be improved, particularly in the shower areas.

Sanitary and structural problems in A and B blocks need attention and will be carefully reviewed at the May inspection.

## 4. Sanitation

Sanitary conditions have already been discussed under the specific requirements set forth in this Agreement.

## 5. Personal Safety

The Warden has initiated numerous procedures that have improved the overall safety of inmates, particularly during outside movement and activities. Concern should exist about the lack of observation and supervision of inmates confined to Units I, II, III, IV, V and VI when only one officer

is on duty. Except at count periods, there is no way for staff in the unit control center to be knowledgeable of what is happening in an individual cell. An inmate could be seriously ill or commit suicide and staff could not be aware from their point of observation.

### III Recommendations

- A. Sanitation and Public Health inspections should be closely reviewed to assure that recommendations have been carried out, or that emergency budget requests have been submitted.
- B. The fire plan, currently under review by the Fire Marshall's Office, should be expedited and put into operation.
- C. Hot food carts should be obtained to transport food to inmates restricted to their cells. All serving utensils and containers should be adequately sterilized.
- D. Adjustments should be made in meal hours to conform to ACA standards.
- E. Review should be made of the necessity for continued feeding of such large numbers of inmates in their cells.
- F. Adequate laundry equipment should be obtained and an increased inventory of necessary clothing and bedding should be established.
- G. Attention should be given to the new mattress policy to assure that it can be, and is being, carried out.
- H. A study and evaluation should be made of the current post assignment schedule to determine whether there are sufficient officers to provide double coverage during the evening hours on all living units. If sufficient coverage isn't available, an emergency budget request should be considered.

## I Agreement

### Appendix VI - Medical and Psychiatric Care

Defendants agree to an adequate medical delivery system which meets the day-to-day and emergency medical needs of inmates. This medical care system shall meet the ACA standards for medical care of inmates."

## II Observations

A very dedicated group of medical personnel are attempting to provide an adequate medical delivery system under extremely adverse physical conditions. The infirmary and a small clinic are located adjacent to Post #7 in quarters that are noisy, difficult to keep clean, and certainly at the hub of much staff and inmate activity.

The Auditor has some immediate concern about inmate assignments that appear to go beyond routine porter duties. In addition, inmate orderlies have at least some access to medical records, and on several occasions were found preparing reports for inclusion in medical files.

The writer briefly reviewed the ACA medical standards and found a number that are not being met by the N.S.P. medical services unit. Since psychiatric standards and practices will be carefully reviewed in the Auditor's report covering the Taylor vs. Wolff case, (civil N1CV-R-79-162-ECR), they will be omitted here.

## III Recommendations

A. The administrator responsible for medical services should personally audit those services using the fifty-two (52) ACA standards as a bench-mark. Standards that are not being met should have an action plan established setting forth what is needed in the way of resources, equipment, staffing and necessary training in order to reach compliance.

B. The administrator responsible for psychiatric services should carry out a similar audit for those services using the standards set forth in Taylor vs. Wolff as the bench-mark.

## I Agreement

"Administrative Segregation, General Provisions

### A. Living Conditions

1. Within ninety (90) days of the Order herein, the institution psychologist will complete a meaningful evaluation of each inmate confined in administrative segregation to determine if there are persons confined there who have serious mental health needs which are not being met. Upon identification of such persons, they will be immediately removed from their living area and confined in appropriate housing where they will have an opportunity to receive all needed mental health care."

## II Observations

The institution psychologist has certified that a meaningful evaluation of each inmate in administrative segregation has been made. A random review of ten (10) files indicated that a psychological evaluation had been made. No attempt at this juncture has been made to establish quality control on the evaluations.

Since the guiding factor in this standard refers to "inmates confined in administrative segregation who have serious mental health needs which are not being met", it will be necessary to much more closely audit for compliance in the future.

## III Recommendations

A. The institution psychologist should carefully review inmates assigned to administrative segregation and prepare a list of those who have mental health needs or who might be considered to fall close to such a category. This list should be made available to the Auditor for further review.

## I Agreement

"2. By October 1, 1981, any person housed in a living area for more than ten (10) hours a day shall be provided with at least eight (80) square feet of living space within that area. The defendants, however, shall be permitted to use the existing cells in administrative segregation until said date, provided that they comply with the remaining terms of this Order. In the event that problems occur creating the possibility the defendants may fail to meet the deadline of October 1, 1981, the defendants shall immediately notify counsel for plaintiffs in writing of all the reasons therefor and if the parties are unable to agree upon an extension of time to complete the work necessary to bring the living space into conformity with the size as prescribed in this paragraph, the defendants may petition the Court for additional time to complete the provisions of this paragraph."

## II Observations

All of the inmates assigned to administrative segregation and protective custody are confined to their cells for more than ten (10) hours a day. Although none of the cells met the standard of eighty (80) square feet of living space they are so close (Units I, IV, V, VI - 79.4 sq.ft.; Unit VII - 79.8 to 81.5 sq.ft.) that for purposes of review of this paragraph the defendants will be considered to be in compliance.

## III Recommendations

None.

## I Agreement

3. The defendants shall provide lighting throughout the administrative segregation unit of at least thirty foot candles. Additionally, the defendants shall provide task oriented lighting in each cell for reading, writing and other activities. Lighting in the cells shall be both occupant and centrally controlled. Natural lighting shall also be available from a source within twenty (20) feet of each room or cell in the unit. The necessary changes to effectuate the terms of this paragraph shall be completed by October 1, 1981."

## II Observations

The defendants are generally providing lighting throughout the administrative segregation and protective custody units at the thirty (30) foot candle level. (Reading taken show a high of 38.5 and a low of 22.7) In most cases the lower readings resulted from the inmate having painted or covered parts of his lighting fixture. The general attitude of inmates was found to be resistant to the amount of light at the thirty (30) foot candle level. Lighting in the cells is both occupant and centrally controlled. There is natural lighting available from a source within twenty (20) feet of each cell.

The defendants have not provided task oriented lighting for reading, writing and other activities.

## III Recommendations

The defendants should communicate with plaintiff's counsel calling to their attention the lack of any "task oriented lighting" in the cells. Some compromise position should be reached in order that this paragraph can be further audited for compliance.

## I Agreement

"4. Each cell or room in administrative segregation will comply with Section 4143, American Correctional Association's Standards for Adult Correctional Institutions, August, 1977 Edition. The Standards and Comments, Exhibit A, are incorporated herein and a copy attached hereto. The defendants shall also provide adequate heating and cooling to provide temperatures within the normal comfort range. The steps necessary to effectuate the terms of this paragraph shall be completed by October 1, 1981."

## II Observations

The defendants are in general compliance with this paragraph with the following exception. In all units except Unit VII there is an absence of a desk and stool or chair. In Unit VII there is a desk in each cell and the bed is located in such a way that it can be used to sit on while the desk is being utilized. This arrangement needs further review before a compliance decision is reached.

There is also some concern expressed by inmates regarding temperatures being within a normal range. There appears to be adequate heat during winter months, although the temperature is allegedly allowed to fall below comfort levels during the night hours because of overheating in the Unit control center. What summer conditions are, remains to be studied.

## III Recommendations

A. Living Unit Officers should take temperature readings in each pod at the time that counts are taken. These readings should be entered into the daily log, and, over time, will accurately reflect what the conditions actually are.

B. A desk and chair or stool should be provided in Units I, IV, V and VI.

## I Agreement

"5. Every inmate in administrative segregation shall be provided with a sanitary mattress and two (2) sheets, two (2) blankets, a pillow and pillow-case. Linen shall be exchanged at least weekly and blankets, pillow and mattress shall be cleaned on a routine basis and maintained in a sanitary condition. Mattress and Mattress covers will be disinfected and cleaned before re-issuance."

