



PC-NY-0001-0001

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AHMED SHEPPARD, JOHN SCOTT, RICHARD
HUAROTTE, CARL BROWN, SHERWIN
CHARLES, MAURICE LOUREE, EUGENE
HARRIS, ALEX VIRELLA, HASSAN SCOTT,
BARRON CUNNINGHAM, CHRISTOPHER
FLOWERS, PAUL QUARTIERI, GREG MILES,
ERIC SANCHEZ AND MICHAEL STREETER,

Plaintiffs,

- against -

**STIPULATION
OF SETTLEMENT**

91 Civ. 4148 (RPP)

ANDREW PHOENIX, JAMES BIRD, WILLIAM
KOZACK, JOSE VIERA, GERALD MITCHELL,
MARRON HOPKINS, ALLYN SIELAFF,
CATHERINE ABATE; OFFICERS ANCRUM,
RUSSELL, MOJICA, DAVIS, MATOS, MICKEL,
DAY, SARTOR, GIBBS, WILLIAMS, CAPURRO,
ROHR, FROEHLICH, HATCHER, FIGUEROA,
KOUNAS, DELGADO, ATHANASSIOU,
COXSON, GUMUSDERE, BOYCE, EVANS,
HAMILTON, ROSADO, ROSE, CESARIO,
COARD, HERRERA, ARUSANO,
SCARAMUZZO, HENRY, BASTIAN, VASQUEZ,
CRUZ, MOORE, CHAVERS, STINNIE,
GUADAGNO AND JOHN DOES 2-6, 9-14, 16-38,
41-44, 46-48; CAPTAINS MARTINEZ, DERA VIN,
BIANCHI, SCHOLLMAYER, BAILEY, GARCIA,
LITCHFIELD JORGENSEN; and THE CITY OF
NEW YORK.

Defendants.

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This action was commenced *pro se* by plaintiff Ahmed Sheppard on June 18, 1991 seeking compensatory damages for injuries sustained when he was injured by correction officers and uniformed supervisors employed by the New York City Department of Correction (the

Department") at the Central Punitive Segregation Unit ("CPSU") in the James A. Thomas Center ("JATC") on Rikers Island.

An amended complaint was filed, pursuant to a stipulation of the parties and an order of the Court, on February 18, 1993 seeking compensatory and punitive damages for fifteen present and former CPSU inmates from numerous officers, uniformed supervisors and the City of New York to redress defendants' alleged violations of their rights under the United States Constitution and the laws of the State of New York by subjecting each of the named plaintiffs to excessive and unnecessary force while confined in the CPSU in JATC.

Plaintiffs Michael Streeter and John Scott, on their own behalf and on behalf of a class of other current and future inmates confined in the CPSU, sought declaratory and injunctive relief against defendants Phoenix, Bird, Abate, Viera, Hopkins and the City of New York to end the pattern of abuse and other misconduct by uniformed staff in the unit.

The amended complaint alleged that, over a period of years, CPSU inmates had been subjected to excessive and unnecessary force, often leading to serious injury, and misuses of force were covered up by the falsification of documents and in some cases the withholding of medical care by officers and supervisors; that supervisors through the ranks of the Department of Correction had failed to implement effective measures to curb the pattern of misconduct; that the system for investigating uses of force in the unit and for disciplining staff members implicated in these incidents was inadequate and ineffective; and that the misconduct and failures in supervision and oversight were so longstanding, deeply embedded and widespread as to amount to an informal policy by which Department staff were able to use excessive and unnecessary force against inmates in the CPSU without meaningful disciplinary consequence.

All defendants answered the first and second amended complaints, and denied the material allegations set forth therein. Defendants Phoenix, Bird, Kozack, Viera, Mitchell, Hopkins, Sielaff, Abate and the City of New York ("the supervisory defendants") filed an answer on May 28, 1993; defendants Mojica, Davis, Matos, Day, Sartor, Gibbs, Capurro, Rohr, Froehlich, Hatcher, Mickel, Figueroa, Delgado Athanassaiou, Boyce, Evans, Hamilton, Scaramuzzo, Moore, Guadagno, Martinez, Bianchi, Schollmeyer, Bailey, Litchfield, Jorgenson and Garcia filed an answer on November 19, 1993. The remaining defendants -- Ancrum, Arusano, Bastian, Cesario, Chavers, Coard, Coxson, Cruz, Gumusdere, Herrera, Kounas, Rosado, Rose, Stinnie, Vasquez and Williams -- who were not represented by the Law Department, filed an answer and cross-complaint against the City on February 2, 1994. Plaintiffs filed a second amended complaint on March 10, 1994, identifying a number of defendants previously sued as "John Does." These defendants -- Brophy, Capurro, Glen, Ramsey, Matos, Olivieri, Ferrer, Castella, Cosolito, Ketterer, Davenport, Peele, Sheffey, Spissinger, Washington and Whitfield -- filed answers on March 31 (those represented by the Law Department) and April 5, 1994 (those represented by private counsel).

