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Shapley v. O'Callaghan



PC-NV-005-009

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

\* \* \* \* \*

JAMES E. PHILLIPS, et al.,  
Plaintiffs,

v.

RICHARD BRYAN, et al.,  
Defendants.

CV-R-77-221-ECR

STIPULATED SETTLEMENT  
AGREEMENT

RECEIVED  
AND FILED

CAROL C. FITZGERALD  
MAY 19 12 22 PM '88

Submitted herewith is the Settlement Agreement entered  
between the parties in connection with the enforcement and  
compliance phase of this dispute.

DATED this 12<sup>th</sup> day of May, 1988.

FOR DEFENDANTS:

FOR PLAINTIFFS:

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17 UNITED STATES DISTRICT COURT

18 DISTRICT OF NEVADA

19 JAMES E. PHILLIPS, et al., ) CV-R-77-221-ECR

20 Plaintiffs, )

21 v. )

STIPULATED SETTLEMENT  
AGREEMENT

22 RICHARD BRYAN, et al., )

23 Defendants. )

24 1. By agreement of the parties, the following Stipulated  
25 Settlement Agreement (the Agreement) is submitted for approval by  
26 the Court to resolve issues being litigated in CV-R-77-221-ECR.  
27 The effective date of the Agreement is the date on which it is  
28 approved by the Court. The parties waive hearing and agree to  
the provisions contained herein.

2. This is a class action involving the conditions of  
confinement at the Nevada State Prison (NSP), located in Carson

1 City, Nevada. The class is defined as all prisoners who are, or  
2 who will be, confined at NSP. This agreement is fully binding  
3 upon the individual members of the Plaintiff class, pursuant to  
4 Rule 23, Federal Rules of Civil Procedure.

5         3     The provisions of this Agreement shall apply only to  
6 NSP. The Agreement establishes specific requirements imposed  
7 upon the defendants concerning the conditions and practices  
8 necessary to operate the NSP in a manner consistent with federal  
9 constitutional standards. The Agreement also provides for its  
10 enforcement and implementation within specified periods of time.  
11 The provisions are set forth in separate, numbered paragraphs  
12 according to the subject matter as indicated by the specified  
13 headings.

14         4.     The class of plaintiffs agree that no further relief  
15 in connection with this lawsuit shall be sought. Nothing  
16 contained herein shall be construed, however, to prevent the  
17 plaintiff class from enforcing the provisions of this Agreement  
18 nor do members of the plaintiff class waive any rights to pursue  
19 their individual claims for monetary relief.

20         5.     The defendants waive any defense to the enforcement or  
21 implementation of this Agreement except whether and to what  
22 extent they have met its provisions. The defendants expressly  
23 agree that the standard for compliance with this Agreement is the  
24 performance of its provisions. In the event of a finding that  
25 the defendants have failed to fulfill the requirements of this  
26 Agreement, their good faith efforts shall be a complete defense  
27 to the issue of contempt. If the Court issues additional relief  
28 to enforce this Agreement, however, good faith efforts to comply

1 with the subsequent relief shall not be a defense to a finding of  
2 contempt.

3 6. Defendants agree as a matter of policy not to engage  
4 in any act or practice which has the purpose or effect of  
5 managing or causing the operation of NSP in a manner inconsistent  
6 with this Agreement. Further, the defendants will institute a  
7 program of action to ensure that NSP will operate in a manner  
8 consistent with the terms of this Agreement and the Constitution  
9 of the United States. This Agreement in no way constitutes an  
10 adjudication or finding of any present or past unlawful practice  
11 by the defendants and does not constitute an admission by the  
12 defendants that any statutory or constitutional rights of the  
13 plaintiffs have been violated. All NSP staff shall receive  
14 training and orientation in the meaning of this Agreement and its  
15 implementation as it applies to their position.

16 7. In the event any provision of this Agreement causes a  
17 result unintended by the parties or an ambiguous interpretation,  
18 the aggrieved party shall notify the other parties by mail of the  
19 unintended result or ambiguous interpretation. The parties shall  
20 have sixty (60) days following receipt of written notice to  
21 resolve the problem. If the parties are unable to reach an  
22 agreement within sixty (60) days, the issue may be submitted to  
23 the Court for resolution.

24 8. This Agreement and the Appendices A-H, attached hereto  
25 and incorporated herein, constitute the entire agreement between  
26 the parties and resolve all the issues raised in the pleadings in  
27 this action. This Agreement supercedes and entirely replaces the  
28 Craig Consent Decree dated July 18, 1980, and the Shapley

1 Stipulated Settlement Agreement dated April 6, 1983. This  
2 Agreement shall not be construed to preclude action on any issues  
3 not specifically mentioned.

4 9. In the event any provision of this Agreement is held  
5 unlawful by a Court of competent jurisdiction, all other  
6 provisions of this Agreement shall remain in effect and only the  
7 rights or obligations established in the voided portion(s) shall  
8 be extinguished.

#### 9 INDEPENDENT MONITORS

##### 10 SECTION I

11 10. The parties agree to retain an independent monitor or  
12 monitors, who shall be acceptable to both parties, to observe and  
13 report upon compliance with the terms of this Agreement. In  
14 addition, the parties agree independent consultants in the areas  
15 of medical care and environmental health and fire safety shall be  
16 utilized under the auspices of the monitors when necessary. In  
17 their respective areas, the consultants will observe and assess  
18 compliance with the terms of this Agreement, report to the  
19 monitors about such compliance and give advice and  
20 recommendations to the monitors. Fees and expenses of the  
21 monitors and consultants will be borne by defendants. At the  
22 outset, the parties have agreed to the appointment of Patrick  
23 McManus and Jerry Enomoto as joint monitors. The consultants  
24 shall be selected by the monitors for the issues of environmental  
25 health and fire safety and for the issue of medical care. It is  
26 agreed that the consultants shall not at any time have worked in  
27 this case for any of the parties hereto.

28 11. In carrying out the monitors' duties, consistent with

1 legitimate requirements of security, the monitors and their  
2 consultants shall:

3 a) have unobstructed access to staff, inmates or  
4 other knowledgeable persons for interviews or written  
5 communication regarding conditions within NSP. Such interviews  
6 or other communication may be held in private, and may be held in  
7 confidence by the monitors and consultants. The Director of the  
8 Nevada Department of Prisons shall be given the content or nature  
9 of such interviews or communications unless the monitors or  
10 consultants determine that the confidentiality of the source of  
11 the information cannot be preserved;

12 b) have complete and unobstructed access to files,  
13 records, reports, memoranda or other documents within the  
14 defendants' possession or custody for purposes of compliance with  
15 the terms of this Agreement;

16 c) have unobstructed access to tour and inspect the  
17 institution;

18 d) not be subject to dismissal except upon agreement  
19 of both parties or by the Court upon motion of one of the parties  
20 and upon a showing of good cause.

21 12. The monitors shall prepare a joint report broadly  
22 regarding compliance and specifically with respect to discrete  
23 Sections of this Agreement. The monitors shall prepare a  
24 detailed report every six months summarizing their specific  
25 findings as to compliance and recommendations to achieve  
26 compliance for each provision of this Agreement. Reports shall  
27 indicate the factual basis for each finding of compliance. The  
28 monitors shall incorporate and consider reports by the

1 consultants and state inspectors, if any, regarding findings in  
2 their specific areas. To the extent the consultants and state  
3 inspectors are in disagreement, the monitors shall give deference  
4 to the findings of the consultants. Copies of the monitors'  
5 reports shall be provided to counsel for the parties. In the  
6 event of further court proceedings, the monitors' written  
7 findings and recommendations may be introduced into evidence and  
8 the monitors and their consultants called to testify as expert  
9 witnesses by either party or the Court.

10  
11 13. In addition, the monitors shall monitor the  
12 defendants' timely compliance in each of the specific areas of  
13 the Agreement as follows:

14 a) The parties shall specify an agreed upon date for  
15 the defendants' compliance with regard to each Section of the  
16 Agreement. This date shall be referred to as the completion  
17 date, and shall be computed from the date the Agreement is  
18 finally approved by the Court.

19 b) For each Section of the Agreement, there shall be  
20 a sixty (60) day period following the completion date within  
21 which the monitors shall review the defendants' compliance with  
22 the specific Section. This period of time shall be referred to  
23 as the "certification period."

24 c) Within fifteen (15) days following the  
25 "certification period," the monitors shall agree upon and jointly  
26 submit and file with the Court a written report discussing their  
27 findings and certifying to the Court the extent to which the  
28 defendants have successfully fulfilled the specific Section. The  
monitors' report may also indicate the reasons for any failure of



1 the defendants to comply and include recommendations to the Court  
2 regarding the likelihood of future compliance and the steps  
3 required to come into compliance.

4 d) To the extent either party disagrees with the  
5 monitors' certification, the parties may file any motions they  
6 deem appropriate after first conferring with the opposing party  
7 and the monitors to reconcile any differences regarding  
8 certification which might exist. Any motion, however, must be  
9 filed within forty-five (45) days from the date the certification  
10 is filed with the Court. These procedures shall automatically  
11 apply and be incorporated into each of the Sections below in  
12 connection with the establishment of the completion and  
13 certification dates unless expressly stated otherwise.

14 e) Following the certification of compliance by the  
15 monitors with any Section or paragraph, where separately  
16 identified for certification, and absent a formal objection by  
17 one of the parties sustained by the Court, no further monitoring  
18 or reporting shall be necessary with regard to that Section or  
19 paragraph. However, plaintiffs' counsel shall continue to  
20 receive state health and safety inspection reports. Upon a  
21 showing of good cause by an objecting party, the Court may order  
22 monitoring to continue pending resolution of the objection.

#### 23 POPULATION

#### 24 SECTION II

25 14. The provisions of this Agreement are premised on a  
26 design capacity at NSP of 462 cells, including shortline and  
27 federal cells, although this shall not create a presumption that  
28 staffing levels mentioned elsewhere in this Agreement are based

1 on a ratio to this design capacity. Should the design capacity  
2 increase during the monitoring period, the monitors shall examine  
3 and report to the Court and the parties on the impact of the  
4 increased population on defendants' ability to provide for  
5 adequate shelter, clothing, sanitation, food, medical care.  
6 personal safety and education, work and recreation opportunities.  
7 The monitors shall recommend appropriate action, if any, to be  
8 taken by defendants to adapt NSP to the increased population,  
9 including inter alia, the provision of additional staff and  
10 expanded facilities or reduction of the population. The  
11 recommendations of the monitors shall be implemented within the  
12 periods established by the monitors. Either party or both may  
13 for good cause shown obtain relief from the Court. After the  
14 monitoring period concludes, each time a total of 47 new cells is  
15 added, the monitors shall return and this Section shall be  
16 implemented.

17 15. The defendants shall adhere to the principle that  
18 population levels will remain within the ability of the  
19 defendants to provide for adequate shelter, clothing, sanitation,  
20 food, medical care and personal safety. Subject to this general  
21 limitation:

22 a) "Design capacity" means the number of cells. At  
23 the time of this Agreement, design capacity consists of 462 cells  
24 (Units 1-6, 48 cells each; Unit 7, 40 cells; A and B cellblock,  
25 77 cells; C cellblock, 24 cells; federal unit, 22 cells; and  
26 shortline, 11 cells).

27 b) "Critical capacity" or "operating capacity"  
28 means anything in excess of design capacity and up to 125% of

1 design capacity. At the time of this Agreement, the maximum  
2 critical capacity is 578 inmates.

3 c) "Emergency capacity" means anything in excess of  
4 critical capacity and up to 140% of design capacity. At the time  
5 of this Agreement, the maximum emergency capacity is 647.  
6 Neither critical capacity nor emergency capacity shall include  
7 any inmates who may be temporarily housed in the seventeen cells  
8 in 1-C East.

9  
10 16. a. The defendants may operate at emergency capacity  
11 for no longer than ninety (90) days. The defendants shall not  
12 operate above the maximum emergency capacity under any  
13 circumstances.

14 b. No inmate who is double celled shall be locked in his  
15 cell for more than twelve (12) hours a day, absent exigent  
16 circumstances which shall last no longer than thirty (30) days.  
17 Exigent circumstances constitute a condition posing a clear and  
18 present danger to the safety and security of the entire  
19 institution or particular Section(s) of the institution. The  
20 lock-up shall be limited to those areas of the prison directly  
21 affected. Exigent circumstances may also be those conditions  
22 which pose a clear and present danger to the safety and security  
23 of another facility or institution within the department which  
24 necessitate the transfer of a number of inmates to NSP. In this  
25 case, those inmate transferees may be locked in their cells for  
26 more than twelve (12) hours a day when NSP is operating in an  
27 emergency capacity but not for more than forty-five (45) days.  
28 Those inmate transferees must also have at least ten (10) hours  
of exercise per week with at least one (1) hour of outside

1 exercise per day in this situation.

2 17. The completion date shall be six (6) months.

3 **MEDICAL AND DENTAL SERVICES**

4 **SECTION III**

5 18. Defendants agree to provide an adequate medical and  
6 dental delivery system which meets the day-to-day and emergency  
7 needs of inmates in accordance with ACA Standards for Adult  
8 Correctional Institutions, Second Edition, January, 1981, from  
9 Sections 2-4271 through 2-4322, excluding Sections 2-4283, 2-  
10 4293, 2-4294, 2-4296, 2-4297 and 2-4298. See Appendix G. This  
11 medical and dental care system shall meet the ACA standards for  
12 medical care of inmates. If there is any conflict between the  
13 medical standards and the provisions of the Agreement, then the  
14 provisions of the Agreement are controlling. The staffing  
15 patterns prescribed in this Section, however, shall not be a  
16 basis for failing to adequately staff the medical and dental  
17 delivery system in the event of an increase in the prison  
18 population. In order to provide adequate health care at NSP, the  
19 defendants shall employ the following personnel:

20 a. One full-time primary care physician;

21 b. One full-time state certified physician's  
22 assistant or advanced practitioner of nursing;

23 c. A sufficient number of nurses to provide nursing  
24 coverage on a twenty-four (24) hour basis, 7 days per week, with  
25 at least two nurses present at NSP on day and swing shifts and  
26 one nurse present on the graveyard shift;

27 d. A sufficient number of medical records  
28 coordinators to maintain adequately medical records in accordance

1 with ACA standards.