## II Observations

Issuance of supplies as set forth in this paragraph are made with the exception of two (2) blankets. In most cases, only one blanket is issued. There is also a problem in the re-issuance of sheets and pillow cases on a weekly basis. There have been occasions when several weeks go by without a pillow case exchange. Blankets are seldom washed, and there does not appear to be any schedule to do this routinely. Mattresses have not been disinfected and cleaned before re-issuance.

It should be noted that the new mattress policy should address the current problems in so far as mattresses are concerned.

## III Recommendations

- A. Establish a blanket washing schedule.
- B. Provide management assurance that new mattress policy is being carried out.
- C. Obtain an increase in the sheet and pillow case inventory so that the replacement schedule can be maintained.

I 6. All inmates in administrative segregation shall be provided clothing that is properly fitted, climatically suitable, durable, economical, easily laundered and repaired and presentable. The clothing will include outer garments, undergarments, shoes, and socks. Accordingly, all inmates in administrative segregation shall be provided sufficient clothes at least three (3) times per week except for coats, jackets and shoes. Additional clothes may be provided for work and recreation.

## II Observations

The Auditor's initial observations regarding administrative segregation clothing is that it meets minimal standards with the exception of Unit VII. The use of coveralls as an outer garment might be acceptable in a punitive segregation unit, but Unit #7 is listed as administrative segregation. Professional standards call for inmates in administrative segregation to be clothed like inmates in the general population. If the coveralls are to be used, some provision should be made for heavy underwear, caps and gloves during winter exercise periods. The paragraph further requires clean clothes to be issued three (3) times per week, and the current schedule allows for only one (1) exchange per week.

One must also question the term "presentable" as applied to the clothes that inmates must wear for visits. There should be some provision for ironing pants and shirts, at least when they are worn for visits.

## III Recommendations

- A. Reconsider the use of coveralls in administrative segregation.

- B. Provide warmer clothes for outside exercise periods during the winter.
- C. Either run shirts and pants through a presser at the laundry or allow electric irons to be used in living units in order that an inmate can press his clothes before a visit.
- D. Increase clothing inventory so that three (3) exchanges can be made each week.

#### I Agreement

"7. The storage of clothing, linen, and bedding shall exceed that required for the unit's population. Inmates shall not be left without clothing while clothes are being laundered, cleaned or mended."

#### II Observations

Inmates are not left without clothing while clothes are laundered. At times linen and bedding can not be exchanged because of alleged inadequate laundry facilities and inventory.

#### III Recommendations

- A. Review laundry equipment and order items that are needed.
- B. Increase inventory of blankets, sheets and pillow cases in order that scheduled exchanges can be made.

#### I Agreement

"8. Each inmate shall be provided with adequate amounts of necessary personal hygiene items and two clean towels which are exchanged at least twice per week. Cigarettes and/or tobacco may be provided indigent inmates in administrative segregation, with the use of inmate store funds (ISF) upon approval by the Inmate Committee which administers the use of those funds. Inmates shall also be permitted to purchase cigarettes and/or tobacco with the use of their own funds."

#### II Observations

Supplies set forth in this paragraph generally seem to be available although further checks need to be made regarding necessary personal hygiene items. The current prison policy does not allow for the provision of tobacco for indigent inmates. There is a practice of issuing only three books of matches per week per cell (even if two (2) inmates reside therein), which appears to be somewhat restrictive.

#### III Recommendations

- A. Review match policy as to its possible overly restrictive nature.
- B. Review indigent inmate tobacco procedures to assure that prison policy is being followed.

I 9. A written routine daily housecleaning plan will be executed which includes at least the areas to be cleaned and each area in maximum housing, the specific person or persons assigned to clean each area, and a procedure for procurement and maintenance of housekeeping equipment and supplies.

II Observations

A daily housecleaning plan has recently been developed and regular inspections are to be made. Inmates have complained about a shortage of cleaning supplies and the difficulty in obtaining the use of a mop or toilet brush. Housekeeping standards generally could be improved, and there appears to have been little middle management attention to living unit cleanliness.

III Recommendations

A. Monitor recently developed housecleaning plan and assure that middle management assumes a strong role of responsibility.

I 10. A qualified person familiar with health and safety standards and practices will oversee health and sanitation conditions in the administrative segregation unit.

II Observations

There has not been a qualified person who has had the specific responsibility of overseeing health and sanitation conditions.

III Recommendations

A. Appoint a qualified person to oversee health and sanitation conditions.

B. Have prison physician make weekly inspection of all administrative segregation units for health and sanitation purposes.

I 11. Cleaning activity will be supervised at all times by a particular, assigned civilian staff.

II Observation

Cleaning activity has not been supervised by an assigned civilian staff member. An administrative decision has been made to make such an assignment immediately.

III Recommendations

None.

I 12. A written check list will be utilized for a daily inspection to be done of all areas in the administrative segregation unit by a specific employee to ensure that all areas are clean and sanitary. The employee will sign the document certifying that he/she conducted the inspection and that the report is accurate.

II Observations

The written checklist and daily inspections have not been made. An administrative decision to institute such a program has been made and procedures are now being developed.

III Recommendations

None.

I 13. Screens will be maintained on all windows, window panes will be continually maintained in all areas. Structural defects which allow rodents to enter the unit will be cured and an effective vermin and pest control program will be implemented by October 1, 1981.

II Observations

The majority of windows do not currently have screens on them. A metal plate with small holes in it has been installed over the majority of the windows. This installation was for purposes of security and does not meet this paragraph's requirement that screens be placed on windows to prevent the entrance of insects.

Structural defects which allowed rodents to enter the former administrative segregation unit do not exist with the new construction. In addition, a vermin and pest control contract has been developed with a private vendor and services are to be instituted shortly.

III Recommendations

A. Screens should be installed on all windows.

I 14. By December 15, 1980, a comprehensive, written maintenance manual and inspection check list for the inspection and maintenance of equipment systems within the administrative segregation unit, will be prepared and utilized.

II Observations

At the time of the Auditor's last visit there was no comprehensive, written manual or inspection check list. An administrative decision has been made to institute such a process and staff

have been instructed to prepare the manual and check list.

### III Recommendation

- A. The preparation of the manual should be expedited and a monitoring process should be developed to assure administration that the program is consistently being carried out.

I 15. A comprehensive fire safety plan will be drafted for the maximum housing unit by October 1, 1980. The plan shall include specific provisions for adequate fire protection services, the specific equipment, such as extinguishers and fire hoses, to be located at specific appropriate places within the institution and inspection and preventative maintenance schedules for said equipment, the specific responsibilities of staff and prisoners in the event of fire, and the training to be given staff and prisoners in fire safety. The plan shall be certified by the State Fire Marshal or other qualified authority as adequately providing for the safety of inmates in the administrative segregation unit. Further, the necessary equipment to ensure compliance with the plan shall be purchased and deployed by a date set by the parties.

### II Observations

The defendants have developed a comprehensive fire safety plan that should meet the requirements of this paragraph. It is currently under review by the State Fire Marshal and the Carson City Fire Department.

### III Recommendations

- A. The approval of the fire safety plan should be expedited.
- B. Equipment required by the plan should be immediately purchased.
- C. A training program should be instituted to make staff and inmates thoroughly conversant with the plan.
- D. Regular fire drills should be instituted.

I 16. An inspection of the administrative segregation unit shall be conducted on a regular and periodic basis by the safety committee, or its designate, to ensure that the unit meets fire safety and prevention standards including those provided by the Life Safety Code (1976, National Fire Protection Association Document No. 101, or any superseding standards promulgated by the Association).