Plaintiffs and those defendants against whom declaratory and injunctive relief were sought (Phoenix, Bird, Abate, Viera, Hopkins and the City of New York) stipulated to the entry of an order granting class certification, pursuant to rule 23(a)(b)(1) and (2) Fed. R. Civ. P., and providing for notice to the class, and the order was entered on May 3, 1993.

The Court's order of May 3, 1993 certified a class of all current and future inmates who would be confined in the CPSU.

The fifteen named plaintiffs have settled their damage claims against the various individual defendants, and these claims were withdrawn pursuant to a stipulation of discontinuance so ordered by the Court on April 18, 1996.

Defendants have provided plaintiffs, pursuant to their requests, with relevant documents with respect to the claim for declaratory and injunctive relief.

The Department of Correction on March 10, 1996 closed the CPSU in the James A. Thomas Center and transferred the plaintiff class to a new CPSU in the Otis Bantum Correctional Center ("OBCC"). The new unit is staffed with officers and supervisors who had not been assigned to the CPSU in JATC, and is supervised by a Deputy Warden who reports directly to the Warden of OBCC.

The Department previously implemented systems for controlling and investigating use of force incidents, and for disciplining correction staff who have applied unnecessary or excessive force, pursuant to the decisions of the United States District Court in *Fisher v. Koehler*, 692 F. Supp. 1519 (S.D.N.Y. 1988), *injunction entered*, 718 F. Supp. 1111 (S.D.N.Y. 1989), *aff'd.*, 902 F.2d 2 (2d Cir. 1990) and the consent judgments in *Jackson v. Freckleton*, CV 85-2384 (ADS) (E.D.N.Y. 1991) and *Reynolds v. Ward*, 81 Civ. 101 (PNL) (S.D.N.Y. 1990).

The parties agree that the Court has jurisdiction over this action and the parties, and that the Court has the authority to order the relief set forth in this Stipulation.

The parties stipulate, based on the entire record, that the remedies set forth in this Stipulation and Proposed Order are narrowly drawn, extend no further than necessary to correct violations of the federal rights of the plaintiff class, and are the least intrusive means necessary to accomplish redress. The entire record on which this stipulation is based includes the

following materials regarding the factual basis for the relief the parties agree should be entered: the lists, charts, and spreadsheets which summarize voluminous Department of Correction records, and which are denominated as Exhibits 1-7; the documentary exhibits, deposition excerpts and videotapes, which are denominated as Exhibits 10-572, 600-663, 680-690, 700-1101, 1110-1278, 1300-1417, 1500-1860, 2000-2054, 2100-2166, 2300-2352, 2401-2478, 2500-2580, and 2600-2674; and the Rule 26 reports and depositions of plaintiffs' experts Steve J. Martin, Vincent M. Nathan, Charles Montgomery and Isidore Mihalakis, M.D (report only).

IT IS HEREBY STIPULATED AND AGREED by the parties that plaintiffs' claims for injunctive relief in this action shall be resolved without further litigation by the entry of a Final Judgment incorporating the terms of this Stipulation, following its approval by the Court after notice of its terms is provided to the class.