2 19. All health and dental care staff shall be fully  
3 licensed and registered by appropriate state and federal  
4 agencies.

5 20. In addition to the above state-employed medical  
6 personnel, defendants shall establish and implement a preferred  
7 providers organization consisting of physicians, hospitals,  
8 ambulatory centers and a dental laboratory to provide a full  
9 array of health care specialists to ensure sufficient medical  
10 health services for inmates at NSP.

11 21. The full-time primary care physician at NSP shall  
12 report to the medical director regarding medical and surgical  
13 matters.

14 22. Sick call performed by the physicians or the  
15 physician's assistant or advanced practitioner of nursing shall  
16 be made available to all general population inmates at least five  
17 days per week. A representative of the medical staff, at least  
18 of the level of advanced practitioner of nursing or physician's  
19 assistant, shall make rounds for sick call in the Administrative  
20 Segregation, Disciplinary Segregation, and Protective Custody  
21 units on a daily basis. In addition, the NSP physician shall  
22 visit these lock-down units once a month.

23 23. Inmates will not be employed in direct patient care.

24 24. Defendants shall provide all medical personnel with  
25 initial, mandatory in-service training.

26 25. Defendants shall provide all correctional officers and  
27 medical staff at NSP with training in cardio-pulmonary  
28 resuscitation (CPR).

1           26. Special medical diets as prescribed by the NDOP  
2 Medical-Division physicians, physician's assistants, or advanced  
3 practitioners of nursing will be provided as needed. Diet  
4 prescriptions shall be specific, complete and written at  
5 appropriate periodic intervals.

6           27. Defendants shall establish and implement specific and  
7 appropriate health care protocols for use by the nursing staff  
8 and physician's assistants at the Nevada State Prison.

9           28. Defendants shall through the implementation of the  
10 medical protocols, provide for periodic assessments of all  
11 inmates who have been shown on the basis of sick call or initial  
12 intake physical examinations to have a chronic medical condition.

13           29. Defendants shall, through the implementation of the  
14 medical protocols, establish a formalized system to provide  
15 follow-up care and follow-up appointments after presentation at  
16 sick call.

17           30. Defendants shall, through the implementation of  
18 medical protocols, establish a formalized system including  
19 appropriate documentation to determine on a daily basis which  
20 inmates fail to appear for scheduled appointments or fail to  
21 receive their medication.

22           31. Defendants agree to provide adequate access for  
23 outside health care appointments with the prior authorization of  
24 the medical director.

25           32. The infirmary shall be provided with easy-to-clean and  
26 sanitary floors.

27  
28           33. As determined by the monitors, air temperature and

1 ventilation equipment sufficient to maintain air temperatures in  
2 the comfort zone shall be installed in the infirmary.

3 34. The completion date for implementation of the  
4 provisions in Section III shall be twelve (12) months.

5 CLASSIFICATION

6 SECTION IV

7 35. Defendants have adopted an objective classification  
8 system patterned after the NIC model. However, practice  
9 indicates that more inmates are assigned to maximum and close  
10 security classification levels than the model requires. Practice  
11 further indicates the number of administrative overrides far  
12 exceeds acceptable levels as established by the model. The  
13 defendants agree that a validation analysis of their  
14 classification system shall be made under the direction of Jim  
15 Austin. The monitors shall make recommendations for  
16 modifications, based upon the validation analysis, which shall be  
17 implemented unless it can be demonstrated by the defendants that  
18 such modifications would jeopardize public safety.

19 36. Compliance is determined when the defendants:

20 a. have adopted the recommendations of the monitors  
21 based upon the validation analysis;

22 b. classify 20% of the inmate population of NDOP to  
23 minimum security pending the implementation of the monitors'  
24 recommendations based upon the above-referenced validation  
25 analysis; and

26 c. are using fewer than 20% administrative overrides  
27 throughout the NDOP.

28 37. The completion date shall be twelve (12) months.

1                   GENERAL PRISON LIVING CONDITIONS AND ACTIVITY AREAS

2                   SECTION V

3                   38. Defendants agree to provide adequate food, clothing,  
4 shelter, sanitation and personal safety within NSP. In order  
5 that this Section is implemented, defendants agree to the  
6 following:

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

13                   (1). Where the regular maintenance budget permits, an  
14 immediate work order will be issued and performed.

15                   (2). Where a work order exceeds the regular  
16 maintenance budget, such repair may be postponed until the  
17 next appropriations, absent exigent circumstances requiring  
18 immediate repair. In the event of exigent circumstances of  
19 a life/safety nature as certified by the public health  
20 authority, an emergency appropriation shall be immediately  
21 requested if funds are not available.

22                   b. Defendants have promulgated, and shall maintain,  
23 a fire plan for the Nevada State Prison which will be the  
24 operational document providing for fire safety. State fire codes  
25 will be observed and monitored by the Nevada State Fire Marshal  
26 on a regular basis. Regular inspections and reports will be made  
27 by the Nevada State Fire Marshal's office. Further, the Fire  
28 Marshal will direct to the attention of the Director of Prisons



1 all fire code violations and deficiencies for immediate  
2 corrective action.

3  
4 c. The defendants agree to observe state codes  
5 unless deemed inapplicable or inadequate by the monitors after  
6 consultation with the expert consultants in the specific areas.  
7 In such an event, the monitors and consultants may refer to other  
8 professionally accepted standards and requirements which the  
9 defendants shall observe. Should the monitors require additional  
10 standards and requirements to be followed, these shall be  
11 specifically set forth in a separate document to be used by the  
12 defendants.

13 d. The defendants have received appropriations to  
14 remodel A and B blocks, including the plumbing and electrical  
15 systems, and to create at least 46 new larger cells of no less  
16 than 60 square feet on the third and fourth floors. To the  
17 extent it has not been done, the defendants shall also repair or  
18 replace locking devices and systems in said cell blocks, abolish  
19 the use of padlocks in all cell blocks throughout the institution  
20 and operate A and B blocks consistent with the requirements of  
21 paragraph c above.

22 39. The monitors shall certify to the Court and the  
23 parties whether and to what extent A and B blocks have been  
24 renovated to meet the above requirements of paragraph 38. In the  
25 event defendants are unable to renovate A and B blocks to the  
26 degree and within the time limits required herein, the areas of A  
27 and B blocks which fail to meet the requirements of this Section  
28 shall be immediately closed and inmates removed from confinement  
therein. Pending the time limits set forth in this Section for

1 the renovations, the defendants shall limit the population of A  
2 and B blocks to 103 inmates.

3 40. The defendants will also provide NSP the following:

4 a. Adequate numbers of sanitation facilities,  
5 properly connected, operating and maintained must be available.  
6 Recreation or exercise yards must have immediate access to a  
7 urinal and drinking fountain.

8 b. A new water storage tank with a minimum capacity  
9 of 400,000 gallons shall be in operation within six (6) months  
10 from the date of this Agreement.

11 c. Defendants will contract with a certified  
12 dietician who will make semi-annual inspections of the facility,  
13 examine the food being served, examine the menus and take  
14 appropriate action to determine whether food being served is  
15 nutritionally adequate and sanitary. Dietician reports will be  
16 provided to the monitors and medical and environmental health  
17 consultants.

18 d. Defendants will establish an environmental health  
19 program at NSP which will cover food service sanitation, insect  
20 and rodent control, laundry sanitation, safety, plumbing  
21 installation and maintenance, fire protection and safety, medical  
22 facilities and institutional sanitation including housekeeping,  
23 lighting, ventilation and bedding.

24 41. The Defendants shall observe the following food  
25 services requirements:

26 a. The institution employs a full time staff member,  
27 experienced in food service management, to supervise the food  
28 service operations. This staff member shall have the resources,

1 authority and responsibility to provide the institution a  
2 complete food service that includes three meals a day that are  
3 nutritionally adequate and palatable and that are produced under  
4 sanitary conditions at reasonable cost. Food shall be served as  
5 soon as possible after preparation and at an appropriate  
6 temperature. The food service manager shall have a minimum of  
7 three years experience in food service management.  
8

9 b. The institution can document that its food  
10 service meets or exceeds dietary allowances as stated in the  
11 Recommended Dietary Allowances, National Academy of Sciences.  
12 See Appendix H.

13 c. Food products used in the culinary that are grown  
14 or produced within the system are inspected and approved by the  
15 appropriate government agency, and there is a distribution system  
16 that ensures prompt delivery of food stuff in institution  
17 kitchens. All such food stuffs shall meet or surpass government  
18 inspection levels. The distribution system shall insure that the  
19 food stuff is delivered when fresh and in a condition for optimum  
20 food service.

21 d. Written policy and procedure require advance menu  
22 preparation. All menus, including special diets, shall be  
23 planned, dated and available for review at least one week in  
24 advance. Notations shall be made of any substitutions in the  
25 meals actually served and these shall be of equal nutritional  
26 value.

27 e. Written policy shall provide for no more than 14  
28 hours between evening meal and breakfast, and a minimum of 2 hot  
meals every 24 hours. Where inmates are not routinely absent

1 from the institution for work or other purposes, at least 3 meals  
2 shall be provided at regular times during each 24 hour period.

3 f. Written policy shall preclude the use of food as  
4 a disciplinary measure except in those instances where an inmate  
5 is throwing or wasting food. This shall not include those  
6 situations where an inmate simply does not finish his meals.  
7 When an inmate is throwing or wasting his food, only after other  
8 alternatives have failed, NSP officials may provide an inmate  
9 with a "diet loaf." The first time this is provided shall be  
10 limited to five (5) days. If the inmate does not cease throwing  
11 or wasting food, the diet loaf may be presented a second time for  
12 a period of ten (10) days and for a third time up to fifteen (15)  
13 days. Inmates who have been segregated shall otherwise be on a  
14 regular diet.

15 g. Written policy and procedure shall require at  
16 least monthly inspections by administrative, medical or dietetic  
17 personnel. Areas and equipment related to all food preparation  
18 such as ranges, ovens, refrigerators, mixers, dishwashers,  
19 garbage dispensers, etc. require frequent inspections to ensure  
20 their sanitary and operating condition. Refrigerator and water  
21 temperature also shall be checked periodically.

22 42. The completion date shall be twelve (12) months.

23 ADMINISTRATIVE SEGREGATION, GENERAL PROVISIONS

24 SECTION VI

25 43. The Defendants agree to provide living conditions  
26 within the Administrative Segregation units which include the  
27 following:

28 a. Any inmate locked in his cell for more than ten

1 (10) hours a day shall be given at least seventy-nine (79) square  
2 feet of living space.

3 b. The defendants shall provide lighting throughout  
4 the Administrative Segregation units of at least 20 foot candles.  
5 Additionally, the defendants shall provide task-oriented  
6 lighting in each cell for reading, writing and other activities.  
7 Lighting in the cells shall be both occupant and centrally  
8 controlled. Natural lighting shall also be available from a  
9 source within twenty (20) feet of each room or cell in the unit.

10 c. Each cell or room in the Administrative  
11 Segregation units shall have: working toilet facilities;  
12 circulation of least 10 cubic feet of fresh or purified air per  
13 minute; hot and cold running water, unless there is ready access  
14 to them; acoustics that insure noise levels that do not interfere  
15 with normal human activities; bunk, desk, shelf, hooks or closet  
16 space, chair or stool; and natural light. The bed should be  
17 elevated from the floor and have a clean, covered mattress with  
18 blankets provided as needed. Adequate shower facilities should  
19 be provided so that the inmate can bathe at least five (5) days  
20 per week.

21 d. The defendants shall also provide adequate  
22 heating and cooling in each cell to provide temperatures within  
23 the normal comfort range.

24 e. The defendants have prepared a comprehensive  
25 written maintenance manual and inspection check list for the  
26 inspection and maintenance of equipment systems within the  
27 Administrative Segregation units. In the next biannual budget  
28 following the effective date of this Agreement, the Defendants

1 shall request sufficient maintenance staff in order to keep  
2 current their preventive maintenance schedule and to thereafter  
3 maintain the facility consistent therewith.

4 f. Screens will be maintained on all windows.  
5 Window panes will be continually maintained in all areas.  
6 Structural defects which allow rodents to enter the units will be  
7 cured and an effective vermin and pest control program will be  
8 implemented.

9 g. An inspection of the Administrative Segregation  
10 units shall be conducted on a regular and periodic basis by the  
11 safety committee, or its designate, to insure that the units meet  
12 fire safety and prevention standards.

13 h. Mattresses and trash containers will be made of  
14 material which meet fire safety standards.

15 i. No cross connections will exist between the  
16 potable and non-potable water systems.

17 44. The Defendants agree to provide the following minimal  
18 procedural safeguards in connection with the Administrative  
19 Segregation units.

20 a. Administrative Segregation units shall not be  
21 used as a substitute for the mental health facilities of the  
22 institution. Inmates may be assigned to Administrative  
23 Segregation for a period not to exceed two years, after which the  
24 inmates shall be released to the general population.  
25 Notwithstanding the foregoing, the time an inmate is required to  
26 spend in Administrative Segregation may be extended by up to 90  
27 day increments, solely upon the following circumstances:

28 (1) A qualified mental health professional, at least

1 at the level of a certified, Ph.D., clinical psychologist,  
2 certifies in writing, after a mental status examination,  
3 that the inmate is a danger to himself or others according  
4 to generally accepted mental health standards and that  
5 administrative segregation is the most appropriate  
6 placement consistent with his mental health status; or  
7

8 (2) The Director of the Department of Prisons (DOP)  
9 certifies, pursuant to the classification process set forth  
10 herein, that the inmate is a gang leader, an active gang  
11 participant, or is on death row and the death row inmate is  
12 too dangerous for confinement in the condemned men's unit.  
13 The finding justifying continued confinement in  
14 Administrative Segregation shall be based solely upon  
15 evidence of new activity exhibited by the inmate arising  
16 since the last review which establishes that the reasons  
17 for assignment to Administrative Segregation still exist.