### II Observations

There has been no safety committee and regular inspections have not been made to ensure that the administrative segregation unit meets fire safety and prevention standards. An administrative decision was reached in April to establish such a committee and the Warden has appointed staff and set forth their duties.

### III Recommendations

A. The new safety committee should establish procedures for their inspection that are in conformity with the comprehensive fire safety plan.

B. The Life Safety Code (National Fire Protection Association Document #101, dated 1976) should be obtained and standards therein should be incorporated into the institution's safety plan.

I 17. The unit will be inspected at least twice a year by the State Fire Marshal or other qualified fire safety expert who shall prepare a written report of the fire safety inspection including any findings and recommendations for corrections. If the unit in any way does not meet the fire safety standards or the standards of the Life Safety Code, curative actions shall be immediately taken.

### II Observations

The prison is being inspected twice a year by the State Fire Marshal's office. Recommendations for corrective action are being made and prison staff have been responsive in making necessary changes.

### III Recommendations

A. The State Fire Marshal's reports for 1983-84 should be carefully reviewed to assure that all recommendations have been addressed.

I 18. Regular fire drills will be conducted at least once every six (6) months involving all staff assigned to the unit. A written handbook shall be provided the inmates containing explicit instructions approved by the State Fire Marshal for prompt evacuation of the unit in the event of fire or other such catastrophe. Each inmate shall have explained to him the contents of the handbook and evacuation routes shall be painted on the floor of the cellhouse. Prison officials shall develop an evacuation plan which will establish as its goal, the prompt evacuation of the unit in a safe manner.

### II Observations

There was no indication that fire drills have been held "at least once every six (6) months". The writer could not find a handbook for inmates which contained explicit information regarding evacuation procedures, nor does there appear to be any instructional program in this regard. Evacuation routes have not been painted on the floors of the living units.

### III Recommendations

A. Administration should assure that the requirements of this paragraph are incorporated into their new fire safety plan.

B. A regular fire drill schedule should be instituted; a handbook for inmates on fire safety and evacuation procedures should be developed; regular orientation of new inmates should include information on fire evacuation; and evacuation routes should be painted on the floors of all living units.

I 19. Any exposed electrical wiring and water leakage problems will be forthwith cured. In addition, the unit shall meet the standards required by state and local law and the Underwriters Electrical Code.

### II Observation

In the new administrative segregation and protective custody units there are no exposed electrical wiring or water leakage problems

### III Recommendations

A. If the old administrative segregation unit is to be used after remodeling, special attention should be given to electrical, plumbing and heating requirements.

I 20. Mattresses and trash containers will be made of materials which meet fire safety standards.

### II Observations

Personal inspection of the mattresses and trash containers and review of materials used in mattress construction would indicate that fire safety standards are being met.

### III Recommendations

A. The mattress factory foreman should obtain certification from the State Fire Marshal that the mattresses manufactured at the Nevada State Prison meet fire safety codes.

I 21. No cross-connections will exist between the potable and non-potable water systems.

## II Observations

From preliminary review it would appear that no cross-connections exist between potable and non-potable water systems in the new living units. This is not the case, however, in the old cell block. The writer is concerned that cross-connections do exist and that there are no vacuum breakers on toilets, etc.

## III Recommendations

If the old cell block is to be used for administrative segregation in the future, attention should be given to the possible existence of cross-connections and the need for vacuum breakers.

### I B. Administrative Segregation; Classification Procedures

Administrative segregation classification is used when inmates require closer supervision and separate housing from the general population. Every effort shall be made to return administrative segregation inmates to the general population as soon as practical, but some inmates may spend relatively extensive periods of time in this status. Administrative segregation classification is not for the purpose of punishment. This policy statement has no application to those inmates confined in disciplinary segregation.

## II Observations

This paragraph covers a policy statement which basically incorporates two principles: (a) Administrative segregation is not for punishment and (b) every effort shall be made to return administrative segregation inmates to the general population.

One gets the distinct impression that administrative segregation at N.S.P. is used for punishment. In fact, the majority of the inmates currently confined in administrative segregation have been placed there because of a specific offense they have committed while assigned to the maximum security prison. The prison, by policy, limits the use of punitive detention to a maximum of fifteen (15) days. The procedure on serious offenses is to place an inmate in punitive detention for fifteen days and then in administrative segregation for one hundred eighty (180) days. Since currently, the same cells are used for both punitive detention and administrative segregation, there is no difference in the two programs.

Additionally, one can sense no real effort to return inmates from administrative segregation to the general population. In many cases inmates have a specific amount of time to serve in administrative segregation, and their return to general population is dependent upon the time left to serve. Goals, program requirements or specific objectives are not set for inmates in administrative segregation, which could be used as motivating factors for a return to general population.

### III Recommendations

- A. Administrative segregation and punitive or disciplinary detention should be entirely separate programs.
- B. A policy statement should be developed for administrative segregation which clearly states for staff and inmates alike that the program does not exist for punishment purposes.
- C. No inmate should be placed in administrative segregation as a punishment for an offense committed.
- D. Every inmate placed in administrative segregation should have goals and specific objectives established which will assist in his eventual return to the general population.

I 2. The defendants hereby adopt Standard 4201 from the Manual "Standard" for Adult Correctional Institutions, August, 1977 Edition and the Comments thereto. A copy of the Standard and Comments, Exhibit B, are attached hereto and incorporated herein by reference as if set forth fully below.

### II Observations

The defendants do not currently have a policy or procedures statement which incorporates all of the principles set forth in ACA Standard #4201, Adult Correctional Institutions, dated August, 1977. They are currently in the process of developing such a policy which will be part of their new Administrative Regulations.

Current practice appears to preclude the principle that before administrative segregation is used a careful determination is made that the inmates potential for causing serious trouble requires such a placement, and that all other alternatives have been explored. At the Nevada State Prison the rate of usage of administrative segregation is extremely high, and the length of stay appears to be excessive.

The ACA standard also requires that inmates in administrative segregation shall be allowed to participate in all institution programs. Currently inmates confined in administrative segregation participate in no institution programs other than visiting.

### III Recommendations

- A. Written policy and procedures should be developed for Administrative Segregation that incorporate all of the principles included in ACA Standard #4201. Placement in administrative segregation should be preceded by the inmate receiving notice of the intended placement, appearance at the hearing and an opportunity to present his case to the hearing officer.
- B. Inmates should not be placed in administrative segregation until it has been clearly determined that:

(1) A serious threat to the life/safety of the inmate, other inmate, or the institution exists if such assignment is not made, and

(2) all other alternatives have been explored and rejected.

C. Inmates in administrative segregation should be allowed to participate in all institution programs providing this does not impose a threat to the security of the institution.

I 3. Consistent with Section 4377 of the Manual of Standards for Adult Correctional Institutions of the American Correctional Association, August, 1977 Edition, the defendants shall submit by August 1, 1980, Defendants' written plan for classification. Said plan shall set forth all the criteria which may result in the transfer of inmates to administrative segregation. Said criteria shall be drafted with sufficient specificity to give inmates forewarning of all the conduct or behavior which could result in such a transfer.

## II Observations

The defendants developed a written plan for classification which was in conformity with section 4377 of the Manual of Standards for Adult Correctional Institutions, 1977 Edition, but did not submit it to the Court or to plaintiff's counsel. Recently, they have revised their classification system and are in the process of issuing a new policy and procedures. The draft version of this plan appears to be in conformity with the 1977 standards.

## III Recommendations

A. The issuance of the new policy and procedures for classification should be expedited.

B. Before release of the new policy and procedures, the defendants should assure themselves that there is sufficient specificity in the criteria for placement in administrative segregation that inmates will be forewarned of all conduct or behavior which could result in such a transfer.