The parties stipulate as follows:

USE OF FORCE POLICY

1. The parties acknowledge that in the CPSU, the use of force by staff may be required, among other reasons, to protect and insure the safety of staff, inmates, and others, to prevent serious property damage, and to insure institutional safety and security. Recognizing that there are limited circumstances where alternatives to force are not feasible, staff will be expected to handle inmate encounters by making reasonable efforts to resolve the situation without force or, when force is necessary, using only that amount of force necessary to restrain an inmate or to bring a situation under control. The Department will direct and train staff to respond to inmate misconduct without force, or if force is necessary, to utilize control techniques intended to minimize injuries to both inmates and staff. Except in highly unusual circumstances, staff will be expected to utilize appropriate force that is designed to control and immobilize the

inmate without the use of tactics that carry a high risk of injury to staff and inmates, *e.g.*, punches, kicks, strikes to vital areas of the body. "Highly unusual circumstances" are those where the facts and circumstances known to the staff member would warrant a person, using sound correctional judgment, to reasonably believe such force is necessary, as a last resort, to prevent or terminate an escape from a correctional facility or from custody while in transit outside the facility, or similarly serious breaches of security, serious physical injury, or property damage which would immediately endanger the safety of staff, inmates, or others. The Department guidelines and any use of force guidelines specifically developed for the CPSU shall explicitly prohibit the use of excessive or unnecessary force. Staff use of excessive or unnecessary force, as defined therein, shall be prohibited in the CPSU.

2. Within 60 days after this Stipulation is entered as an order of this Court, defendants shall develop with the joint expert consultants a CPSU training curriculum, and written standards and procedures governing the use of force by correction staff in the CPSU consistent with the policy statement in paragraph "1." The topics covered will include:

- when force may be used;
- the nature of minimal force; the nature of alternatives to the use of force; the prohibition against excessive or unnecessary force, and the means for avoiding the unnecessary use of force, as set forth in Department guidelines and in any use of force guidelines specifically developed for the CPSU;
- control techniques intended to minimize injury to staff and inmates;
- the policy prohibiting the use of tactics which carry a high risk of injury to staff or inmates;
- when and how gas, batons, shields and stun equipment may properly be used;
- the policy regarding appropriate movement of CPSU inmates;

Mental Health Services

4. As of the date this Stipulation is entered as an Order of the Court, defendants shall maintain a written plan for the provision of mental health services to CPSU inmates. This plan shall require that, among other things: (1) Mental Health Services shall be informed whenever an inmate in special housing for mental observation has been charged with an infraction and shall be permitted to participate in the infraction hearing, and to review any punitive measures to be taken. No inmate from a mental observation unit shall be transferred to the CPSU without the authorization of Mental Health Services; (2) any inmate to be placed in the CPSU who is known to Mental Health Services shall have his chart reviewed and be seen by Mental Health Services staff before being housed in the CPSU; (3) all inmates in the CPSU shall be seen at least once each day in their housing areas by medical staff, who shall make referrals to mental health services when appropriate; (4) observation aides shall be assigned on all tours, subject to the availability of appropriately qualified inmates, to each housing areas in the CPSU, their presence shall be noted in area log books, and the CPSU Deputy Warden shall maintain a written record indicating whenever an observation aide was not present in a CPSU housing area; (5) inmates deemed by mental health staff to present a risk of mental or emotional deterioration if placed or continued to be confined in the CPSU shall be removed from the Unit and placed in a more appropriate location.

5. Pursuant to the plan described immediately above, DOC and Mental Health Services shall, by the date this Stipulation is entered as an Order of the Court, formulate: (1) a protocol for identifying, on an ongoing basis, specific CPSU inmates who should be removed from the CPSU for appropriate mental health evaluation in order to determine their suitability for continued housing in the CPSU, or to identify alternative housing where they will receive

- the policy requiring the utilization of handheld video cameras, as referenced in this stipulation; and
- Department and institutional policy regarding cell extractions.

INMATE MANAGEMENT

CPSU Operating Manual

3. Within 90 days from the date this Stipulation is entered as an Order of the Court, defendants and the joint expert consultants shall develop, and defendants shall promulgate, a revised CPSU Operating Manual. Prior to promulgation of the Manual, defendants shall provide a draft to plaintiffs' counsel for review and comment. This Manual shall set out, among other things: (1) an explanation of staffing patterns in the CPSU; (2) a description of the availability of correction counselors or social services personnel to the Unit; (3) a Use of Force Statement, which describes when and how force -- including chemical agents -- may be utilized in the Unit, and how it is to be monitored and reported; (4) a description of any incentive, or progressive privilege, program, if and when implemented, to encourage positive inmate behavior; (5) a description of how services, including medical and mental health services, are provided to CPSU inmates; (6) a description of a housing stratification or classification plan, if and when established, for the CPSU; and (7) a description of the mechanical restraint policy applicable to CPSU inmates, including a description of the circumstances in which inmates may challenge a restraint order and medical staff may request exceptions to that policy.

appropriate mental health services; (2) explicit criteria for removal of CPSU inmates for mental health evaluation and, when appropriate, treatment; and (3) an outline of mental health treatment modalities available to inmates in the CPSU.