18 b. Inmates assigned to Administrative Segregation  
19 shall have their custody and classification assignment reviewed  
20 at least once every 90 days to determine whether the reasons for  
21 confinement in Administrative Segregation exist. Inmates and  
22 classification counselors may request additional reviews.

23 c. All inmates currently confined to Administrative  
24 Segregation and who have been there for eighteen (18) months or  
25 more shall be released to the general population within 6 months  
26 from the date this Agreement is approved unless a determination  
27 is made that the inmate falls within the two exceptions of  
28 paragraph 44(a), above. For all other inmates, the limitation

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1 upon the length of an assignment to Administrative Segregation  
2 and the procedural safeguards prescribed in this Section shall be  
3 effective immediately.

4 d. The defendants shall observe the provisions of  
5 Appendix A, and institutional procedures shall be modified to  
6 conform to its contents. Monitoring of paragraphs 13, 14, 15, 16  
7 and 19 is not required.

8 e. The Warden will designate an official to be  
9 responsible for the administration and operation of the  
10 Administrative Segregation Sections of the prison who will  
11 monitor and evaluate the entire program in the area as often as  
12 necessary to ensure compliance with all applicable policy  
13 statements.

14 f. A systematic record system will be maintained for  
15 all inmates assigned in the Administrative Segregation units of  
16 the prison. A general activity log will be maintained for  
17 inmates and activities within such areas. In addition, a log  
18 will be maintained for all personnel entering for inspection and  
19 treatment of each inmate.

20 45. The completion date shall be eighteen (18) months,  
21 except that the completion date for paragraph 44(d) and Appendix  
22 A shall be six (6) months.

#### 23 PROTECTIVE CUSTODY

#### 24 SECTION VII

25 46. The defendants agree to be bound by the provisions in  
26 Appendix B, although no further monitoring is required.

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DISCIPLINARY SEGREGATION

SECTION VIII

47. The defendants agree to be bound by Appendix F, though no monitoring is required.

EXCESSIVE USE OF FORCE

SECTION IX

48. The defendants' use of force shall be reviewed by the monitors for a period of twelve (12) months following the final approval of this Agreement. In the event the monitors determine that the defendants' use of force is excessive when measured against constitutional and generally accepted correctional standards for the use of force, the monitors shall require changes in the defendants' practices which the monitors believe will cause the defendants to reduce the use of force to acceptable limits. Monitoring shall continue until the monitors certify that over a period of six (6) months the defendants' use of force has remained within acceptable limits.

49. The defendants will continue their current policy of review of all critical incidents through the Critical Incident Review Board. In addition, the defendants shall send the monitors all incident reports involving the use of force by NSP staff against inmates which the monitors shall review. Independent of any action that may be taken by the Critical Incident Review Board, the monitors may report any incident to the Director of the Nevada Department of Prisons for review and appropriate action.

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MISCELLANEOUS

SECTION X

50. The defendants agree to be bound by the provisions in Appendix C, Inmate Correspondence, Appendix D, Legal Access, Appendix E, Education, Work and Recreational Opportunities, and Appendix F, Disciplinary Segregation, although no further monitoring is required.

DATED this 12<sup>th</sup> day of May, 1988.

FOR DEFENDANTS:

FOR PLAINTIFFS:

BRIAN MCKAY  
ATTORNEY GENERAL

Brian Hutchins  
BRIAN HUTCHINS, ESQ.  
Chief Deputy Attorney General  
Criminal Division

Charles R. Zeh  
CHARLES R. ZEH, ESQ.  
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National Prison Project  
American Civil Liberties  
Union

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## APPENDIX A

### Administrative Segregation

1. 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.

2. Written policy and procedure provide for Administrative Segregation for inmates with serious behavior problems and for inmates requiring Protective Custody. Administrative Segregation is used when inmates require close supervision and segregation from the general inmate population, often for relatively extensive periods of time. Administrative Segregation may be used to ensure the safety and security of the institution, the inmate, the staff or the general population. Prior to placing an inmate in Administrative Segregation, a determination should be made of the inmate's potential for causing problems or a need for protection and should explore alternatives other than specialized housing, e.g., transfer to other institution, camp or farm. If an inmate is placed in Administrative Segregation, the inmate should be housed in an individual room that provides safety and comfort and should be allowed to participate in all institutional programs. Each case should be reviewed as specified herein with the goal of

1 terminating the separate housing assignment as soon as possible.

2 3. The defendants have developed a written plan for  
3 classification which shall be consistent with Section 4377 of  
4 the Manual of Standards for Correctional Institutions, to be  
5 attached hereto as a part of Appendix A. Said plan is to set  
6 forth all the criteria which may result in the transfer of  
7 inmates to Administrative Segregation. The criteria are to be  
8 drafted with sufficient specificity to give inmates forewarning  
9 of all conduct or behavior which will result in such a transfer.

10 4. The Defendants shall observe the following procedures  
11 in connection with a transfer into Administrative Segregation:

12 a. An individual shall not be placed in  
13 Administrative Segregation status except pursuant to a decision  
14 by the classification committee reached as a result of a meeting  
15 conducted according to the following procedures.

16 (1) At least 24 hours prior to the Administrative  
17 Segregation meeting, an inmate shall be given a notice of  
18 the meeting which includes a statement detailing the  
19 reason(s) why he is being considered for placement in  
20 Administrative Segregation, the date, time, and place of  
21 the Administrative Segregation meeting and a list of the  
22 following rights which the inmate has regarding the  
23 hearing:

24 (i) The inmate may present witnesses and  
25 written statements to the committee and may ask  
26 questions of persons participating in the meeting  
27 unless doing so would be unduly hazardous to  
28 institutional safety or correctional goals.

1 Witnesses also may be excluded if their testimony  
2 is irrelevant, redundant, or otherwise  
3 unnecessary.  
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5 (ii) The inmate may have the assistance of a  
6 staff member in preparing for the meeting. The  
7 staff assistant shall attend the meeting with the  
8 inmate. Inmates shall be expected to be  
9 responsible for their own presentations except in  
10 those situations where assistance is necessary to  
11 an adequate presentation of the inmate's case due  
12 to the inmate's illiteracy, complexity of the  
13 issues involved, or other reasons deemed sufficient  
14 to the committee. In all cases, a staff assistant  
15 may ask questions of persons participating in the  
16 meeting.

17 iii. In the event that the meeting is concerned  
18 with an inmate's alleged involvement in an incident  
19 for which he could face criminal charges, the inmate  
20 has a right to remain silent at the meeting and to  
21 know that anything the inmate says at the meeting may  
22 be used against him in a criminal prosecution.

23 iv The notice shall also indicate that in  
24 addition to the specific reasons for which the  
25 meeting is being conducted, the committee may  
26 consider the inmate's past and present  
27 institutional attitude, adjustment and record, and  
28 criminal record.

(2) If the warden or his designee has reasonable

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2 cause to believe an inmate is an immediate danger to  
3 himself or to others or to the security of the  
4 institution, he may place the resident in  
5 Administrative Segregation prior to an Administrative  
6 Segregation meeting. In such an event, the meeting  
7 shall be held within 3 working days after the inmate  
8 is placed in segregation. This period may be extended  
9 by special approval of the warden. The inmate shall  
10 be notified in writing of any such extensions and the  
11 reasons therefore.

12 (3) The Administrative Segregation meeting shall  
13 be held by the classification committee or a  
14 subcommittee thereof composed of not less than three  
15 members. Members of the committee with direct  
16 involvement in an incident giving rise to the meeting  
17 or who may be otherwise prejudiced shall disqualify  
18 themselves or may be disqualified by the committee  
19 chairman.

20 (4) The inmate shall be present at all stages of  
21 the meeting except for decisional deliberations by the  
22 committee and discussion of information from anonymous  
23 sources conducted in accordance with the paragraph  
24 below.

25 b. The decision to place someone in  
26 Administrative Segregation may be based upon information from a  
27 source whose identity is not disclosed to the inmate at the  
28 meeting when disclosure would create a substantial risk to the  
safety of the informant. Such information may be presented to

1 the committee orally or in writing.

2 (1) The substance of any information from an  
3 anonymous source shall be shared with the inmate at the  
4 meeting to the extent that this may be done without  
5 creating a substantial risk to the safety of the  
6 informant.

7 (2) When the committee considers information from an  
8 anonymous source, the name of the source and all details of  
9 such information shall be given to the committee out of the  
10 presence of the inmate unless nondisclosure of the name  
11 and/or details has been previously approved by a staff  
12 member designated by the superintendent. Such approval  
13 shall constitute the approving official's verification  
14 that the source and the information are, in his judgment,  
15 reliable and may properly be considered in deciding whether  
16 to place an individual in Administrative Segregation and  
17 that nondisclosure of the informant's identity to the  
18 committee was necessary to obtain the information  
19 and/or to preserve the informant's anonymity.

20 (3) In all cases in which the committee considers  
21 information from an anonymous source, a confidential  
22 record shall be maintained which indicates the detail of  
23 such information and the identity of the informant and the  
24 degree of the committee's familiarity (or that of the  
25 official approving non-disclosure of the informant's  
26 identity to the committee) with the informant's  
27 reliability. Such records shall be available only to the  
28 warden, the Director of Corrections, and their specific

1  
2 designees.

3 (4) The warden shall review the complete record of  
4 all decisions in which the identity of an anonymous  
5 informant was withheld from the committee, provided he was  
6 not involved in the original decision. If he was  
7 involved, then the review shall be by the Director of  
8 Corrections. Such reviews should be completed within two  
9 weeks of the conclusion of proceedings at the institution  
10 level, if not otherwise appealed by the inmate, in which  
11 case the time guidelines for appeals shall apply. Provided  
12 he was not involved in the original decision, the warden  
13 shall review or cause to be reviewed the confidential file  
14 maintained on all cases which considered information from  
15 an anonymous source at least every 90 days. If he was so  
16 involved, then the Director of Corrections is responsible  
17 for the review.

18 5. The classification committee shall reach a decision  
19 based upon information presented at the meeting and shall provide  
20 the inmate with a written decision which states the reasons and  
21 basis for the committee's decision and which summarizes the  
22 information presented to and considered by the committee. The  
23 decision shall be based upon substantial, credible information  
24 which demonstrates the necessity for segregation. The decision  
25 shall also state the reasons for the committee's decision  
26 excluding the testimony of any witness offered by the inmate.

27 6. A classification committee shall no longer be required  
28 to review the status of each inmate at least every seven days for  
the first two months and at least every thirty days thereafter.



1 Consistent with other paragraphs in this Section, the  
2 classification committee shall review the status of each inmate  
3 every 30 days for the first 90 days of confinement in  
4 Administrative Segregation and then at least once every 90 days  
5 thereafter. More frequent reviews may be scheduled based on the  
6 request of the case manager or the inmate. At each review, the  
7 classification committee shall determine whether there is  
8 substantial evidence to indicate that the initial reasons for  
9 classification into Administrative Segregation still exist. If  
10 they do not, the inmate shall be reclassified out of  
11 Administrative Segregation status. The inmate shall be permitted  
12 to appear before the classification committee at each review and  
13 make a statement. In cases where the inmate refuses to appear,  
14 the committee chair shall sign a classification sheet noting the  
15 specific reasons for the inmate's absence and make an evaluation  
16 for the inmate's classification/institutional file.

17  
18 7. In each case of an inmate classified to Administrative  
19 Segregation involuntarily for over ninety (90) days, the  
20 classification committee will establish a set schedule of  
21 personal and program objectives involving gradual reintegration  
22 into the general population. Upon satisfying the personal and  
23 program objectives, the inmate shall be reclassified from  
24 Administrative Segregation within an additional 60 days. Subject  
25 to the two year limitation on the total length of time an inmate  
26 may be assigned to Administrative Segregation, qualified by the  
27 two exceptions to the length of time an inmate may be assigned to  
28 Administrative Segregation, if the classification committee  
documents substantial evidence that reclassification from

1 Administrative Segregation would produce serious injury to the  
2 inmate or others or substantially threaten the security of the  
3 institution, then reintegration is not required.

4 8. The defendants shall observe the following limitations  
5 with respect to conditions of confinement in connection with  
6 Administrative Segregation.

7 a. Non-disciplinary restrictions on the rights,  
8 privileges and amenities available to persons in segregation may  
9 be imposed when such restrictions are necessary to prevent the  
10 destruction of property, to maintain the health and/or safety of  
11 any person and/or otherwise to maintain the security of the  
12 segregation unit. Such restrictions shall be imposed on an  
13 individual case by case basis if at all possible and only on the  
14 basis of substantial information justifying such restriction(s).

15 (1) Unless the immediate restriction of a particular  
16 item is necessary, restrictions must be approved in advance  
17 by the warden or the institution's chief security officer.  
18 Emergency restrictions shall be reviewed and approved or  
19 disapproved by the same official as soon as is reasonably  
20 possible following the imposition of such restriction. A  
21 written record shall be maintained of all restrictions  
22 imposed and the reasons therefore.

23 (2) Restrictions shall be maintained no longer than  
24 is necessary. The segregation unit log shall state the  
25 continuing justification and the unit supervisor's approval  
26 for the continuation of such restrictions at least every  
27 other day. Restrictions imposed on an individual shall  
28 also be reviewed at 30-day Administrative Segregation

1 classification review meetings.