C. Staff should receive training in the new classification system, and inmates should receive orientation and information on both the policy and procedure.

I 4. Sections II and III of Administrative Segregation Model, the Model Correctional Rules and Regulations of the American Correctional Association Correctional Project, revised edition October, 1979, shall hereby be adopted and followed by the defendants. A copy of said procedures, Exhibit "C", is attached hereto and fully incorporated herein by reference.

## II Observations

The defendants have adopted the basic principles set forth in the ACA Administrative Segregation Model in their Operations and Procedures Manual. On the basis of an initial review, it would appear that actual practice often violates some of these principles. For example: the Model calls for a system in which an inmate shall not be placed in Administrative Segregation except pursuant to a decision by the classification committee. In addition the inmate shall receive a notice 24 hours prior to the hearing. There is a provision that if the Superintendent or his designee has reasonable cause to believe an inmate is an immediate danger to himself or to others, or to the security of the institution, he may place him in administrative segregation prior to a hearing. However, in such an event, the hearing shall be held within three (3) working days after the inmate is so placed. The Superintendent, for good cause, may extend that time, but the inmate must be notified in writing.

The writer found that inmates were not infrequently placed in administrative segregation prior to a hearing and that such placement was not justified on the basis of danger or security. The shift commander, acting on his own authority, often places inmates in administrative segregation prior to a hearing. In numerous cases the Prison Discipline Committee ordered placement in administrative segregation even though it does not have such authority. Hearings are seldom heard within three days of placement in administrative segregation, and when extensions are made, no record could be found in the inmate's file.

The decision process governing placement in administrative segregation appears in most cases to center around two criteria:

- (1) Serious offenses committed in the institution for which the penalty exceeds what is allowed under departmental regulations. Obviously, when this approach is followed, the defendants are in violation of the Agreement that administrative segregation will not be used for punishment.
- (2) Gang or drug activity in which the primary evidence used comes from an anonymous source.

In a random review of files, it would appear that there is an unusually high rate of anonymous information usage. There is also a perception on the part of inmates that they are unable to face their accuser, and in many cases they have little knowledge as to specifically what they are alleged to have done. The writer could find no indication that when an anonymous informant's identity is withheld from the Classification Committee, that the file is forwarded to the Director for his review, or that time limits and continued review by the Director at least every ninety (90) days, takes place.

## III Recommendations

A. Policy and procedures for administrative segregation should be reviewed for conformity with the ACA Model, and training programs should be developed for staff so that they can both understand and operate within Departmental regulations.

B. Inmates should not be placed in administrative segregation without notice of the intended placement and a hearing, unless the Warden or his designee finds it is necessary to do so to protect the inmate or others. This action must be reviewed within three working days by the classification committee.

C. The Prison Discipline Committee should not make classification decisions.

D. The use of anonymous informants should be limited, and only when there is collaborating evidence to support their testimony. Where no other evidence is available, the informant should be required to submit to polygraph tests.

E. When an anonymous informant is used, the substance of the information gained should be shared with the accused.

F. Where anonymous informants are used, all reports and time limits set forth in the ACA Model should be rigidly enforced.

G. The Warden should act as Chairman of the Prison Classification Committee whenever it is acting on administrative segregation cases.

#### I Agreement

"5. The institution's psychologist shall sit on and be a member of each classification hearing involving a transfer or a review of status in administrative segregation."

#### II Observation

I found the Prison to be in compliance with the paragraph with the exception of the psychologist's absence resulting from other assignments, illness or vacation.

#### III Recommendations

A. Since there is only one psychologist position, it is difficult for the defendants to always be in compliance with this paragraph. As an alternative, it might be advisable to have the psychologist make a specific written recommendation to the committee whenever he is unable to be physically present.

B. The psychologist should report directly to the Warden for administrative purposes in order that his impact on the classification committee will be of the strongest possible nature.

#### I Agreement

"6. the classification committee shall reach a decision based upon information presented at the meeting and shall provide the inmate with a written decision which states the reasons and basis for the committee's decision and which summarizes the information presented to and considered by

the committee. The decision shall be based on substantial, credible information which demonstrates the necessity for segregation. The decision shall also state the reasons for the committee's decision excluding the testimony of any witness offered by the inmate.

## II Observations

The defendants's policy and procedures on administrative segregation incorporate the principles set forth in this paragraph. On the basis of an initial review of files and a random observation of classification hearings, the writer has some concern as to the adequacy of the following:

- A. Reasons and basis for committee's decision.
- B. Decision based on substantial, credible information.
- C. Information demonstrates the necessity for segregation.

Many decisions appear to be made on vague information of a very general nature. (eg: "was involved in gang activity in Las Vegas"; "believed to be a gang leader"; "has been trying to organize a gang at N.S.P.", etc.) There is no indication that informants are reliable, that their motives for disclosing information aren't contaminated by adverse personal relationships, or that there is any evidence to support the information other than the informant's statement. Often information used occurred many years ago and it would appear that a reputation once earned is most difficult to live down.

Perhaps the greatest concern lies in the Auditor's file review of cases currently in administrative segregation. Information in the files does not support the necessity for segregation for a substantial number of inmates except for punishment purposes!

## III Recommendations

- A. Staff who participate on Classification Committee should receive additional training in the Department's policy and procedure regarding administrative segregation. Particular emphasis should be placed on more adequately setting forth reasons and the basis for committee actions.
- B. All cases currently assigned to administrative segregation should be reviewed as to the continued necessity for segregation. For those cases that are continued in administrative segregation, a specific program with goals, objectives and time frames should be established for each inmate.
- C. The Warden should chair the Prison Classification Committee, particularly when it is reviewing administrative segregation cases.

I 7. A classification committee shall review the status of each inmate at least every seven (7) days for the first two months and at least every thirty (30) days thereafter. More frequent reviews may be scheduled based on the request of the case manager or the inmate. At each review, the classification committee shall determine whether there is substantial evidence to

indicate that the initial reasons for classification into administrative segregation still exist. If they do not, the inmate shall be reclassified out of administrative segregation status. The inmate shall be permitted to appear before the classification committee at each review and make a statement. In cases where the inmate refuses to appear, the committee chairman shall sign the classification sheet and the specific reasons for the inmate's absence and make an evaluation for the inmate's classification/institutional file.

## II Observations

The defendants are now reviewing the status of each inmate's case assigned to administrative segregation on the following basis:

1. At least every seven (7) days for the first two (2) months.
2. At least every thirty (30) days thereafter.

At these reviews, however, the Auditor has some concern as to whether the committee carefully determines whether there is substantial evidence that the initial reasons for classification into administrative segregation still exist. The hearings are perfunctory and there is little exchange of information. In many cases inmates know they still have "time to serve" so don't question their continued placement in segregation. The review process appears to be one of meeting a required standard for a hearing, rather than an opportunity to determine whether return to the general population would be appropriate.

## III Recommendations

- A. Classification committees should use each administrative segregation review as an opportunity to determine whether the initial reasons for classification into segregation still exist.
- B. Where the decision is made that an inmate cannot safely be returned to the general population, a specific goal, objective and program, with appropriate time frame should be established.

I 8. In each case of an inmate classified to administrative segregation involuntarily for over sixty (60) days, the classification committee shall establish a set schedule of personal and program objectives involving gradual reintegration into the general population, the completion of which shall result in the inmate's reclassification from administrative segregation within an additional sixty (60) days. However, if the classification committee documents substantial evidence that reclassification from administrative segregation would produce serious injury to the inmate or others or substantially threaten the security of the institution, then reintegration is not required.