Chemical Agents

6. Staff shall not use chemical agents on any inmate who has not been medically cleared for the use of such agents (because, for example, they suffer from certain cardiac or respiratory ailments), absent emergency circumstances, as defined herein. When an inmate is admitted to the CPSU, medical staff shall review his chart to determine whether there is a medical reason why chemical agents should not be used against the inmate. Inmates who medical staff have determined should not be the subject of chemical agent use will have their names recorded by medical staff in a manner readily available to such staff for the purposes of this paragraph. Prior to the use of chemical agents, the person responsible for such use shall notify facility health services staff to determine from such staff whether there is a medical reason why chemical agents should not be used; provided, however, that no such notification must be made, nor medical clearance for the use of chemical agents obtained, in emergency circumstances when a delay in the use of such agents would present an immediate threat of death or serious injury, or would severely threaten the safety or security of the facility.

PLACEMENT AND RETENTION OF UNIFORMED STAFF IN THE CENTRAL PUNITIVE SEGREGATION UNIT

Assignment of Staff to the CPSU

7. The Department of Correction shall assign to the CPSU captains and assistant deputy wardens who have completed their post-promotion probationary periods. Fifty percent of correction officers assigned to the CPSU shall be tenured, no more than 25% of

correction officers assigned to the CPSU shall be probationary officers with less than one year of experience. No housing area in the Unit shall be staffed on any tour solely by probationary correction officers.

8. (a) No officer or supervisor shall be assigned to the CPSU against whom Department disciplinary charges are pending (whether or not the employee is suspended) arising from a use of force incident, or arising out of a breach of security resulting in injury to staff or inmates. In addition, the Deputy Commissioner for Investigations and Trials shall carefully review the circumstances of any other pending charges to determine whether the officer(s) or supervisor(s) charged should be assigned to the CPSU.

(b) In addition, the Department shall not assign any officer or supervisor to the CPSU who, for any incident that occurred in the ten-year period immediately preceding consideration for such assignment, was found guilty or pleaded guilty or no contest to any violation in satisfaction of the following charges: excessive, impermissible, or unnecessary force; failure to supervise in an incident that resulted in serious injury to an inmate; false reporting or false statements; or failure to report a use of force. When an officer was found guilty or pleaded guilty or no contest to any violation in satisfaction of the charge of failure to accurately report, the Department will specifically review the file to determine whether the report contained a materially false statement, in which case the officer will not be assigned to the CPSU. The Deputy Commissioner of Investigations shall carefully review the circumstances of any other convictions or pleas to determine whether the subject officer(s) should be assigned to the CPSU. When an officer with a history of convictions or pleas is determined appropriate for assignment to the CPSU, a brief note shall be made in the screening report explaining the reasons for the assignment. No officer or supervisor shall be assigned to the CPSU, if the staff

member was employed in the CPSU at JATC between June 1, 1989 and March 9, 1996. No member of the Emergency Services Unit ("ESU") (formerly the Emergency Response Unit, or "ERU") who was in the CPSU at JATC between June 1, 1989 and March 9, 1996 shall be deployed in the Unit unless their use of force histories have been thoroughly reviewed and their deployment approved by the Investigations Division and the Inspector General.

9. Prior to the transfer of any officer or supervisor to the CPSU, the employee's use of force history, as detailed in the material collected pursuant to 5003 for the previous five year period, shall be provided to the Office of the Deputy Commissioner for Investigations, together with a current and complete (career history rather than 12 month period) Employee Performance Service Report (Form 22R). The 22R form must note all instances of the staff member being referred for use of force retraining pursuant to Directive 5003.

10. The Deputy Commissioner for Investigations, or his/her designee, shall ensure that, prior to any staff member's assignment to the CPSU, a thorough investigation is conducted by both the Investigations Division and the Trials and Litigation Division of each candidate's use of force history. The investigation shall include a written report ("the screening report") detailing the staff member's record of Department discipline, including the dispositions of any charges and the reasons for the dispositions.