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3 (3) Any inmate for whom a significant restriction of  
4 basic cell furnishings, personal hygiene implements  
5 (except razors), food, bedding, or standard institutional  
6 issue clothing is imposed shall be referred to the mental  
7 health staff within 24 hours of the warden's approval of  
8 such restriction and the medical and/or mental health  
9 effects of such restriction on an inmate shall be reviewed  
10 by an appropriate member of the institutions's medical  
11 staff on at least a twice weekly basis.

12 b. Rights, privileges, or amenities pertaining to  
13 exercise, personal property (not including basic cell  
14 furnishings, personal hygiene implements, food, bedding, or  
15 standard institutional issue clothing), library access, and  
16 commissary access may be reduced or withdrawn for limited periods  
17 of time as a sanction for violating institution or segregation  
18 unit disciplinary rules which shall be in writing. Rights,  
19 privileges, or amenities pertaining to correspondence, visiting  
20 and telephone usage may be reduced or withdrawn as a sanction for  
21 violating institution or segregation unit disciplinary rules  
22 where the violation is directly related to the item restricted,  
23 e.g., refusal to terminate a visit at the end of a visiting  
24 period may warrant the loss of visiting periods for a limited  
25 period of time. Restrictions imposed as a result of a violation  
26 of an institution or unit disciplinary rule shall be imposed only  
27 as a result of a disciplinary hearing conducted in compliance  
28 with the general institution disciplinary rules.

c. Whenever property is removed from the inmates,

1 the removal will be documented in writing and the property will  
2 be stored in a safe place and an inventory maintained to ensure  
3 its return to the inmate. Where property shall be removed for a  
4 long period of time, arrangements will be made for the inmate to  
5 ship the property out of the institution.

6  
7 9. Prisoners classified to Administrative Segregation may  
8 be denied or removed from programs, jobs, activities, including  
9 hobby craft, canteen privileges and activities in accordance with  
10 the provisions in Paragraphs 7 and 8 above. Notwithstanding  
11 those provisions, however, every inmate in Administrative  
12 Segregation shall receive an opportunity for educational  
13 opportunities including a GED degree, high school classes, and a  
14 high school diploma. College correspondence courses shall be  
15 made available at the inmate's expense. The inmates in  
16 Administrative Segregation shall also be provided the opportunity  
17 for vocational development consistent with their status in  
18 Administrative Segregation according to a plan developed by the  
19 defendants herein.

20 10. Inmates shall be afforded the opportunity for work  
21 within the Administrative Segregation units consistent with their  
22 status. The defendants shall have a written plan providing for  
23 such work opportunities within the confines of the Administrative  
24 Segregation units.

25 11. Inmates in Administrative Segregation shall be  
26 provided a minimum of eight (8) hours per week of outdoor  
27 exercise, absent inclement weather, with ten (10) hours of  
28 outdoor exercise per week established as a goal.

12. A reasonable amount of recreational equipment shall be

1 made available in each exercise area. The exercise area(s) shall  
2 be at least 50 feet by 50 feet.

3 13. Inmates in Administrative Segregation shall also be  
4 provided the following:

5 a. Correspondence as provided to the general  
6 population.

7 b. Showers and shaving five (5) times per week;

8 c. Hair grooming and barbering;

9 d. A minimum of two (2) hours visitation per week;

10 e. Access to legal counsel shall be the same as for  
11 inmates in the general population; however, the location of  
12 visits with counsel shall be consistent with security  
13 requirements. Access to other legal resources for the inmates in  
14 Administration Segregation will be provided similar to the access  
15 accorded inmates in the general population, except that direct  
16 access to the law library shall not be required. There shall be  
17 law clerks assigned to the units who shall visit the units four  
18 (4) times per week to assist inmates and make law books and legal  
19 supplies available to them upon request.

20 14. Provisions will be made for prisoners in  
21 Administrative Segregation status to have access to a selection  
22 of general library books maintained in the unit to check out as  
23 many as five (5) books at least every seven (7) days.

24 15. Inmates in Administrative Segregation status will be  
25 allowed to retain in their personal living area a maximum of five  
26 (5) law books and all legal papers, consistent with fire safety  
27 regulations.

28 16. A caseworker or counselor shall be assigned to the

1 Administrative Segregation units of the prison who will visit the  
2 units five (5) days per week and will be available to help each  
3 inmate who desires assistance or information.  
4

5 17. Should an inmate in Administrative Segregation  
6 complain of or exhibit an apparent medical/dental or  
7 psychological problem at times other than the medical staff  
8 member's visit, the officers in charge of the Administrative  
9 Segregation units shall be notified and shall immediately notify  
10 the medical staff. Such notifications and actions shall be  
11 recorded.

12 18. A qualified clinical psychologist or psychiatrist  
13 shall interview in person and complete a meaningful evaluation of  
14 the status of each person classified to Administrative  
15 Segregation within thirty (30) days of assignment to that unit.  
16 The medical director shall define in writing what constitutes a  
17 meaningful evaluation. Thereafter said evaluation shall be  
18 completed for the inmates every ninety (90) days.

19 19. Visitation by religious personnel to inmates assigned  
20 to Administrative Segregation will be encouraged and allowed.  
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and frequency of commitment of these groups of inmates. Where numbers or frequency of commitment warrant, special programs should be instituted for the appropriate management and effective handling of these inmates.

**4376 The written plan for inmate classification specifies that the program and status review of each inmate occurs at least every 12 months. (Essential)**

DISCUSSION: Schedules for classification reviews vary according to the type of institution, profile of inmate population, average length of sentence, etc. Those institutions that serve younger individuals and individuals serving relatively short sentences should conduct classification reviews at least every three months. Institutions serving an older population and individuals serving longer sentences should provide for classification reviews at least every 12 months. Under no circumstances should more than a year elapse between program and status reviews.

**4377 The written plan for inmate classification specifies criteria and procedures for determining and changing the status of an inmate. (Essential)**

DISCUSSION: Because classification and status reviews can involve an increase in level of custody, transfer to another institution, or other program changes that affect inmates adversely, the review process should include due process safeguards.

**4378 Written policy and procedure require that all inmates appear at their classification hearings and are given notice 48 hours prior to these hearings. (Essential)**

DISCUSSION: Inmates should have sufficient time to prepare for their classification hearings so that they may present any evidence or testimony that would ensure them an appropriate classification. Inmates also should receive the assistance of staff members in this preparation.

**4379 Written policy and procedure provide that inmates can initiate reviews of their progress, status and programming. (Important)**

DISCUSSION: In addition to participating in assessing their needs and selecting responsive programs, inmates should be allowed to initiate reviews that determine the extent of their progress and effectiveness of their programming.

**4380 Written policy and procedure grant inmates the choice to refuse to participate in institutional programs, except work assignments. (Important)**

DISCUSSION: Inmates should not be penalized for refusing to participate in the institution's total rehabilitation program. All able-bodied inmates, however, are expected to accept work assignments. (See related standard 4295.)

**4381 Written policy and procedure provide that inmates are placed in administrative segregation only after a hearing before the classification committee, unless there is substantial reason necessitating such placement immediately; where this occurs, the classification hearing is conducted within three working days following such placement. (Essential)**

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APPENDIX B

Protective Custody

1. The defendants agree to be bound by the following provisions, although no further monitoring is required.

a. Any inmate housed in a cell for more than ten (10) hours a day shall be provided with at least seventy-nine (79) square feet of living space.

b. Defendants shall provide lighting throughout the Protective Custody units of at least 20 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.

c. Each cell or room in Protective Custody shall have: working toilet facilities; circulation of at least ten (10) cubic feet of fresh or purified air per minute; hot and cold running water, unless there is ready access to them; acoustics that ensure noise levels that do not interfere with normal human activities; bunk, desk, shelf, hooks or closet space, chair or stool; and natural light. The bed should be elevated from the floor and have a clean, covered mattress with blankets provided as needed. Adequate shower facilities should be provided so that the inmate can bathe daily.

d. Defendants shall also provide adequate heating and cooling and provide temperatures within the normal comfort

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1 range.

2 e. Every inmate in Protective Custody shall be  
3 provided with a sanitary mattress and two (2) sheets, two (2)  
4 blankets, a pillow and pillowcase. Linen shall be exchanged at  
5 least weekly and blankets, pillow and mattress shall be cleaned  
6 on a routine basis and maintained in a sanitary condition.  
7 Mattress and mattress covers will be disinfected and cleaned  
8 before reissuance.

9 f. All inmates in Protective Custody shall be  
10 provided clothing that is properly fitted, climatically suitable,  
11 durable, economical, easily laundered and repaired and  
12 presentable. Clothing will include outer garments, under  
13 garments, shoes, and socks. Accordingly, all inmates in  
14 Protective Custody shall be provided sufficient clothes at least  
15 three (3) times per week, except for coats, jackets and shoes.  
16 Additional clothes may be provided for work and recreation.

17 g. The storage for clothing, linen, and bedding  
18 shall exceed that required for the unit's population. Inmates  
19 shall not be left without clothing while clothes are being  
20 laundered, cleaned or mended.

21 h. Each inmate shall be provided with adequate  
22 amounts of necessary personal hygiene items and two (2) clean  
23 towels which are exchanged at least twice per week.

24 i. Screens will be maintained on all windows which  
25 can be opened. Window panes will be continually maintained in  
26 all areas. Structural defects which allow rodents to enter will  
27 be cured and an effective vermin and pest control program will be  
28 implemented.

1           j. The defendants have prepared a comprehensive  
2 written maintenance manual and inspection checklist for the  
3 inspection and maintenance of equipment systems within the  
4 Protective Custody units. In the next biannual budget following  
5 the effective date of this Agreement, the Defendants shall  
6 request sufficient maintenance staff in order to keep current  
7 their preventive maintenance schedule and to thereafter maintain  
8 the facility consistent therewith. An inspection of the  
9 Protective Custody units shall be conducted on a regular and  
10 periodic basis by the Safety Committee, or its designate, to  
11 insure that the units meet fire safety and prevention standards.

12           k. Mattresses and trash containers will be made of  
13 materials which meet fire safety standards.

14           l. No cross-connection will exist between the  
15 potable and non-potable water systems.

16           m. The Classification Policies and Procedures  
17 applicable to Protective Custody shall include:

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

28           (2) Every effort shall be made, however, to return

1 the inmate to the general population as soon as practical  
2 but some inmates may spend relatively extensive periods of  
3 time in this status. The assignment to Protective Custody  
4 is not for the purpose of punishment.

5 (3) An inmate may be placed in this Section of the  
6 prison on a voluntary basis if the inmate believes that  
7 housing in the general population places the inmate in  
8 jeopardy of serious bodily harm and requests placement in  
9 Protective Custody. Inmates requesting assignment to  
10 Protective Custody may be required to sign a written  
11 request slip, stating their desire for assignment to such  
12 housing or classification. Inmates requesting assignment  
13 to Protective Custody may be placed therein immediately  
14 without waiting for any formal hearing before a  
15 classification committee.

16 (4) Any inmate who has voluntarily placed himself in  
17 Protective Custody will be classified within five (5)  
18 working days of a request to be reclassified. Upon  
19 reviewing a reclassification request, the inmate may be  
20 required to remain in Protective Custody in accordance with  
21 the procedures and standards below.

22 (5) Where an inmate is involuntarily placed or  
23 retained under Protective Custody, the procedural  
24 safeguards prescribed for the transfer or classification of  
25 inmates to Administrative Segregation shall be followed.  
26 Where an inmate is involuntarily transferred in the first  
27 instance into Protective Custody, the classification  
28 committee shall make a finding based upon clear and

1 convincing evidence that an inmate is a victim of a violent  
2 act and there is clear and convincing evidence that if he  
3 remains in the general population he will be subjected to  
4 an additional violent act or the inmate's safety is  
5 jeopardized by an immediate life-threatening conflict with  
6 other inmates in the general population requiring temporary  
7 separation from the general population because he cannot  
8 otherwise be provided with adequate protection. Where an  
9 inmate is being required to remain in Protective Custody,  
10 the inmate may be retained in Protective Custody only upon  
11 a finding by the classification committee, based upon a  
12 preponderance of the evidence, that the inmate will be  
13 subjected to additional violent acts or the inmate's safety  
14 will otherwise be jeopardized by an immediate life-  
15 threatening conflict with other inmates in the general  
16 population requiring continued separation from the general  
17 population because the inmate cannot otherwise be provided  
18 with adequate protection if he were returned to the general  
19 population.

20  
21 (6) Generally, the policies and practices of  
22 Protective Custody build upon those in the Administrative  
23 Segregation units. Consistent with those policies and  
24 procedures and in addition thereto, conditions in  
25 Protective Custody must include:

26 (i) At least eight (8) hours minimally of  
27 outdoor exercise, weather permitting, with a goal of  
28 ten (10) hours per week of outdoor exercise. In the  
event of inclement weather, a good faith effort shall

1 be made to provide inmates with  
2 alternative indoor exercise.

3 (ii) Educational, hobby craft, recreational and  
4 employment opportunities similar to that in the  
5 general population must be made available to inmates  
6 in the Protective Custody unit.

7 (iii) Opportunity to shower and shave, as in the  
8 general population.

9 (iv) Correspondence identical to the general  
10 population.

11 (v) Visitation identical to that provided to the  
12 general population, unless security dictates other  
13 provisions be made, i.e., a different time or place.

14 (vi) Access to legal resources and legal counsel  
15 identical to the general population, unless security  
16 dictates other provisions be made, i.e., other time,  
17 place, etc. Direct access to the law library is not  
18 required.

19 (vii) Inmates classified Protective Custody may  
20 retain their personal property as permitted in the  
21 general population.

22 (viii) As a general rule in all other respects  
23 conditions in Protective Custody shall approximate a  
24 replication of conditions and policies in the general  
25 population of the prison.

26 (ix) Care should be taken to insure that inmates  
27 do not see placement in Protective Custody as  
28 desirable.