## II Observations

The defendants have not been setting a schedule of personal and program objectives involving a gradual reintegration into

the general population. Review of case files would indicate that there are only a few inmates in administrative segregation whose dangerousness appears so great that an effort towards re-integration should not be made.

### III Recommendations

- A. Defendants should develop a reintegration plan for all inmates assigned to administrative segregation.
- B. For those few inmates who are considered too dangerous to remove from administrative segregation, the defendants should document substantial evidence to support this decision.

### I Agreement

"9. Paragraph IX of the Administrative segregation section of the Model Correctional Project, American Correctional Association, revised edition October 1979, are adopted and shall be followed with the additional following amendments:

- (a) Paragraph IX B shall require that the institution and segregation unit disciplinary rules shall be in writing;
- (b) For Paragraph IX B, the term "substantial" shall be deleted;
- (c) An additional paragraph to Section IX shall be as follows:

C. Whenever property is removed from the inmates, the removal will be documented in writing and the property will be stored in a safe place and an inventory maintained to ensure its return to the inmate. Where property shall be removed for a long period of time, arrangements will be made for the inmate to ship the property out of the institution."

### II Observations

The Auditor was unable to find specific rules and regulations for the operation of administrative segregation. The defendants are, however, developing policy and procedures which will be incorporated into the Department's Administrative Regulations. It should be noted that actual practices are not in compliance with this paragraph. Examples are: Restrictions on privileges are imposed by staff other than the Warden or the chief security officer; a written record is not always made when restrictions are imposed; significant restrictions are not always referred to the mental health staff within twenty-four (24) hours; restrictions are imposed without a disciplinary hearing conducted in compliance with the general prison disciplinary rules, etc.

### III Recommendations

- A. Policy, procedures, and rules for the operation of administrative segregation should be promulgated and made available to staff and inmates.

B. Restrictions in conditions of confinement should be in conformity with the Model Rules and Regulations developed by the American Correctional Association in 1979.

## I Agreement

"10. Prisoners classified to administrative segregation may be denied or removed from programs, jobs, activities, including hobby craft, canteen privileges and activities in accordance with the provisions in Paragraph 8 and 9, above. Notwithstanding those provisions, however, every inmate in administrative segregation shall receive an opportunity for educational opportunities including a GED degree, high school classes, and a high school diploma. College correspondence courses shall be made available at the inmate's expense. The inmates in administrative segregation shall also be provided the opportunity for vocational development consistent with their status in administrative segregation, according to a plan to be developed by the defendants herein.

Inmates shall be afforded the opportunity for work within the administrative segregation unit. The defendants shall develop a written plan providing for such work opportunities within the confines of the administrative segregation unit. In the interim, good faith efforts will be made to provide additional, programmed activities including educational, vocational, and employment opportunities for the inmates housed in the administrative segregation unit."

## II Observations

The defendants are currently developing policy and procedures which will provide for denial or removal of inmates from programs, jobs, activities, etc., which will be in conformity with earlier paragraphs of this Agreement. Current practices have not allowed inmates to participate in educational programs, have opportunities for vocational development, or, except in a few cases, the opportunity to work. The defendants have not developed a written plan providing for work opportunities.

## III Recommendations

A. The development of policy and procedures for the operation of administrative segregation should be expedited and made available to staff and inmates.

B. Programmed activities, including educational, vocational, religious, and work should be made available to inmates in administrative segregation.

## I Agreement

"11. Inmates in administrative segregation shall be provided a minimum

of eight (8) hours per week of outdoor exercise, absent inclement weather, with ten (10) hours of outdoor exercise per week established as a goal.

## II Observations

The defendants currently meet the minimum hourly requirements for outdoor exercise. However, the practices followed ignores professional standards and good health practices. Eight (8) to ten (10) hours of outdoor exercise are provided in two segments of four (4) to five (5) hours each. This means that an inmate receives only two exercise periods each week. American Correctional Association standards call for a minimum of one hour per day, five days per week.

## III Recommendations

A. Outdoor exercise periods should be scheduled to allow a minimum of one (1) hour per day, five (5) days per week.

## I Agreement

"12. A reasonable amount of recreational equipment shall be made available in each exercise area. At the time the renovation of the cellhouse is completed, the defendants shall have expanded the exercise area to provide that each exercise area shall be at least 50 feet by 50 feet."

## II Observations

The defendants have constructed a sufficient number of exercise yards to be in compliance with this paragraph. Unfortunately, some of the exercise yards do not meet the minimum requirements of a space at least fifty (50) by fifty (50) feet. Two of the exercise yards had no recreational equipment in them at the time of the writer's last visit. There is also a lack of drinking water facilities, benches, tables and a shaded area which can be used during summer months.

Inmates are placed in the exercise areas for over four hours at a time which requires them to eat their noon meal outdoors. This can be a most unpleasant experience during cold weather, and the temperature has a dramatic effect on food warmth. Perhaps of greater concern should be the fact that there are no benches or tables which requires the inmate to eat his meal sitting on the bare ground.

## III Recommendations

A. Exercise areas should be enlarged to a minimum of fifty (50) by fifty (50) feet.

B. Recreational equipment should be provided for all exercise areas and include, but not be limited to, weight lifting equipment, punching bags, basketball, volleyball and

assorted table games.

C. Benches, tables and drinking water facilities should be provided for each exercise area. Some type of shaded area should be developed for summer use.

## I Agreement

"13. Sections 4223 through 4236 of the Manual of Standards for Adult Correctional Institution, American Correctional Association, August 1977 Edition, and the Comments thereto are hereby adopted as minimum standards for compliance. Further, whenever, in the Standards and Comments, terms such as can, should or may, and the like are used, each must be read as "shall" and, thus, the term "shall" is to be substituted therefor in each instance. A copy of Exhibit "E" of the Standards and Comments are attached hereto and fully incorporated herein."

## II Observations

The defendants have developed an excellent Food Service Manual which appears to cover most of the standards set forth in this paragraph. An extensive review of the food service program will be made during the month of May by the Auditor and the State Public Health Sanitarian.

## III Recommendations

A. A careful analysis of the ACA feeding standards should be made by the food service supervisor and special attention should be given to the following standards:

Standard 4230 - No more than 14 hours between dinner and breakfast.

Standard 4231 - Precludes use of food as a reward or disciplinary measure.

Standard 4233 - Meals served under conditions that minimize regimentation.

Standard 4234 - Weekly inspections by administrative, medical or diatetic personnel.

B. The Food Service Manual should be made a part of the Department's Administrative Regulations.

## I Agreement

"14. Inmates in administrative segregation shall also be provided the following:

- a. Correspondence as provided to the general population;
- b. Showers and shaving five (5) times per week;
- c. Hair grooming and barbering;

d. A minimum to two (2) hours visitation per week;  
e. Access to legal counsel shall be the same as for inmates in the general population. Access to other legal resources for the inmates in administrative segregation will be provided similar to the access accorded inmates in the general population:

(i) There shall be a law clerk assigned to the maximum housing unit who shall visit the unit, four (4) times per week, to assist inmates and make law books and legal supplies available to them upon request."

## II Observations

Inmates in administrative segregation are provided correspondence identical to the general population and currently are allowed to shower and shave 5 times per week. In Unit VII, because of a shortage of hot water, the shower period is approximately 4 minutes per inmate with those who shower last getting cold water.

Hair grooming and barbering are permitted and visitation is allowed for a minimum of two hours per week. The inmates in Unit VII - which is listed as an administrative segregation unit - are not allowed contact visits or to use the prison visiting room. They are required to visit wearing orange jump suits, and the non-contact visiting room provides little privacy and the acoustics make conversation most difficult.