11. In addition, the screening report shall include a review of the written reports and other materials included in the facility use of force package, and any relevant Investigations Division and Trials and Litigation files, for use of force incidents in which the staff member was involved during the preceding five years up to a maximum of ten incidents, as reflected in the Directive 5003 data available at the member's previous commands. For the

purposes of this paragraph, incidents examined will, to the extent feasible, span the five year period under review.

12. The screening report prepared for each staff member being considered for assignment to the CPSU, shall list in chronological order each use of force incident reviewed in accordance with Paragraph "11." The screening report shall include the following information for each such use of force incident: the date of incident, the use of force number, whether the incident was an "A" or "B" incident, the inmate's name; inmate injuries (as identified in the facility and/or Investigation Division file); how did inmate incur injuries, according to staff (*e.g.*, whether they were attributed to his striking a part of his body on a wall or floor, or to being struck by a staff member); whether the inmate received medical services at a hospital; a description of the types of force used in the incident by all staff members involved including the candidate for transfer (*e.g.*, body holds, punches, baton thrusts, chemical agents, poly-carbon shields); the officer's post at the time of the incident (*e.g.*, escort, housing officer, probe team, ESU); the nature of the staff member's involvement (*e.g.*, whether as a participant in the incident who used force, or as a witness); the number of inmates and staff involved; location of the incident (*e.g.* inmate's cell, yard, corridor); whether the inmate was in mechanical restraints when force was applied; whether a supervisor was present when force was applied; any command disciplines or memoranda of complaint recommended in connection with the incident, as indicated in the files.

13. The individual conducting the review and writing the screening report shall write a brief narrative concerning any issues reflecting on the staff member's fitness for assignment to the CPSU, including, when appropriate, the extent to which the member's use of force reports conform to the Department's report-writing policies. The screening report shall

also indicate whether a supervisor has recommended that the staff member be referred for retraining in use of force.

14. The screening report shall include, based on the staff member's use of force history and the member's employment history with the Department, a recommendation by the Deputy Commissioner for Investigations as to the appropriateness of the staff member's assignment to the CPSU. A list of candidates recommended by the Investigations Division will be forwarded to the Inspector General for recommendations or comments regarding the candidate's fitness for assignment in the CPSU. If either the Deputy Commissioner for Investigations and Trials or the Inspector General recommends that the candidate is not fit for assignment to the CPSU, the candidate's name shall be removed from further consideration.

15. A list of those staff members who are recommended for assignment to the CPSU shall be forwarded to the Office of the Chief of Department/UMAC. For each uniformed member on this list, all Directive 5003 print-outs, the 22R and any and all Trials Division computer print-outs reflecting charges of any nature (and dispositions) brought against the individual shall be provided to UMAC. The Office of the Chief of Department/UMAC shall consider the materials provided by the Investigations Division and the member's Department history in determining a staff member's fitness for assignment to the CPSU. For those staff members recommended by the Chief of Department/UMAC for assignment to the CPSU, the Commanding Officer of OBCC will be provided with Form 22R, Directive 5003 printouts and Investigation and Trials and Litigation printouts regarding the staff member. This information is to be placed in the staff members' OBCC personnel file.

Staff Orientation

16. All correction officers and supervisory staff assigned to the CPSU shall receive an orientation by the Deputy Warden in charge of the CPSU before beginning work in that unit. At this orientation, staff newly assigned to the unit shall be provided with both written and verbal instructions regarding the procedures governing the use of force by correctional staff in the CPSU, its monitoring and reporting, together with the relevant Department, facility and Unit orders and procedures with respect to the care, custody and control of CPSU inmates.

Transfer of Staff from the CPSU

17. Any officer or supervisor assigned to the CPSU and against whom the following Department disciplinary charges are lodged (whether or not the employee is suspended) arising from a use of force incident shall be transferred from the CPSU: excessive, impermissible, or unnecessary force, false reporting or false statements, failure to supervise, failure to employ an alternative to force, and failure to report a use of force. In addition, the Deputy Commissioner for Investigations and Trials, in consultation with the Warden of CPSU, shall carefully review the circumstances of any other charges arising out of a use of force or other misconduct to determine whether the officer(s) charged should remain in the CPSU. When a decision is made to retain the officers in the CPSU, the basis for such decision shall be noted.

18. Nothing in the foregoing paragraphs shall preclude the Chief of the Department from transferring a member of the uniformed staff from the CPSU to another command whenever such a transfer is deemed to be in the best interests of the Department.