APPENDIX C

INMATE CORRESPONDENCE

1. The defendants agree to be bound by the following provisions although no further monitoring is required.

IV. DEFINITIONS

A. Privileged Correspondence is mail between an inmate and the following person(s):

1. State and federal elected officials.
2. State and federal officials appointed by the Governor or the President of the United States.
3. City, county, state and federal officials that have responsibility for inmate's present, prior or future custody, including probation and parole supervisors.
4. All state and federal judges and officials of the courts.
5. An attorney listed with a State Bar Association or a recognized legal assistance agency.
6. Representatives of the public news media who are employed as full-time reporters for a daily newspaper, radio or television station and a recognized news magazine that covers general news.
7. The Director, Assistant Director, Correctional Services Officer, Wardens of the institutions and the Prison Mediator of the Department of Prisons.

- 1 B. General correspondence is mail between an inmate and someone other than  
2 those approved for privileged correspondence.
- 3 C. Censorship refers to the following practices:
- 4 1. Reading of mail except that which is seen during inspection;
- 5 2. Deleting portions of a letter;
- 6 3. Returning the letter either in its entirety or in part to the  
7 sender; and
- 8 4. Removing printing or pictures or rendering any portion of the  
9 contents unintelligible.
- 10 D. Inspection refers to the checking of the outside of the envelope for  
proper return address and name and addressee and the opening of mail  
for contraband, as set forth in a written list prepared on all contra-  
band. Items in the mail may be removed and observed to the minimum  
extent possible to ascertain the character of the enclosures.

11 V. PROCEDURE

- 12 A. A mail room will be designated by each institution. The mail room will  
13 be opened eight (8) hours per day, five days per week, except for holidays  
14 and weekends. Each institution will designate an area or areas for  
pickup of outgoing mail.
- 15 B. Visitors will not be allowed to deliver in person mail, packages, money,  
16 etc., to the inmates. All such items shall be sent by mail or postal  
17 service. All packages must have prior approval and must be sent from  
the store of purchase. The Nevada Department of Prisons will not pickup  
freighted or shipped items.
- 18 C. Mail will be collected from inmates and/or mailboxes by correctional  
employees only, at least once every day, except weekends and holidays.
- 19 1. At no times shall any mail be collected by inmates.
- 20 2. A regular set schedule of mail collection shall be initiated by  
21 each Warden.
- 22 D. Retention of Mail -- Incoming mail shall be held only so long as it  
23 is necessary for inspection or for reading where there is sufficiently  
compelling reason to do so. Except in cases of emergency, mail shall  
not be held longer than twenty-four (24) hours.
- 24 E. Distribution of Mail -- Mail shall be delivered by a correctional em-  
25 ployee directly to the inmate's hand or to personal mail boxes that  
provide security and/or controlled and supervised by staff.
- 26 1. At no time shall the mail be distributed by an inmate.
- 27 2. Mail shall not be dropped on tables or other convenient places  
28 for inmates to search through.

F. Outgoing Mail

1. The following are requirements for processing outgoing privileged mail:

- a. The letter must be addressed to a person(s) that meets the guidelines for a privileged correspondent.
- b. The inmate's name and institution's return address must be included on the return address which appears on the outside of the envelope or package.
- c. The word "confidential" must be included on the face of the envelope or package, otherwise the mail will be processed as general correspondence or it may be returned to the inmate if it cannot be processed as general correspondence.
- d. The envelope must be sealed by the inmate prior to submitting the mail to staff; improperly sealed letters designated as privileged correspondence will be returned to the inmate.

2. The following provisions apply to processing outgoing general correspondence:

- a. Limitations -- There shall be no limits on the number of letters an inmate may send. Subject to the limitations contained in this procedure.
- b. Approval for correspondence between incarcerated persons -- All requests from inmates to correspond with other incarcerated persons must be approved, in writing, by both institutional Wardens.
- c. Prohibited Mail -- The Warden may prohibit outgoing mail that falls within the following categories:
  1. Correspondence with minors when their legal guardians object, in writing, stating that they wish the correspondence discontinued.
  2. Individuals who complain of having been sent lewd, threatening or similarly offensive material by the inmate. On receipt of such complaint, the institution shall instruct the inmate to discontinue correspondence. Letters may be intercepted and returned to the inmate.

3. Indigent inmates:

- a. Indigent inmates, those with ten dollars or less in their institutional accounts, shall be permitted to mail privileged correspondence without initial charge. Those inmate requesting postage must sign a withdrawal slip authorizing reimbursement to the Department of Prisons when their accounts exceed ten dollars. This privilege shall extend only to first class mail for all legal mail does not include registered, insured, or certified mail, unless certification is required by the courts.



b. Inmates without funds, ten dollars or less in their accounts, shall receive postage and stationery sufficient to send at least two (2) letters of general correspondence per week.

4. 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 Warden of the institution that the letter contains evidence of a crime.

D. Incoming Mail

1. All incoming mail, either privileged or general correspondence, shall be inspected as outlined below. In the event contraband is found, it shall be removed. Illegal items or contraband discovered in either privileged or general correspondence shall be seized and held as evidence for law enforcement officials, returned to the sender and/or used in disciplinary action, whichever is appropriate. In all cases where mail is to be returned, whether privileged or general correspondence, the inmate and the sender shall be notified and reasons given for returning the mail. The inmate and sender have the right to appeal the decision. (Refer to paragraphs F, G, and H of this section for further information).

2. The following provisions shall apply for the processing of incoming privileged correspondence:

a. Approved or privileged correspondence shall be treated as privileged correspondence only if the name, official status and address of the sender appears on the envelope.

b. Opening of privileged mail -- All incoming privileged mail may be opened and examined (not read) for cash, checks, money orders or contraband, but only in the presence of the inmate to whom the communication is addressed.

c. Removal of funds -- Funds in the form of cash and personal checks will be returned to sender, after notification to the inmate. Postal money orders and cashier's checks made payable to the addressee that are found in the inmate's privileged mail shall be removed and credited to the inmate's account.

3. The following provisions shall apply for the processing of incoming general correspondence:

a. Limitation of Mail -- There shall be no limit on the amount of incoming correspondence an inmate may receive subject to the limitations contained in this procedure.

b. Opening mail -- All correspondence shall be opened and examined for cash, checks, money orders or contraband. The procedure for handling funds found in general correspondence shall be the same as cited above.

c. 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 to the sender and the inmate, advising also of the right to appeal the censorship decision.

d. When it is deemed necessary to read an inmate's general correspondence, a written record shall be made including the following documentation:

1. The inmate's name and number;
2. Reason for reading the mail;
3. Signature of the staff person reading the mail.

e. Review by the Director -- Written records shall be reviewed each month by the Director or designee. Reviews shall be made to determine if:

1. There is sufficient grounds for reading the mail; and
2. The reasons for reading the mail relate to legitimate security interests of the institution, and inmate's adjustment.

E. Disapproval of Incoming General Correspondence:

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:

1. The letter contains threats of physical harm against any person or threats of criminal activity.
2. The letter threatens blackmail or extortion.
3. The letter addresses either the introduction of contraband into the institution or the sending of contraband out of the institution.
4. The letter concerns plans to escape.
5. The letter concerns plans for activities in violation of institutional rules.
6. The letter concerns plans for criminal activity.
7. The letter is in code and its contents are not understood by staff reader.
8. The letter solicits gifts or goods or money from other than family.
9. The letter contains information which if communicated would create a clear and present danger of violence and physical harm to a human being.

1 F. Appeal Rights

2 Inmates shall have the right to appeal all instances of censorship,  
3 whether incoming or outgoing mail, to the Warden of the respective  
4 institutions within five (5) days of the occurrence. A petition for  
5 review of the Warden's decision may be submitted within seven (7)  
6 days to the Director for review. Neither the Warden nor Director  
7 shall have been involved in the initial decision to censor the  
8 correspondence.

9 G. Responsibility of Correspondents

10 Correspondents are responsible for the contents of mail sent in or out  
11 of the institution. Violation of laws regulating mail shall be referred  
12 to postal authorities and other law enforcement officials. Violations  
13 of the law, the policies governing the Department of Prisons' mail re-  
14 gulations or any approved institutional mail procedures may result in  
15 the temporary suspension or denial of correspondence between those  
16 involved in the violations.

17 H. Procedure Following Removal of Items from Incoming Mail

18 1. Documentation -- When it is deemed necessary to remove any items  
19 from incoming mail, in all cases, a written record shall be made  
20 of such action.

21 a. Contents of Record

- 22 1. The inmate's name and number;
- 23 2. The description of the mail in question;
- 24 3. A description of the action taken and the reasons for  
25 such action;
- 26 4. The disposition of the item involved;
- 27 5. The signature of the action officer;
- 28 6. A copy of the record shall be given to the inmate and  
to the sender of the mail.

I. Packages

1. Packages from Privileged Correspondents:

Incoming packages from privileged correspondents shall be opened  
and inspected in the same manner as mail from privileged correspondents.

2. The following requirements are established for processing packages:

- a. All packages must have prior approval and sent from the store  
of purchase.

b. Authorized Items -- Each Warden shall prepare and make available to inmate population, by posting in conspicuous places, a list of items which may be received in packages.

c. Inspection -- All incoming packages shall be inspected for contraband.

d. Disposition of prohibited items -- Any items which are not on the approved list shall be returned to the sender at the expense of the inmate. The inmate will be notified of the disapproval and will be given thirty (30) days to return the items not approved.

### 3. Christmas Packages

Each Warden shall distribute a list of approved items for Christmas packages. Non-authorized items will be returned to the sender at the inmate's or the sender's expense. Each inmate shall be limited to two Christmas packages from a family member.

## J. Publications

The following are guidelines for ordering, processing and retention of publications:

1. Ordering publications -- Inmates may order books, newspapers, and periodicals from publishers and approved vendors. All orders must be pre-paid and no book clubs, etc., are allowed. Publications received through the mail may be excluded only if they present a clear and present danger to the security of the institution, or would cause severe psychiatric or emotional disturbance to an inmate as certified by a psychiatrist or psychologist.
2. Inspection -- Institutional staff may inspect non-confidential material for contraband as defined in the Code of Penal Discipline.
3. Displaying offensive literature -- Though an inmate may receive and read publications through the U.S. Mail, and from approved vendors, they may not display materials that are offensive.

## K. Records Required of Mail Room Personnel

Mail staff shall maintain records including the dates, name, and article involved in the following actions:

1. Incoming or outgoing registered, insured and certified mail -- The sender's name and address, the addressee's name, number and institution and the date and name of the staff who logged the mail.
2. Incoming or outgoing packages -- Staff shall include the name of addressee, the date and name of the person that logged the packages.
  - a. Incoming packages -- name of the inmate, property slip receipt describing contents of package.
  - b. Outgoing packages -- certificate of mailing."

APPENDIX D  
LEGAL ACCESS

1. The defendants agree to be bound by the following provisions, although no further monitoring is required.

V. PROCEDURE

A. Inmates shall have the right to present any issue, including 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 legal problems; and asserting against correctional or other government authority any other rights protected by constitutional or statutory provision or common law.

B. Inmate Litigation

Both state and federal law guarantee to an inmate of an institution the right to free access to state and federal courts to litigate issues relating to either his/her conviction or his/her confinement. Therefore, no inmate is to be disciplined or punished in any way simply because he/she institutes or maintains a legal proceeding. Perjury by an inmate may, of course, be dealt with by appropriate legal and administrative sanctions. However, these steps cannot be taken until the litigation is concluded and then only by the courts or appropriate agencies and not by individual personnel. Personnel who have relevant information concerning claims made in litigation by an inmate must direct the information through channels to counsel representing the interests of the State.

C. Department Assistance in Preparing and Filing Legal Papers

Inmates' constitutional rights of access to the courts shall not be restricted. The Department of Prisons is not authorized nor does it have the resources to assist inmates in their legal efforts. However, it shall make reasonable alternatives to direct staff assistance available to inmates. In preparing and filing legal documents, inmates may retain personal attorneys (or their authorized representatives), obtain assistance from institutional law clerks, obtain services from the public defender's office and legal aid service agencies. Inmates' access to and use of law library facilities are described under AR 722 -- Access to the Law Library.

Pens, paper and forms required by state and federal courts will be provided without charge to inmates for preparation and processing of their legal documents. Inmates are required to pay for postage and copywork. Those inmates considered to be indigent (with less than \$10.00 in their accounts), may receive required postage and copywork at state's expense. However, when these inmates accrue sufficient funds, in excess of ten dollars (\$10.00), they must reimburse the state for all monies expended in connection with their legal efforts. A brass slip must be signed by the inmate prior to receiving required material/postage at the state's expense.

D. Assisting Other Inmates

Inmates may assist each other in the preparation of legal documents and may act as counsel substitute under departmental policies and procedures that provide for use of counsel substitute. Inmates may not receive remuneration for providing legal assistance at any time (past, present or future). Legal opinions, books, papers and forms used by one inmate to assist another may be in the possession of the inmate giving assistance with the permission of the owner. All papers must be returned when the inmate is released, transferred to another institution or when administrative actions prevents direct communication between the inmates involved.

E. Restrictive Housing

Inmates assigned to restrictive housing such as isolation, segregation and other secure housing shall not be restricted in their access to the courts. Inmates assigned to isolation (Disciplinary Detention) shall have their legal resource material, limited to paper and pencil, provided on request for the purpose of corresponding with an attorney and preparing legal documents for courts. Other necessary legal material will be delivered to the isolation unit inmates' cells. Inmates assigned to other restricted housing may possess and have access to all the legal resource material available to the general population. Also, they may assist each other if the security of the institution is not compromised.