Access to legal counsel would appear to be similar to that provided for inmates in the general population, although inmates question the legality of having their phone calls to attorneys automatically monitored from the control desk. Access to other legal resources, however, is not similar to that accorded inmates in the general population, with the following examples being of paramount concern:

A. Inmates in administrative segregation are unable to visit the law library.

B. Law Clerks assigned to administrative segregation are generally untrained, and unable to provide para-legal services to confined inmates.

C. Law Clerks are not regularly visiting administrative segregation living units four (4) times per week, and their visits are often too short to allow them to assist inmates in need of law books and legal supplies.

D. Currently law books are not being allowed in some administrative segregation units and inmates are required to pay for duplicated materials of reference books which they have requested for reference and study.

E. It would appear from reviewing files that any law clerk who takes an aggressive, advocative or investigative role in assisting an inmate in administrative segregation with his legal problems will be disciplined by staff and frequently removed from his position as a law clerk.

### III Recommendations

A. If inmates in administrative segregation are unable to visit the law library, one of the following procedures should be followed:

1. Law clerks should visit living units a minimum of four (4) times each week and be allowed to remain in the unit for a sufficient period of time that they are able to address the law library needs of inmates. Law books and legal reference material should be delivered by the Clerk to the inmate requesting same, or
2. Basic legal reference books and writing materials should be located in administrative segregation units where inmates can have direct access to them.

B. The defendants should review their law library policies and assure themselves that all procedures are in conformity with the Craig agreement. If the capacity of the law library is not sufficient to meet demand, it will have to be increased in size or the hours of access extended.

C. If law clerks are to be allowed at the N.S.P. they should not be penalized for being para-legal advocates.

### I Agreement

"44. Provision will be made for prisoners in administrative segregation status to have access to the general library or a library cart to check out as many as five (5) books at least every seven (7) days."

### II Observations

The prison does not currently operate a general library and there exists no "library cart" program for inmates assigned to administrative segregation. There are some books which have been donated to the institution. The process of book circulation, however, appears to be dependent upon inmate's sharing their books with each other.

### III Recommendations

A. A new effort should be made to establish a branch library out of the Carson City library at the State Prison. If this is found to be impossible, a library should be established in conjunction with the education program. A library cart system could then be developed which would allow all inmates in administrative segregation to have access to a book exchange on a weekly basis.

I     Agreement

"16. Inmates in administrative segregation status will be allowed to retain in their personal living area a mizimum of five (5) law books and all legal papers."

II    Observations

Inmates are allowed their legal papers, but currently no law books are being sent to administrative segregation. (Factually, I only know this to be true for Unit VII - it is alleged to be the practice on other administrative segregaton units as well.)

III   Recommendations

A. The defendants should establish a policy and procedure that will allow this agreement to be carried out.

I     Agreement

"17. A caseworker or counselor shall be assigned to the administrative segregation unit of the prison who will visit the unit five (5) days per week and will be available to help each inmate who desires assistance or information."

II    Observations

Recently there has been an extreme shortage of counselors at the N.S.P. Even with this shortage a counselor is assigned to each unit. In checking the daily logs it is obvious that the counselors at this time do not visit each unit five (5) days per week.

III   Recommendations

A. The defendants should assign necessary staff to the counseling functions which will guarantee that each unit will be visited five (5) days per week. Management should establish monitoring procedures that will assure that such visits are of sufficient length that each inmate who desires assistance or information obtains such.

I     Agreement

"18. A representative of the medical staff, e.g. at least at the level of licensed practical nurse, shall make rounds through the administrative segregation unit on a daily basis. A physician shall conduct sick call in the administrative segregation unit, at least once a week. A record of all visits by medical personnel shall be maintained. Should an inmate in administrative segregation complain of or exhibit an apparent medical/dental or psychological problem at times other than the medical staff member's visit, the officer in charge of the administrative segregation unit shall be notified and shall

immediately notify the medical staff. Such notifications and actions shall be recorded."

## II Observations

All of the criteria set forth in this paragraph appear to be met.

## III Recommendations

A. Record keeping of visits to administrative segregation by medical service personnel need to be kept in a separate log for auditing purposes.

B. A log should also be developed which allows for recording of medical/dental complaints by administrative segregation staff which occur at times other than the medical staff members visit, and action taken.

## I Agreement

"19. A qualified clinical psychologist or psychiatrist shall interview in person and complete a meaningful evaluation of the status of each person classified to administrative segregation within thirty (30) days of assignment to that unit. Thereafter, said evaluation shall be completed for the inmates every ninety (90) days."

## II Observations

Evaluations appear to be made on schedule and follow-up reviews are completed every ninety (90) days. An extensive review of the elements required in this paragraph will be made in the next report.

## III Recommendations

None.

## I Agreement

"20. Visitation by religious personnel to inmates assigned to administrative segregation will be encouraged and allowed."

## II Observations

Visitations are made by both Protestant and Catholic Chaplains, but no religious services of any kind are held. It would appear that minimal effort has been made to recruit additional volunteer religious workers, although such volunteers could

materially assist in meeting the religious needs of those confined to their cells or living units.

Of greater concern is the absence of any religious services for inmates in protective custody.

### III Recommendations

A. Institute an aggressive program to obtain volunteer religious workers who, after training, could meet many of the religious needs of inmates confined in administrative segregation.

B. Provide Protestant and Catholic religious services for all inmates assigned to protective custody.

### I Agreement

"21. Correctional officers assigned to the administrative segregation unit of the prison should be tolerant and trained to meet the needs of inmates so classified. Each supervisor will supervise and evaluate the on-the-job performance of employees assigned to the administrative segregation unit of the prison."

### II Observations

Correctional officers assigned to administrative segregation have not received any special training or supervision. Currently, a lesson plan is being developed for such training and it will be instituted shortly.

All correctional officers are supervised by a superior officer and their "on-the-job" performance is regularly evaluated.

### III Recommendations

A. Expedite special training program for correctional officers who are assigned to administrative segregation units.

### I Agreement

"22. The superintendent will designate an official to be responsible for the administration and operation of the administrative segregation section of the prison who will monitor and evaluate the entire program in the area as often as necessary to ensure compliance with all applicable policy statements."

## II Observations

As of this writing, the Warden had not designated an official who has the overall responsibility for the administration and operation of the administrative segregation sections of the prison. It is the Auditor's understanding that such an assignment will be made. A staff member has been assigned full time to monitor and evaluate compliance with these agreements.

## III Recommendations

A. The Warden should designate an official who has the overall responsibility for the administration and operation of the administrative segregation units.

## I Agreement

"23. A systematic record system will be maintained for all inmates assigned in the maximum housing section of the prison. A general activity log will be maintained for inmates and activities within such areas. In addition, a log will be maintained for all personnel entering for inspection and treatment of each inmate."

## II Observations

A record system exists that meets all requirements of this paragraph. A general activity log and a record of all personnel entering any segregation unit has been established.

## III Recommendations

None.

## I Agreement

"A. Provisions of Part I.A. shall apply equally to the Inmates in Protective Custody.

B. Protective Custody, Classification Policies and Procedures.

1. This classification is used when inmates require removal from the general population of the prison because of the threat confinement in the general population poses to the health and safety of the inmate which requires prison officials to protect the inmate from the environment and pressures of the general population. This situation may result for many reasons including the size, age, intelligence, disability, and infirmity of the inmate, or the inmate, with or without fault, is faced with an enemy situation in the general population requiring protection."

## II Observations

All of the principles set forth in this paragraph are

clearly enunciated in the defendants Administrative Regulations and are followed in practice.

III Recommendations

None.