Records of Litigation

19. The parties agree that the disposition of litigation against individual correction officers and supervisory officials, the Department of Correction and the City of New

York alleging misconduct in connection with the use of force and/or its reporting, or in connection with the care, custody and control of inmates, may contain information of value to the Department in evaluating the fitness of individual staff members to perform duties in the CPSU. The Office of the Corporation Counsel shall provide to the Legal Division of the Department of Correction information reflecting the resolution of federal litigation against individual correction officers, supervisory employees and/or the Department of Correction and/or the City of New York alleging unnecessary or excessive use of force by Department employees assigned to the CPSU, or other misconduct which is alleged to have caused injury to an inmate. The Legal Division shall, when warranted, inform the Chief of the Department, the Investigations Division and the Warden of ODOC of the pendency and/or results of any such litigation, or of evidence adduced in the proceeding relevant to an assessment of the staff member's continued assignment in the CPSU.

Housing Area Officers

20. Uniform staff shall not withhold access to any service or program in the CPSU in retaliation for misconduct or perceived misconduct. No CPSU inmate shall be housed in any cell which lacks an operable sink with running water, a flushable toilet, and appropriate bedding.

21. Uniformed staff in the CPSU housing areas shall supervise the feeding of CPSU inmates. At least one correction officer must observe the delivery of each food tray to each inmate in a housing area.

Review of Staff Use of Force Triggered by Involvement in Three or More Uses of Force in a Three Month Period

22. Based on the list and data provided by the Investigations Division, the CPSU Deputy Warden shall review and evaluate the conduct of any staff member who has been involved in three or more use of force incidents for which investigations have been closed in the preceding three month period. For each incident in which the staff member was involved, the review shall include a careful review of the use of force package, and the Deputy Warden shall consider: (1) the injuries, if any sustained by staff and inmates, with particular reference to head, face, hand and back injuries, and whether the injuries reported appear to be consistent with the kind and amount of force reported; (2) whether staff or inmates were seen at or admitted to a hospital or referred for urgent care; (3) the time and location of the incident, with particular reference to whether the incident occurred in an area not covered by the wall-mounted cameras, or in a location where the incident was not videotaped by a hand-held camera; (4) a description of the kind and amount of force utilized by the staff, with particular reference to whether staff members complied with guidelines for use of force in the CPSU, whether blows were struck by one or more staff members, and whether force was applied to the inmate's face, head, or other vital areas; whether multiple blows were struck to the inmate, and whether the inmate was handcuffed; (5) whether the officer or supervisor under review failed to take action to prevent the need for force, or to prevent injuries to the inmate, or used greater force than necessary under the circumstances; and (6) the conclusions made in the closing memorandum prepared by the CPSU Use of Force Unit ("CPSU-UFU" or "UFU").

23. Staff members involved in three or more use of force incidents shall be interviewed by the OECC Warden or the CPSU Deputy Warden after the documents have been

reviewed, as described above. If the staff member's use of force history indicates that he/she has engaged in conduct in connection with the use of force which suggests that remedial measures should be undertaken, the OBCC Warden or CPSU Deputy Warden shall make an appropriate recommendation, including the referral of the staff member for retraining, or a request that he/she be transferred from the CPSU. Copies of the reports of these interviews shall be forwarded to the Deputy Commissioner of Investigations and Trials.

24. The document reviews, interviews and remedial recommendations, if any, shall be memorialized in writing, and shall be considered by Department supervisors in any subsequent use of force reviews.

25. Nothing in this Stipulation prevents facility supervisors, prior to the close of use of force investigations by CPSU-UFU, from taking remedial action with respect to a staff member whenever information obtained through facility review of use of force packages, weekly meetings with UFU, or any other sources, indicates such action is appropriate.

26. All probationary correction officers assigned to the CPSU shall as part of their regularly scheduled employee evaluations be assessed to determine their continuing fitness for assignment to the CPSU. Supervisory evaluations shall be based upon both departmental performance standards regarding the effective care, custody and control of inmates and information obtained from any three-month use of force reviews.