F. Inmate Contact with Legal Counsel

1. Department staff will assist inmates in making confidential contact with attorneys and their authorized representatives, who include paralegals, law students, special investigators, law counsel (all of these individuals, with the exception of the respective attorney, will be cleared through the Warden's office), or other persons who have a legitimate connection with legal issues being pursued. They will be allowed visits during normal institutional visiting hours, uncensored correspondence, telephone communication, and after hours visits when requested on the basis of special circumstances and as approved by the Warden or designee.
2. Court appointed attorneys, and attorneys retained by an inmate or his/her family for the purpose of legal representation, shall be permitted visits.
3. 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:
  - a. A written confirmation by the inmate of the request;
  - b. Production of the part of a written document of the inmate making the request for the visit.
  - c. 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 or on his/her behalf.
  - d. The Department shall refuse admission to anyone who fails to comply with its regulations. When there is doubt concerning the identity of an attorney in good standing, the institution shall refer the matter to the office of the Warden who in turn shall confer with the State Attorney General's Office.
  - e. Visits between attorney and client are confidential. Tape recordings may be used by an attorney during visits provided the attorney agrees, in writing, prior to the visit that the recording shall only be in regard to attorney-client business. All tape recording devices will be approved in advance by the warden or designee. The institutions shall provide an area where the attorney and client may confer in privacy which meets the security needs of the institution.
  - f. Any inmate has the right to consult with an attorney of his/her own choosing under reasonable regulations providing

1 for the security of the institution and the safety of the  
2 inmate population and staff.

- 3 8. It shall be the decision of the inmate whether or not to con-  
4 duct an attorney/client interview. When an attorney and/or  
5 the attorney's authorized representative or agent requests  
6 to see an inmate and an inmate refuses the attorney/client  
7 interview, that fact will be communicated to the attorney  
8 and/or authorized representative or agent in writing, signed  
9 by the inmate, immediately upon the refusal, upon a form  
10 provided by prison officials which shall include an indication  
11 that the inmate was aware that the attorney/client interview  
12 had been requested, that he understood, by name, the person  
13 requesting the attorney/client interview with the inmate and  
14 a statement that the inmate refused the visit.

15 G. Correspondence Between Attorney/Client

16 Correspondence between an attorney/client shall be considered as  
17 "privileged" and will be treated as such as outlined in Admin-  
18 istrative Regulation 750.

19 NOTE: Whenever the word "Attorney" is used in the foregoing, the  
20 term shall be read as including the attorney's authorized  
21 representative(s).  
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APPENDIX E

EDUCATION, WORK AND RECREATIONAL OPPORTUNITIES

1. The defendants agree to bound by the following provisions, although no further monitoring is required.

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

1  
2 APPENDIX F

3 DISCIPLINARY SEGREGATION

4 1. The defendants agree to be bound by the following  
5 provisions, although no further monitoring is required.

6 a. Consistent with their status, inmates confined  
7 in Disciplinary Segregation shall not be deprived of basic  
8 rights, including at least eight (8) hours of outdoor exercise  
9 per week. Also consistent with their status, inmates will be  
10 provided with access to educational opportunities.

11 b. For every six (6) months of confinement served  
12 in disciplinary segregation without a major violation of the Code  
13 of Penal Discipline, an inmate shall have two (2) months deducted  
14 from his sentence to Disciplinary Segregation. Upon completion  
15 of a sentence to Disciplinary Segregation, inmates shall be  
16 released directly to the general population of the prison.  
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APPENDIX G

MEDICAL AND DENTAL ACA STANDARDS

1. The defendants agree to be bound by the medical and dental standards set forth, below, and as identified in Section III of this Agreement. The defendants agree, further, to be monitored against these standards, as provided for in Section III.

# **STANDARDS for Adult Correctional Institutions**

**Second Edition  
January 1981**

**AMERICAN CORRECTIONAL ASSOCIATION**

**In cooperation with the  
COMMISSION ON ACCREDITATION  
FOR CORRECTIONS**

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## **MEDICAL AND HEALTH CARE SERVICES**

**2-4271** The institution has a designated health authority with responsibility for health care services pursuant to a written agreement, contract, or job description. The health authority may be a physician, health administrator, or health agency. When this authority is other than a physician, final medical judgments rest with a single designated physician. (Essential)

**DISCUSSION:** The responsibility of the health authority includes arranging for all levels of health care and assuring quality of and inmate access to all health services. While overall responsibility may be assumed at the central office level, it is essential that each institution have a responsible health authority, which may be the responsible physician at the institution. Health care services should provide for the physical and mental well-being of the population and should include medical and dental services, mental health services, nursing, personal hygiene, dietary services, health education and attending to environmental conditions. (See related standard 2-4329)

**2-4272** Medical, including psychiatric, and dental matters involving medical judgment are the sole province of the responsible physician and dentist respectively; however, security regulations applicable to facility personnel also apply to health personnel. (Mandatory)

**DISCUSSION:** The provision of health care is a joint effort of administrators and health care providers and can be achieved only through mutual trust and cooperation. The health authority arranges for the availability of health care services; the official responsible for the facility provides the administrative support for accessibility of health services to inmates.

**2-4273** The health authority meets with the warden/superintendent at least quarterly and submits to him/her annual statistical summaries and quarterly reports on the health care delivery system and health environment. (Essential)

**DISCUSSION:** Administrative meetings held at least quarterly can help identify problems and their solutions. Health care staff should be encouraged to attend other facility staff meetings to promote a good working relationship among all staff. Minutes of the quarterly administrative meetings may be used to meet the requirement for a quarterly report. The report should include such topics as the effectiveness of the health care system, description of any health environment factors which need improvement, changes effected since the last reporting period, and, if needed, recommended corrective action. The health authority should report immediately on any condition which imposes a danger to staff or inmate health and safety. The annual statistical report indicates the number of inmates receiving health services by category of care, as well as other pertinent information (e.g., operative procedures, referrals to specialists, ambulance services, etc.).

## MEDICAL AND HEALTH CARE SERVICES

**2-4274** Each policy, procedure, and program in the health care delivery system is reviewed at least annually by the appropriate health care authority and revised if necessary. Each document bears the date of the most recent review or revision and signature of the reviewer. (Essential)

**DISCUSSION:** Regular review of policies, procedures, and programs will facilitate formal incorporation of various changes made during the year into the agency manual and prevent the disorganized accumulation of a series of policy memorandums. The process of annual review will also assist decision making regarding previously discussed but unresolved matters.

**2-4275** An adequately equipped medical facility, which meets the legal requirements for a licensed general hospital with respect to the services it offers, is available to all inmates. (Mandatory)

**DISCUSSION:** If an institution does not have the resources to meet these standards in-house, it should provide infirmary care inside the institution and hospital care through contractual arrangements outside the institution.

**2-4276** Written policy and procedures provide for infirmary care, to include the following:

Definition of the scope of infirmary care services available

A physician on call 24 hours per day

Nursing service under the direction of a physician's assistant or a registered nurse on a full-time basis

Health care personnel on duty 24 hours per day

All inmates/patients within sight or sound of a staff person

A manual of nursing care procedures

A separate and complete medical record for each inmate

Compliance with applicable state statutes and local licensing requirements.

(Essential)

**DISCUSSION:** An infirmary is defined as an area established within the correctional facility which maintains and operates organized bed care and services for inmates formally admitted for a period of 24 hours or more, and which is operated for the express or implied purpose of providing skilled nursing care for persons not in need of hospitalization. The establishment of quality care in this type of facility begins with the assignment of responsibility to one physician employed either part- or full-time, depending on the size of the facility.

**2-4277** Space, equipment, supplies, and materials for health services are provided and maintained as determined by the health authority. (Essential)

**DISCUSSION:** The type of space and equipment for the examination/treatment room will depend upon the level of health care provided in the facility and the capabilities and desires of health providers. Equipment should be checked and tested periodical-

## MEDICAL AND HEALTH CARE SERVICES

ly and secured from inmate access. In all facilities, space should be provided where the inmate can be examined and treated in private.

### **2-4278 First aid kits are available in designated areas of the facility based on need. (Essential)**

DISCUSSION: First aid kit(s) should be available in designated areas of the facility, and the health authority should approve the contents, number, location, and procedures for monthly inspection of the kit(s). The contents of the first aid kit(s) would include, for example, these items: roller gauze, sponges, triangle bandage, adhesive tape, adhesive bandages, etc. It would not include emergency drugs.

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### **2-4279 Written policy and procedures provide for 24-hour emergency medical and dental care availability as outlined in a written plan which includes arrangements for the following:**

- Onsite emergency first aid
- Emergency evacuation of the inmate from the facility
- Use of an emergency medical vehicle
- Use of one or more designated hospital emergency rooms or other appropriate health facilities
- Emergency on-call physician and dentist services when the emergency health facility is not located in a nearby community
- Security procedures providing for the immediate transfer of inmates when appropriate.

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#### **(Mandatory)**

DISCUSSION: Arrangements should be made with a nearby hospital for all medical services which cannot be appropriately provided within the facility, or where contractual arrangements can result in better or broader range of services. In the event the usual medical services are not available, particularly in emergency situations, the facility should have developed a back-up to serve the program. The plan might include an alternate hospital emergency service or a physician "on call" service. (See related standard 2-4285)

### **2-4280 In institutions without full-time, qualified health-trained personnel, a health-trained staff member coordinates the health delivery services in the institution under the joint supervision of the responsible health authority and warden/superintendent. (Essential)**

DISCUSSION: Health-trained personnel other than a nurse, physician's assistant or emergency medical technician may, on a full- or part-time basis, review receiving screening forms for follow-up attention, facilitate sick call by having inmates and records available for the health care provider, and help to carry out orders regarding such matters as diets, housing, and work assignments.

### **2-4281 The institution health authority systematically determines health care personnel requirements in all categories in order to provide inmate access to health care staff and services. (Essential)**

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**DISCUSSION:** Determination of staff requirements should not depend solely on inmate population. Work load ratios should reflect factors such as legal requirements, goals to be accomplished, character and needs of inmates supervised, and other duties required of staff. Staff work loads should be sufficiently low to provide inmate access to staff and services.

### **2-4282 Arrangements are made with health care specialists in advance of need. (Essential)**

**DISCUSSION:** An inmate's illness may require the services of a specialist at any time. Therefore, arrangements with consultants in the major health care specialties should be made in advance of need, by a written agreement.

### **2-4283 Written policy and procedure specify the provision of mental health services for inmates in need of such services to include, but not limited to, services provided by qualified mental health professionals who meet educational and licensure/certification criteria specified by their respective professional discipline, i.e., psychiatric nursing, psychiatry, psychology, and social work. (Essential)**

**DISCUSSION:** Inmates with severe mental health problems are a continuing and increasing source of concern in correctional institutions. It is essential that an adequate number of qualified staff members are available both to directly deal with these prisoners as well as to advise other correctional workers in their contacts with such individuals. The professional qualifications of mental health personnel should be in accordance with the requirements of appropriate state statute and the respective national professional association. (See related standard 2-4409)

### **2-4284 Appropriate state and federal licensure, certification or registration requirements and restrictions apply to personnel who provide health care services to inmates. The duties and responsibilities of such personnel are governed by written job descriptions approved by the health authority. Verification of current credentials and job descriptions are on file in the facility. (Mandatory)**

**DISCUSSION:** The provision of quality health care should be ensured by using only qualified health care personnel to determine and supervise health care procedures. Written job descriptions should include qualifications required and the specific role in the health care delivery system in keeping with the individual's professional discipline. Verification of qualifications may consist of copies of current credentials or a letter from the state licensing or certifying body regarding current credential status. Nursing services are performed in accordance with professionally recognized standards of nursing practice and the jurisdiction's Nurse Practice Act.

### **2-4285 Written policy and procedure provide that correctional and other personnel are trained to respond to health-related situations within a four minute response time. A training program is established by the responsible health authority in cooperation with the facility administrator, which includes the following:**



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**Recognition of signs and symptoms, and knowledge of action required in potential emergency situations**

**Administration of first aid and cardiopulmonary resuscitation (CPR)**

**Methods of obtaining assistance**

**Signs and symptoms of mental illness, retardation, and chemical dependency**

**Procedures for patient transfers to appropriate medical facilities or health care providers.**

**(Mandatory)**

**DISCUSSION:** With even the most adequate staff of qualified health care personnel, emergencies can occur in distant parts of the institution; too much time can be lost in getting staff promptly on the scene to handle emergency matters. All correctional officers should have standard first aid training. Minimally, one health trained correctional officer per shift should be trained in cardiopulmonary resuscitation (CPR) and recognition of symptoms of illness most common to inmates. (See related standards 2-4088, 2-4091, and 2-4092)

**2-4286 Treatment by health care personnel other than a physician, dentist, psychologist, optometrist, podiatrist or other independent providers is performed pursuant to written standing or direct orders by personnel authorized by law to give such orders. Nurse practitioners and physician's assistants may practice within the limits of applicable laws and regulations. (Mandatory)**

**DISCUSSION:** Professional practice acts differ in various states as to issuing direct orders for treatment and, therefore, laws in each state need to be studied for implementation of this standard. Standing medical orders are written for the definitive treatment of identified conditions and for on-site treatment of emergency conditions for any person having the condition to which the order pertains. Direct orders are written specifically for the treatment of one person's particular condition.

**2-4287 When the institution uses students or interns in health care delivery, written policy and procedure provide for work experience under direct staff supervision, commensurate with their level of training. (Essential)**

**DISCUSSION:** The use of interns and/or students can be a very economical and efficient way to provide care to inmate patients. They are not qualified or experienced enough, however, to practice in the institution without direct supervision by a physician, nurse, or other appropriate health care personnel.

**2-4288 Written policy provides that inmates are not used for the following duties:**

**Performing direct patient care services**

**Scheduling health care appointments**

**Determining access of other inmates to health care services**

**Handling or having access to:**

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Surgical instruments  
Syringes  
Needles  
Medications  
Health records

Operating equipment for which they are not trained.

(Essential)

**DISCUSSION:** Understaffed correctional institutions may be tempted to use inmates in health care delivery to perform services for which civilian personnel are not available. Inmate participation in medical service delivery frequently violates state laws, invites litigation and brings discredit to the correctional health care field. Furthermore, these inmates can acquire power and be subjected to severe pressure from fellow inmates. These restrictions, however, should not preclude inmates from participating in a certified vocational training program.