I Agreement

"2. Every effort shall be made, however, to return the inmate to the general population as soon as practical but some inmates may spend relatively extensive periods of time in this status. The assignment to protective custody is not for the purpose of punishment."

II Observations

Currently there are no inmates who have been involuntarily placed in protective custody. Efforts are made to assist inmates in returning to the general population, but since they have volunteered for such a living assignment, there is not a great deal of inducement.

III Recommendations

None.

I Agreement

"3. An inmate may be placed in this section of the prison on a voluntary basis if the inmate believes that housing in the general population places the inmate in jeopardy of serious bodily harm and requests placement in protective custody. Inmates requesting assignment to protective custody may be required to sign a written request slip, stating their desire for assignment to such housing or classification. Inmates requesting assignment to protective custody may be placed therein immediately without waiting for any formal hearing before a classification committee."

II Observations

All principles set forth in this paragraph are incorporated in the defendant's policy and procedures regarding protective custody. Practice indicates that the defendants are in compliance.

III Recommendations

None.

## I Agreement

"4. Any inmate who has voluntarily placed himself in protective custody will be classified within five (5) working days of a request to be reclassified. Upon reviewing a reclassification request, the inmate may be required to remain in protective custody in accordance with the procedures and standards, below.

5. Where an inmate is involuntarily placed or retained under protective custody, the procedural safeguards prescribed for the transfer or classification of inmates to administrative segregation shall be followed. Where an inmate is involuntarily transferred in the first instance into protective custody, the classification committee shall make a finding based upon clear and convincing evidence that an inmate is a victim of a violent act and there is clear and convincing evidence that if he remains in the general population he will be subjected to an additional violent act or the inmate's safety is jeopardized by an immediate life-threatening conflict with other inmates in the general population requiring temporary separation from the general population because he cannot otherwise be provided with adequate protection. Where an inmate is being required to remain in protective custody only upon a finding by the classification committee based upon a preponderance of the evidence, that the inmate will be subjected to additional violent acts or the inmate's safety will otherwise be jeopardized by an immediate life-threatening conflict with other inmates in the general population requiring continued separation from the general population because the inmate cannot otherwise be provided with adequate protection if he were returned to the general population."

## II Observations

The defendant's policy and procedures are in compliance with these paragraphs, and practice adheres to policy.

## III Recommendations

A. The defendants should carefully review their new Administrative Regulations to assure that all principles and criteria set forth in these paragraphs are incorporated.

## I Agreement

"6. Generally, the policies and practices of protective custody build upon those in administrative segregation set forth in Paragraph I.B. above. Consistent with those policies and procedures set forth in that section and in addition thereto, conditions in protective custody must include:

- a. At least eight (8) hours minimally of outdoor exercise, weather permitting, with a goal of ten (10) hours per week of outdoor exercise. In the event of inclement weather, a good faith effort shall be made to provide inmates with alternative indoor exercise.
- b. Educational, vocational, hobby craft, recreational and employment opportunities similar to that in the general population must be made available to inmates in the protective custody unit.
- c. Opportunity to shower and shave, as in the general population.
- d. Correspondence identical to the general population.

- e. Visitation identical to that provided to the general population, unless security dictates other provision be made, i.e., a different time or place.
- f. Access to legal resources and legal counsel identical to the general population, unless security dictates other provisions be made, i.e., other time, place, etc.
- g. Inmates classified protective custody may retain their personal property as permitted in the general population.
- h. As a general rule in all other respects conditions in protective custody shall approximate a replication of conditions and policies in the general population of the prison."

## II Observations

The operation of protective custody at N.S.P. incorporates all of the policies and procedures set forth in Paragraph I.A - I.B, except as earlier identified. In addition the defendants are following the seven conditions set forth in this paragraph with the exception that protective custody inmates are not provided vocational opportunities and only limited employment and hobby craft opportunities.

Protective custody inmates in Unit IV appear to receive less recreation, out-of-cell time, education, and employment opportunities than their counterparts in Unit I.

## III Recommendations

- A. Vocational, hobby craft and employment opportunities should be provided for protective custody inmates.
- B. Protective custody inmates in Unit IV should receive similar programs and opportunities to those received by inmates in Unit I.

## I Agreement

### "Inmate Correspondence

#### A. Policies and Procedures Governing Inmate Correspondence

- 1. The defendants' mail regulations, a copy, exhibit "F", of which is attached hereto, are to be amended as described below. Any mail regulations which the defendants might adopt in the future must also include the following:
  - a. Paragraph 2(e)(1) shall be amended as follows: Censorship of mail includes the reading of mail, excepting that which is seen during the course of the inspection of the mail;
  - b. Paragraph 2(d) shall be amended as follows: Inspection refers to the checking of the outside of an envelope for proper return address and name and addressee and the opening of mail for contraband as set forth in a written list prepared of all contraband. Items in the mail may be removed and observed to the minimum extent possible to ascertain the character of the enclosures;
  - c. Paragraph 4 of the defendants' regulations shall read as follows: "Incoming general correspondence may be censored if it is found that the contents, taken as a whole or in significant part, fall into one of the following categories:"

d. Paragraph 7(b) of the defendants' mail regulation shall be deleted. In its place shall be adopted the II.B.I. of the Correspondence Model of the Model Correctional Rules and Regulation, American Correctional Association, revised edition October 1979. A copy, Exhibit "G", of the Rule is attached hereto and incorporated herein fully by reference;

e. The defendants shall add the following paragraph as 7(d) to their mail regulations: 'Reading, opening or inspecting of outgoing mail from inmates shall be prohibited unless prison officials have probable cause documented in writing and submitted to the superintendent of the institution that the letter contains evidence of a crime.'

f. Paragraph 8(c) of the defendants' regulations shall be amended to provide that neither the Superintendent nor Director shall have been involved in the initial decision to censor the correspondence;

g. A new section shall be added as 8(d) of the defendants' mail regulations. This addition is as follows: If a letter is censored, a written notice, signed by the official authorizing the censorship and stating the reason(s) for censorship shall be given the inmate, advising also, of the right to appeal the censorship decision

h. Paragraph 11(a) of the defendants' regulations shall be amended to provide that publications received through the U.S. Mail or from an approved vendor, may be excluded only where they present a clear and present danger to the security of the institution, or would cause severe psychiatric or emotional disturbance to the inmate as certified by a psychiatrist or psychologist;

Paragraph 2(a)(5) shall be amended by substituting 'a' for the word 'the' so that the phrase reads 'a state bar association.'"

## II Observations

The principles listed in these two paragraphs have been fully incorporated into the Department's policy and procedures manual. A revision of this manual in the form of Administrative Regulations is currently being reviewed by staff of the Attorney General's office and, when approved, will include all of the conditions set forth in this Agreement.

No effort has been made to determine operating compliance with these procedures. A review of inmate grievances will be made to determine whether the policy is actually carried out.

## III Recommendations

None.

## I Agreement

Access To The Judicial Process

A. Written Policies and Procedures.

1. Section 4280 of the Manual of Standards for Adult Correctional Institutions and Comments thereto, of the American Correctional Association, August 1977 edition, shall hereby be adopted. The term "should" in the Comments, however, shall be deleted and the term "shall" substituted therefor. A copy, Exhibit "H", of the Standard and Comments are attached hereto and incorporated herein by reference."

## II Observations

The defendants' rules and regulations regarding Access to the Judicial Process are currently being reviewed by staff of the Attorney General's Office, and were not available to the writer. Although the Auditor closely analyzed policy and procedures issued by previous administrations, it does not seem appropriate to judge existing practices within a framework of historical policy.

This area of institution management is of crucial concern to the Court and will be carefully reviewed prior to the second report.

## III Recommendations

A. The defendants should expedite written policy and procedures that ensure the right of inmates to have access to the courts.

B. The policy should include that: inmates have the right to present any issue, including the challenging the legality of their conviction or confinement; seeking redress for illegal conditions or treatment while under correctional control; pursuing remedies in connection with civil problems; and asserting against correctional or other government authority any other rights protected by constitutional or statutory provision or common law.

## I Agreement

"2. The defendants' rules and regulations on legal services shall be further amended, as per below. Said regulations, Exhibit "I" are attached hereto.

a. Paragraph 2 and Paragraph 5(a) of the regulations, and in all other appropriate places, said regulations shall be amended to add the term "paralegal" as a part of the definition of an attorney's authorized representative(s)."

## II Observations

As in the last paragraph, this section must be reviewed in light of the new regulations now being developed. The actual practices will also be carefully reviewed, particularly in light of many complaints received from inmates as to their access to legal material, and their right to the services of a para-legal who is not intimidated for his advocacy in behalf of a client.

## III Recommendations

A. Policy and procedures should include the following statements:

1. No inmate will be disciplined or punished in any

way simply because he institutes or maintains a legal proceeding.

2. Inmates in administrative segregation have a right to obtain para-legal assistance from law clerks.

3. Inmates assigned to restrictive housing shall not be restricted in their access to the courts.

4. Inmates assigned to administrative segregation shall have access to all the legal resource materials available to the general population.

## I Agreement

"b. Paragraph 5(c) of the Defendants' regulations shall be amended as follows: 'An attorney shall be required to furnish proper identification for visits by presenting evidence he/she is a member of a state bar. If prior to the initial meeting between an attorney and inmate, prison officials, for some articulable and justifiable reason, believe that the visit by said attorney was not requested by the inmate, his/her family, or a person acting for and on behalf of the inmate, prison officials may require a showing that the visit was so requested. Any of the following will be deemed sufficient to make a showing:

1. A written confirmation by the inmate of the request.
2. Production of the part of a written document of the inmate making the request for the visit.
3. Any other credible information which would establish that the attorney has responded to a request for a visit by the inmate, his or her family, a person acting for the inmate and on his behalf.'

c. Paragraph 5(e) of defendants' regulations shall be amended by deleting the phrase, 'so far as possible'.

d. Section 5 of the defendants regulations on legal services shall be amended by adding a new section, 5(f) which shall read as follows: 'Any inmate has the right to consult with an attorney of his or her own choosing under reasonable regulations providing for the security of the institution and the safety of the inmate population and staff.'

e. Whenever the term 'attorney' is used in the defendants' legal services regulations or the provisions herein, the term shall be read as including the attorney's authorized representative(s).

f. The defendants' legal services regulation shall be amended to add the following paragraph: 'It shall be the decision of the inmate whether or not to conduct an attorney/client interview. Where an attorney and/or the attorney's authorized representative or agent requests to see an inmate and an inmate refuses the attorney/client interview, that fact will be communicated to the attorney and/or authorized representative or agent in writing, signed by the inmate, immediately upon the refusal, upon a form provided by prison officials which shall include an indication that the inmate was aware that an attorney/client interview had been requested, that he understood, by name, the person requesting the attorney/client interview with the inmate, and a statement that the inmate refused the visit.'"

## II Observations

All principles and procedures set forth in these paragraphs are incorporated in existing Departmental policy and procedures. The Auditor is not aware of any violations of these procedures in actual practice.

## III Recommendations

A. The defendants should assure themselves that the procedures outlined in these paragraphs are incorporated in their new Administrative Regulations.

## I Agreement

"Miscellaneous/Implementation of this Consent Decree

A. If any provision of this Decree causes a result unintended by the parties or causes an ambiguous interpretation, the aggrieved party shall notify the other party by mail of the unintended result or ambiguous interpretation. The parties shall have thirty (30) days after the date of such letter to resolve the problem among themselves. If the parties are unable to reach agreement within such time, the issue may be submitted to the Court for resolution.

B. This Decree shall continue in full force and effect for a period of two (2) years from and after the date of the final approval hereof by the Court. The Decree shall terminate upon the filing of an order of dismissal with prejudice by the defendants after expiration of this two (2) year period unless plaintiffs show good cause upon motions served and filed.

C. Insofar as possible, each and every provision of this Consent Decree shall be forthwith implemented by the defendants, except where otherwise noted. In addition, for each instance when the defendants are to submit written plans for implementation of the terms, herein, in all cases, they shall be filed with the Court and served upon counsel for plaintiffs. Counsel shall thereafter have sixty (60) days to file any objections counsel might have, to the written plan as filed and submitted by defendants.

D. In addition to and as a part of any plan(s) referred to in the preceding paragraph C, as to any provision of this Consent Decree which the defendants may claim is impossible to implement, the defendants shall submit to the Court and counsel for plaintiffs within sixty (60) days subsequent to the effective date hereof, a written report setting forth the following:

1. The precise provision or provisions of this Consent Decree which cannot be immediately implemented.
2. The reason or reasons why said implementation cannot immediately take place.
3. A detailed plan for the implementation of any provision as soon as possible.
4. An estimate of the time necessary to fully implement any such provision.
5. If it is contended that any such provision of this Consent Decree cannot under any circumstances be implemented in the facility,

the reason why full implementation of any such provision is impossible, and

6. Thereafter if any plan for implementation previously approved by the Court becomes manifestly impossible to perform due to circumstances beyond the control of the defendants and which could not have reasonably been foreseen at the time of the Court's approval of said plan, the defendants may seek appropriate relief from the Court. Any such application for relief shall be accompanied by an alternative plan for implementation which shall be subject to approval by the Court.

E. Good faith efforts to comply with the provisions of this Decree are the standards of compliance for this Decree except where the law provides for a higher standard."

## II Observations

These paragraphs were established in 1980 to assist parties in the implementation of the Craig Consent Decree. It is understandable that the time frames are no longer relevant.

## III Recommendations

At this juncture, one must assume that the Court has substituted the conditions and time frames regarding compliance in Shapley vs. O'Callaghan for those in Craig vs. Hocker. Unless instructed by the Court to the contrary, the Auditor will use the following guidelines in reviewing for compliance:

A. The defendants agreed to act immediately to comply fully\* with the Consent Decree entered in the case of Craig vs. Hocker.

B. The Shapley vs. O'Callaghan Agreement calls for a period of sixteen (16) months during which defendants will be obligated to improve certain conditions of confinement of the plaintiff class and to achieve corrections of certain deficiencies in such conditions.

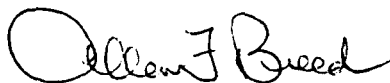
C. In the event any provision of this Agreement causes a result unintended by the parties or an ambiguous interpretation, the abused party shall notify the other parties by mail of the unintended result or ambiguous interpretation. The parties shall have sixty (60) days following receipt of written notice to resolve the problem. If parties are unable to reach agreement within sixty (60) days the issue may be submitted to the Court for resolution\*. The Auditor will be available to act as a mediator should normal negotiations fail to resolve the issue.

\* Underlined by writer for emphasis of meaning.

CONCLUSION

Special note should be made of the outstanding work Lt. Miles Long has done in establishing a court compliance office and developing the initial records to assist the defendants as they work towards compliance with the Agreements. Although the office was not created until April 6, 1984, Lt. Long has been able to make great progress in coordinating Departmental efforts.

Respectfully submitted,

A handwritten signature in cursive script, reading "Allen F. Breed". The signature is written in dark ink and is positioned above the printed name and title.

Allen F. Breed  
Court Auditor