**2-4289** Written policy and procedure require medical screening to be performed by health-trained or qualified health care personnel on all inmates, excluding intrasystem transfers, upon inmates' arrival at the facility with all findings recorded on a printed screening form approved by the health authority. The screening includes at least the following:

### Inquiry into:

Current illness and health problems, including dental problems, venereal diseases and other infectious diseases

#### Dental problems

Use of alcohol and other drugs which includes types of drugs used, mode of use, amounts used, frequency used, date or time of last use, and a history of problems which may have occurred after ceasing use (e.g., convulsions)

Past and present treatment or hospitalization for mental disturbance or suicide

Other health problems designated by the responsible physician

### Observation of:

Behavior, which includes state of consciousness, mental status, appearance, conduct, tremor and sweating

Body deformities, ease of movement, etc.

Condition of skin, including trauma markings, bruises, lesions, jaundice, rashes and infestations, and needle marks or other indications of drug abuse

### Disposition of inmate:

General population

General population and prompt referral to appropriate health care service

Referral to appropriate health care service on an emergency basis.

(Mandatory)

**DISCUSSION:** Medical screening is a system of structured inquiry and observation

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designed to prevent newly arrived inmates, who pose a health or safety threat to themselves or others, from being admitted to the facility's general population, and to rapidly transport newly admitted inmates to medical care. Receiving screening can be performed by health care personnel or by a health-trained correctional officer at the time of admission. Facilities which have reception and diagnostic units and/or a holding room must conduct receiving screening on all inmates upon arrival at the facility as part of the admission procedures. (See related standard 2-4389)

**2-4290** Written policy and procedure require medical screening by health-trained or qualified health care personnel immediately upon arrival at the institution for all intra-system transfers with all findings recorded on a printed screening form approved by the health authority. The screening includes, at a minimum, the following:

**Inquiry into:**

Whether the inmate is being treated for a medical or dental problem

Whether the inmate is presently on medication

Whether the inmate has a current medical or dental complaint

**Observation of:**

General appearance and behavior

Physical deformities, evidence of abuse and/or trauma

**Disposition of inmate:**

General population

General population and prompt referral to appropriate health care service

Referral to appropriate health care service on an emergency basis.

**(Essential)**

**DISCUSSION:** Screening of intrasystem transfers is necessary for the detection of inmates who pose a health and/or safety threat to themselves or others, and who may need immediate medical attention. The screening will serve to verify the information contained in the inmate's record and to obtain additional information.

**2-4291** Written policy and procedure require that health appraisal for each inmate, excluding intrasystem transfers, is completed within 14 days after arrival at the facility. In the case of an inmate who has documented evidence of a health appraisal within the previous 90 days, a new health appraisal is not required except as determined by the designated health authority. Health appraisal includes the following:

Review of the earlier receiving screening

Collection of additional data to complete the medical, dental, mental health and immunization histories

Laboratory and/or diagnostic tests to detect communicable disease, including venereal disease and tuberculosis

Recording of height, weight, pulse, blood pressure and temperature

Other tests and examinations as appropriate

Medical examination, including review of mental and dental status

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Review of the results of the medical examination, tests, and identification of problems by a physician or other qualified health care personnel, if such is authorized in the medical practice act

Initiation of therapy when appropriate

Development and implementation of treatment plan including recommendations concerning housing, job assignment, and program participation.

(Essential)

**DISCUSSION:** A health appraisal should be completed for each inmate as soon after arrival to the institution as possible in order to detect any health problems which may need immediate attention and to determine if the individual needs any further health care services. Test results, particularly for communicable diseases, should be received and evaluated before an inmate is assigned to housing in the general population. Information regarding the inmate's physical and mental status also may dictate housing and activity assignments. When appropriate, additional investigation should be conducted into alcohol and drug abuse, and other related problems. A routine appraisal by mental health staff should be done within 30 days of admission on all new inmates.

**2-4292** Written policy and procedure for the collection and recording of health appraisal data call for these requirements:

The process is completed in a uniform manner as determined by the health authority

Health history and vital signs are collected by health-trained or qualified health personnel

Collection of all other health appraisal data is performed only by qualified health personnel.

(Essential)

**DISCUSSION:** The initial screening must be followed with a more detailed health examination by the appropriate health appraisal personnel to adequately identify the health care needs of the inmates. It is also important that the examination be performed in a uniform manner to ensure that it is thorough and consistent for each inmate.

**2-4293** Written policy and procedure, approved by the health authority, provide for comprehensive individual mental health evaluation on specially referred inmates by a multi-disciplinary mental health team. The evaluation is completed within 14 days after the date of referral, and includes at least the following:

Review of mental health screening and appraisal data

Collection and review of additional data from staff observation, individual diagnostic interviews and tests assessing intellect and coping abilities

Compilation of individual's mental health history

Development of an overall treatment/management plan with appropriate referral.

(Essential)

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**DISCUSSION:** Comprehensive individual mental health evaluations should be performed only when there is a reasonable expectation that such evaluation will serve a therapeutic or dispositional function useful to the overall interests of the inmate. Written reports describing the results of the assessment procedures are prepared, and all information is appropriately filed. (See related standard 2-4291)

**2-4294** Written policy and procedure, approved by the appropriate mental health authority, provide for all activities carried out by mental health services personnel. (Essential)

**DISCUSSION:** The goal of mental health services is to provide for the detection, diagnosis, treatment, and referral of inmate clients with mental health problems and the provisions of a supportive environment during all stages of each inmate's period of incarceration.

**2-4295** Written policy and procedure require that routine and emergency dental care is provided to each inmate under the direction and supervision of a dentist with appropriate state or federal licensure. The individualized treatment plan includes the following:

Dental screening, unless completed within the previous six months, conducted on initial intake with instruction on hygiene

Dental examinations within three months, supported by x-rays if necessary, based on information from intake screening

A defined charting system which identifies the oral health condition and specifies the priorities of treatment by category

Consultation with referral to recognized specialists in dentistry.

(Essential)

**DISCUSSION:** The dental examination should include taking or reviewing the patient's dental history, and examination of hard and soft tissue of the oral cavity by means of an illuminator light, mouth mirror and explorer. X-rays for diagnostic purposes should be available if deemed necessary. The results are recorded on an appropriate uniform dental record utilizing a number system such as the Federation Dentaire Internationale System. The dental program should also provide inmates with instruction in the proper brushing of teeth and other dental hygiene measures.

**2-4296** Inmates who are severely disturbed and/or mentally retarded are referred for placement in either appropriate noncorrectional facilities or in specially designated units for handling this type of individual. (Essential)

**DISCUSSION:** It is inappropriate to place severely disturbed and mentally retarded individuals in a prison setting. They are vulnerable to abuse by other inmates and require an inordinate amount of personal attention. An individual is considered severely disturbed when he/she is a danger to him/herself, others, or is incapable of attending to basic physiological needs. (See related standard 2-4310)

**2-4297** Transfers which result in inmates being placed in other noncorrectional institutions or in special units within the facility, which are specifically designated for the care and treatment of the severely mentally ill or retarded, follow due process procedures as specified in law prior to the move being effected. In emergency situations, a hearing is held as soon as possible after transfer. (Essential)

**DISCUSSION:** The Supreme Court has held that due process procedures are required in such transfers due to the stigma of being placed in a mental hospital and the subjection to involuntary mental treatment. The following are generally accepted as due process procedures: written notice to the prisoner of the proposed transfer; a hearing for the prisoner, with the right (unless limited for good cause) to call and cross-examine witnesses; a decision by an independent official (not necessarily a judge) from outside the prison complex, with a written statement of the reasons therefor; an independent advisor, not necessarily an attorney, to assist the prisoner facing transfer.

**2-4298** Written policy requires that except in emergency situations there shall be joint consultation between the warden/superintendent and the responsible physician or their designees prior to taking action regarding the identified mentally ill or retarded patients in the following areas:

- Housing assignments
- Program assignments
- Disciplinary measures
- Transfers to other institutions.

When an emergency action has been required, this consultation occurs as soon as possible, but no later than on the next work day so as to review the appropriateness of the action. (Essential)

**DISCUSSION:** Maximum cooperation between custody personnel and health care providers is essential so that both groups are made aware of movements and decisions regarding mentally disturbed patients. Mental health problems may complicate work assignments or disciplinary management. Medications may have to be adjusted for safety at the work assignment or prior to transfer. (See related standard 2-4310)

**2-4299** Written policy and procedure require continuity of care from admission to discharge from the facility, including referral to community care when indicated. (Important)

**DISCUSSION:** As in the community, health providers should obtain information regarding previous care when undertaking the care of a new patient. Likewise, when the care of the patient is transferred to providers in the community, appropriate health information is shared with the new providers in accord with consent requirements. (See related standard 2-4329)

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**2-4300** Written policy and procedure provide for unimpeded access to health care and for a system for processing complaints regarding health care. These policies are communicated orally and in writing to the inmates upon arrival in the facility and are put in a language clearly understood by each inmate. (Mandatory)

**DISCUSSION:** No member of the correctional staff should approve or disapprove requests for attendance at sick call. The facility should follow the policy of explaining access procedures orally to inmates unable to read. When the facility frequently has non-English speaking inmates, procedures should be explained and written in their language. (See related standard 2-4329)

**2-4301** Written policy and procedure require that sick call, conducted by a physician and/or other qualified health personnel, is available to each inmate, at a minimum, as follows:

In facilities of less than 100 inmates, sick call is held one day per week at a minimum

In facilities of 100 to 300 inmates, sick call is held three days per week at a minimum

In facilities of over 300 inmates, sick call is held four days per week at a minimum

If an inmate's custody status precludes attendance at sick call, arrangements are made to provide sick call services in the place of the inmate's detention.

(Essential)

**DISCUSSION:** Sick call is the system through which each inmate reports and receives individualized and appropriate medical services for nonemergency illness or injury. (See related standards 2-4235 and 2-4329)

**2-4302** Written policy and procedure specify the conditions for periodic health examinations for inmates. (Essential)

**DISCUSSION:** Persons 50 years of age and over should be given annual physical examinations. All other inmates should receive thorough physical examinations at least biennially. All inmates should be examined prior to release to protect both the inmate and society. (See related standard 2-4329)

**2-4303** Written policy and procedure provide that a program of health education is provided to inmates of the facility. (Important)

**DISCUSSION:** Health education provides information on medical services, such as immunizations, hypertension detection, and instruction in self-care for chronic conditions. Subjects for health education may include such as these: personal hygiene and nutrition; venereal disease, tuberculosis and other communicable diseases; effects of smoking; self-examination for breast cancer; dental hygiene; drug abuse and danger of self-medication; family planning, including, as appropriate, both services and referrals; physical fitness; and, chronic diseases and/or disabilities.

**2-4304** Written policy and procedure provide for a special health program for inmates requiring close medical supervision. A written, individual treatment plan, which includes directions to health care and other personnel regarding their roles in the care and supervision of these patients, is developed for each such inmate by the appropriate physician, dentist, or qualified mental health practitioner. (Essential)

**DISCUSSION:** Some special medical conditions, such as seizure disorders, potential suicide, chemical dependency, and psychosis, dictate close medical supervision. Special, individualized medical programs must be developed for each inmate suffering from such a condition.

**2-4305** Written policy and procedure make available chronic and convalescent care to inmates of the facility. (Essential)

**DISCUSSION:** Chronic care is medical service rendered to a patient over a long period of time. Convalescent care is medical service rendered to a patient to assist in the recovery from illness or injury.

**2-4306** Written policy and procedure require that gradual detoxification from alcohol, opiates, hypnotics, other stimulants, and sedative hypnotic drugs is effected as follows:

When performed at the facility, it is under medical supervision; and  
When not performed in the facility, arrangements are made for it to be conducted in a hospital or community detoxification center.

(Essential)

**DISCUSSION:** Detoxification refers to the process by which an individual is gradually withdrawn from a drug or alcohol by administering decreasing doses either of the same substance upon which the person is physiologically dependent, or one that is cross-tolerant to it or a drug which has been demonstrated to be effective on the basis of medical research. The detoxification of patients who may pose special risks (e.g., psychotics, seizure-prone inmates, pregnant inmates, juveniles, geriatrics) requires special attention.

**2-4307** Written policy and procedure guide the clinical management of chemically dependent inmates with the following requirements:

Diagnosis of chemical dependency by a physician  
Determination by a physician as to whether an individual requires nonpharmacologically or pharmacologically supported care  
Individualized treatment plans which are developed and implemented by a multidisciplinary team  
Referrals to specified community resources upon release when appropriate.

(Essential)

**DISCUSSION:** The treatment necessary for chemically dependent inmates should be



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determined on an individual basis. Existing community resources should be utilized by the treatment plan whenever possible.

**2-4308** Written policy and procedure require that medical and dental prostheses and orthodontic devices are provided when the health of the inmate/patient would otherwise be adversely affected, as determined by the responsible physician or dentist. (Essential)

**DISCUSSION:** Prostheses are artificial devices to replace missing body parts or compensate for defective bodily functions.

**2-4309** Written policy and procedure govern the use of elective surgery. (Important)

**DISCUSSION:** If needed to correct a substantial functional deficit or if an existing pathological process threatens the well-being of an inmate over a period of time, health care staff should have a procedure for deciding on elective surgery. Cosmetic surgery should not be done unless there are important considerations or possible serious psychological impact.

**2-4310** Written policy and procedure require that patients who need health care beyond the resources available in the facility, as determined by the responsible physician, are transferred under appropriate security provisions to a facility where such care is available. (Essential)

**DISCUSSION:** The treatment of an inmate's health care problem should be suited to his needs and not be limited by the resources and services available within the institution. When an inmate needs to be transported to another facility or clinic, health care staff should cooperate with security personnel in determining conditions of transportation and necessary security precautions in accordance with the custody classification of the inmate. (See related standards 2-4296 and 2-4298)

**2-4311** Written policy and procedure provide that prior to transfer to another facility, or other substantial travel, either the inmates or their records be evaluated by health care personnel to assess suitability for travel. When travel is approved, pertinent data, including medication, other treatment or special requirements for observation and management during travel, are documented in a manner readily accessible and easily understood by transportation staff, or others who may be called upon to attend inmates during travel and upon reception at the receiving institution. Medications or other special treatment required enroute along with specific written instructions for administration, are furnished to transportation staff. (Essential)

**DISCUSSION:** Full medical coverage should be provided for all inmate transfers. Although the emphasis must be on security during the transportation of an inmate, the medical aspects should not be overlooked. (See related standard 2-4184)

**2-4312** Written policy and procedure govern the use of restraints for medical and psychiatric purposes. (Essential)

**DISCUSSION:** This standard applies to those situations where the restraints are part of a health care treatment regimen. The same kinds of restraints that would be appropriate for the general public within the jurisdiction should be used for the physically restrained, incarcerated individual. Written policy should identify authorization needed, and when, where, for how long, and how restraints may be used. (See related standard 2-4185)

**2-4313** Written policy and procedure provide that all informed consent standards in the jurisdiction are observed and documented for inmate care. In the case of minors, the informed consent of parent, guardian or legal custodian applies when required by law. When health care is rendered against the patient's will, it is in accord with state and federal laws and regulations. (Essential)

**DISCUSSION:** While a patient's submission to medical examination and very minor noninvasive procedures may be interpreted as implied consent, extreme caution should be utilized in applying this principle. Medical treatment of an inmate without his or her consent (or without the consent of a parent, guardian, or legal custodian when the inmate is a minor) could also result in legal action. The law regarding consent by juveniles to medical treatment, and their right to refuse treatment, varies greatly from state to state. Some states allow juveniles to consent to treatment as long as they are mature enough to comprehend the consequences of their decision, without parental consent; others require parental consent until majority, but the age of majority varies among the states. The law of the jurisdiction within which the facility is located should be reviewed by legal counsel, and based upon counsel's written opinion, a facility policy regarding informed consent should be developed.

**2-4314** Written policy prohibits the use of inmates for medical, pharmaceutical, or cosmetic experiments. This policy does not preclude individual treatment of an inmate based on his or her need for a specific medical procedure which is not generally available. (Mandatory)

**DISCUSSION:** A person confined in a correctional institution is incapable of volunteering as a human subject without hope of reward and cannot do so on the basis of fully informed consent. Therefore, inmates should not participate in experimental projects involving medical, pharmaceutical or cosmetic research, including aversive conditioning, psychosurgery, electrical stimulation of the brain, or the application of cosmetic substances to the body which are being tested for possible ill effects prior to sale to the general public. This does not preclude individual treatment of an inmate by his/her physician with a new medical procedure, subsequent to a full explanation of the positive and negative features of the treatment. The agreement is between the physician and the inmate and is not part of a general program of medical experimentation involving payment to inmates for submission to the treatment. (See related standard 2-4114).

**2-4315** Written policy and procedure specify the process by which those individuals so designated by the inmate are notified in case of serious illness or injury. Permission for notification is obtained from the inmate prior to need, if possible. (Essential)

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**DISCUSSION:** There may be situations in which the inmate does not want his next of kin notified of his/her injury or illness; therefore, his/her consent should be obtained whenever possible. The next of kin, or other individuals identified by the inmate to be notified in emergencies, should be included in the institution admission form.

### **2-4316 Written policy and procedure specify actions to be taken in the event of an inmate death. (Essential)**

**DISCUSSION:** The medical examiner or coroner should be notified of the inmate's death immediately. If the cause of death is unknown, or the death occurred under suspicious circumstances, or the inmate was unattended from the standpoint of not being under current medical care, a postmortem examination should be performed.

### **2-4317 Written policy and procedure provide for the proper management of pharmaceuticals, and addresses the following subjects:**

**A formulary specifically developed for the facility**

**Prescription practices which require that**

**Psychotropic medications are prescribed only when clinically indicated as one facet of a program of therapy**

**"Stop order" time periods are required for all medications**

**The prescribing provider reevaluates a prescription prior to its renewal**

**Procedures for medication receipt, storage, dispensing and administration or distribution**

**Maximum security storage and periodic inventory of all controlled substances, syringes and needles**

**Dispensing of medicine in conformance with appropriate federal and state law**

**Administration of medication which is carried out by persons properly trained and under the supervision of the health authority and facility administrator or designee**

**Accountability for administering or distributing medications in a timely manner, according to physician orders.**

**(Mandatory)**

**DISCUSSION:** All prescribed and nonprescribed medications stocked in the facility or generated by outside health care providers for use in the facility are placed on the written formulary list.

Dispensing is the issuance of one or more doses of medication from a stock or bulk container. The dispensed medication should be correctly labeled to indicate the name of the patient, the contents of the prescription, directions for its use, and other vital information needed to facilitate correct patient usage. A medication is considered administered or distributed when a single dose of an identified drug is given to a patient.

A controlled substance is a medication that requires a written prescription listing the prescribing physician's or dentist's Drug Enforcement Administration registration number. Provision should be made for the security of all medications.

**2-4318** The health record file contains the following items:

- The completed receiving screening form
- Health appraisal data forms
- All findings, diagnoses, treatments, dispositions
- Prescribed medications and their administration
- Laboratory, x-ray and diagnostic studies
- Signature and title of documentor
- Consent and refusal forms
- Release of information forms
- Place, date, and time of health encounters
- Health service reports, e.g., dental, mental health and consultations
- Treatment plan, including nursing care plan
- Progress reports
- Discharge summary of hospitalization and other termination summaries.

The method of recording entries in the records, the form and format of the records, and the procedures for their maintenance and safekeeping are approved by the health authority.  
(Essential)

DISCUSSION: The "problem-oriented medical record" structure is suggested; however, whatever the records structure, every effort should be made to establish uniformity of record forms and content throughout the correctional system. The record is to be complete and all findings recorded, including notations concerning mental health, dental, and consultative services, at the time of service delivery or no later than 14 days from time of discharge of the patient or termination of treatment. The receiving screening form becomes a part of the record at the time of the first health encounter.

**2-4319** Written policy and procedure uphold the principle of confidentiality of the health record and support these requirements:

- The active health record is maintained separately from the confinement record
- Access to the health record is controlled by the health authority
- The health authority shares with the superintendent/warden information regarding an inmate's medical management, security, and ability to participate in programs.

(Essential)

DISCUSSION: The principle of confidentiality protects the patient from disclosure of confidences entrusted to a health care provider during the course of treatment. The confidential relationship of doctor and patient extends to inmate patients and their physician or other provider. Thus, it is necessary to maintain active health record files under security, completely separate from the patient's confinement record.

**2-4320** Written policy and procedure regarding the transfer of health records require that:

## **MEDICAL AND HEALTH CARE SERVICES**

**Summaries, originals, or copies of the health record accompany the inmate to the facility to which he/she is transferred; and,**

**Health record information is also transmitted to specific and designated physicians or medical facilities in the community upon the written authorization of the inmate.**

**(Essential)**

**DISCUSSION:** An inmate's health record or summary accompanies the inmate in order to assure continuity of care and to avoid the duplication of tests and examinations. (See related standard 2-4122)

**2-4321 Written policy and procedure require that inactive health record files are retained as permanent records in compliance with legal requirements of the jurisdiction. (Important)**

**DISCUSSION:** Inactive health records need to conform with legal requirements for record retention, regardless of whether they are being maintained separately or with confinement records.

**2-4322 Psychotropic drugs, such as antipsychotics, antidepressants and drugs requiring parenteral administration are prescribed only by a physician or authorized health provider by agreement with the physician, following a physical examination of the inmate by the health provider, and are administered by the responsible physician, qualified health personnel, or health-trained personnel under the direction of the health authority. (Essential)**

**DISCUSSION:** The dangers involved in the administration of intramuscular and psychotropic drugs require the safeguards provided by appropriate medical personnel. (See related standard 2-4221)

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## APPENDIX H

### DIETARY ALLOWANCES

1. The defendants shall adopt and follow the Recommended Dietary Allowances, National Academy of Sciences, which are attached hereto. Completion dates and monitoring shall be in accordance with Section V.

FOOD AND NUTRITION BOARD, NATIONAL ACADEMY OF SCIENCES-NATIONAL RESEARCH COUNCIL  
RECOMMENDED DAILY DIETARY ALLOWANCES,\* Revised 1980  
*Designed for the maintenance of good nutrition of practically all healthy people in the U.S.A.*

	Age (years)	Weight		Height		Protein (g)	Fat-Soluble Vitamins			Water-Soluble Vitamins						Minerals						
		(kg)	(lb)	(cm)	(in)		Vita- min A ( $\mu\text{g RE}^b$ )	Vita- min D ( $\mu\text{g}^c$ )	Vita- min E (mg $\alpha\text{-TE}^d$ )	Vita- min C (mg)	Thia- min (mg)	Ribo- flavin (mg)	Niacin (mg NE $^e$ )	Vita- min B-6 (mg)	Fola- cin $^f$ ( $\mu\text{g}$ )	Vitamin B-12 ( $\mu\text{g}$ )	Cal- cium (mg)	Phos- phorus (mg)	Mag- nesium (mg)	Iron (mg)	Zinc (mg)	Iodine ( $\mu\text{g}$ )
Infants	0.0-0.5	6	13	60	24	$\text{kg} \times 2.2$	420	10	3	35	0.3	0.4	6	0.3	30	0.5 $^g$	360	240	50	10	3	40
	0.5-1.0	9	20	71	28	$\text{kg} \times 2.0$	400	10	4	35	0.5	0.6	8	0.6	45	1.5	540	360	70	15	5	50
Children	1-3	13	29	90	35	23	400	10	5	45	0.7	0.8	9	0.9	100	2.0	800	800	150	15	10	70
	4-6	20	44	112	44	30	500	10	6	45	0.9	1.0	11	1.3	200	2.5	800	800	200	10	10	90
Males	7-10	28	62	132	52	34	700	10	7	45	1.2	1.4	16	1.6	300	3.0	800	800	250	10	10	120
	11-14	45	99	157	62	45	1000	10	8	50	1.4	1.6	18	1.8	400	3.0	1200	1200	350	18	15	150
	15-18	66	145	176	69	56	1000	10	10	60	1.4	1.7	18	2.0	400	3.0	1200	1200	400	18	15	150
	19-22	70	154	177	70	56	1000	7.5	10	60	1.5	1.7	19	2.2	400	3.0	800	800	350	10	15	150
	23-50	70	154	178	70	56	1000	5	10	60	1.4	1.6	18	2.2	400	3.0	800	800	350	10	15	150
	51+	70	154	178	70	56	1000	5	10	60	1.2	1.4	16	2.2	400	3.0	800	800	350	10	15	150
Females	11-14	46	101	157	62	46	800	10	8	50	1.1	1.3	15	1.8	400	3.0	1200	1200	300	18	15	150
	15-18	55	120	163	64	46	800	10	8	60	1.1	1.3	14	2.0	400	3.0	1200	1200	300	18	15	150
	19-22	55	120	163	64	44	800	7.5	8	60	1.1	1.3	14	2.0	400	3.0	800	800	300	18	15	150
	23-50	55	120	163	64	44	800	5	8	60	1.0	1.2	13	2.0	400	3.0	800	800	300	18	15	150
	51+	55	120	163	64	44	800	5	8	60	1.0	1.2	13	2.0	400	3.0	800	800	300	10	15	150
Pregnant						+30	+200	+5	+2	+20	+0.4	+0.3	+2	+0.6	+400	+1.0	+400	+400	+150	h	+5	+25
Lactating						+20	+400	+5	+3	+40	+0.5	+0.5	+5	+0.5	+100	+1.0	+400	+400	+150	h	+10	+50

\* The allowances are intended to provide for individual variations among most normal persons as they live in the United States under usual environmental stresses. Diets should be based on a variety of common foods in order to provide other nutrients for which human requirements have been less well defined. See text for detailed discussion of allowances and of nutrients not tabulated. See Table 1 (p. 20) for weights and heights by individual year of age. See Table 3 (p. 23) for suggested average energy intakes.

<sup>b</sup> Retinol equivalents. 1 retinol equivalent = 1  $\mu\text{g}$  retinol or 6  $\mu\text{g}$   $\beta$  carotene. See text for calculation of vitamin A activity of diets as retinol equivalents.

<sup>c</sup> As cholecalciferol. 10  $\mu\text{g}$  cholecalciferol = 400 IU of vitamin D.

<sup>d</sup>  $\alpha$ -tocopherol equivalents. 1 mg  $d$ - $\alpha$  tocopherol = 1  $\alpha$ -TE. See text for variation in allowances and calculation of vitamin E activity of the diet as  $\alpha$ -tocopherol equivalents.

<sup>e</sup> 1 NE (niacin equivalent) is equal to 1 mg of niacin or 60 mg of dietary tryptophan.

<sup>f</sup> The folacin allowances refer to dietary sources as determined by *Lactobacillus casei* assay after

treatment with enzymes (conjugases) to make polyglutamyl forms of the vitamin available to the test organism.

<sup>g</sup> The recommended dietary allowance for vitamin B-12 in infants is based on average concentration of the vitamin in human milk. The allowances after weaning are based on energy intake (as recommended by the American Academy of Pediatrics) and consideration of other factors, such as intestinal absorption; see text.

<sup>h</sup> The increased requirement during pregnancy cannot be met by the iron content of habitual American diets nor by the existing iron stores of many women; therefore the use of 30-60 mg of supplemental iron is recommended. Iron needs during lactation are not substantially different from those of nonpregnant women, but continued supplementation of the mother for 2-3 months after parturition is advisable in order to replenish stores depleted by pregnancy.