TRAINING

27. Defendants shall provide training to all staff members assigned to the CPSU in topics, including but not limited to those set forth in Paragraphs "1" and "2," above, as follows:

- a. Prior to their assignment to the Unit, staff members shall receive no less than two weeks' training in the utilization of use of force techniques and CPSU procedures, including techniques (*e.g.*, control holds) to minimize injuries to staff and inmates. In addition, training will include a discussion of the history of this litigation.
- b. Thereafter, as a condition of their continued assignment, CPSU officers shall receive an additional 40 hours of training annually in use of force techniques, on a quarterly basis, or more frequently as determined by the Department in consultation with the joint expert consultants.

28. Within 60 days after this Stipulation is entered as an order of this Court, defendants and the joint expert consultants shall develop a curriculum and schedule for the training of existing CPSU staff.

29. The Department of Correction shall not assign a correction officer or captain to the CPSU unless the staff member has been trained in the utilization of control holds and other forms of self-defense, and has demonstrated a working knowledge of and thorough familiarity with these techniques. All uniformed staff assigned to the CPSU shall be required to demonstrate on an annual basis that they have a working knowledge of and thorough familiarity with the utilization of control holds and other forms of self-defense as a condition of continued assignment to the Unit.

CPSU USE OF FORCE - FACILITY RESPONSIBILITIES

Use of Force Reporting

30. When a use of force occurs, all staff witnessing or participating in the incident will be expected to write their reports immediately, except when doing so would have a significant impact on the operation or security of the jail. The reports will detail their participation in the incident and what they observed and/or heard. The use of force report form will be revised to require the writer to report only information from their own personal knowledge of the incident: his or her actions, and his or her observations about the actions of others during the incident.

31. Staff shall write their reports independently. Whenever practicable, staff will be directed by a supervisor to write their reports in separate areas. When this is not possible, the tour commander or, if he or she is unavailable, a designated captain who is not a witness or participant, will insure that information is not shared and that reports are prepared independently.

32. Staff claiming injury will be offered the opportunity to be examined in the facility clinic. If the staff member refuses the examination, a supervisor will note the refusal in writing, and the note will be included in the use of force package.

33. Inmates involved in use of force incidents shall be escorted to the clinic for medical examination immediately after an incident, consistent with any separation or decontamination requirements, by a staff member who was not involved in the incident as a participant or a witness.

34. Whenever staff or inmates arrive at the clinic an entry shall be made in a log indicating the time of their arrival. Reports of medical examinations shall include the time when the individual was examined by medical personnel.

35. A CPSU supervisor of the rank of ADW or higher who was neither a witness nor a participant, or a UFU investigator, shall be responsible for interviewing, as soon as medically practicable, any officers who are injured and unable to write reports themselves. This supervisor shall reduce the substance of the interview to writing, acknowledged by the officer in the presence of the supervisor who will subscribe a statement on the document giving the reason(s) for the use of this method, and will sign, and note the date and time. If an oral statement is not obtained, the supervisor shall provide a written explanation of the reason.

36. When a use of force occurs, the Tour Commander will assign a Captain who was neither a witness nor a participant in the incident to assemble the use of force package, as described in paragraph "42." The Captain will review the reports promptly to ensure that they have been submitted by all staff participants and witnesses. The package will be forwarded to the Tour Commander who will review the reports to insure that they are complete, and that medical treatment was provided in a timely fashion. Where clarification or additional information appears necessary, the Tour Commander will note those issues in writing. At the Tour Commander's option, the Tour Commander may call the staff member for an interview regarding those specific issues and note the responses. In addition, the Tour Commander will be expected to identify any issues that should be brought to the attention of the CPSU Deputy Warden, including whether his review revealed any possible violations of any institutional or Departmental rules, orders or policies. The Tour Commander will then forward the package to the Deputy Warden for CPSU who will review the package together with any video tapes of

the incident. The Deputy Warden will note issues which should be brought to the Warden's attention and forward the package to the Warden. Reviews by the Tour Commander and Deputy Warden, together with any notes of their review, will be included in the use of force package. Completed packages will be forwarded to CPSU-UFU within seven days of the incident.

37. Copies of all use of force reports, use of force witness reports, and injury to inmate reports shall be available to the ICO or CPSU-UFU as soon as they have been prepared.

Physical Evidence

38. When the Warden or his designee or the Investigation Division deems it appropriate the following steps will be taken: After a use of force, the location of the incident will be secured (cordoned off) until it can be examined and photographed, and any evidence can be collected by the ICO or UFU staff. If the area is not covered by the wall mounted cameras, an officer shall be posted to guard the area until the examination can occur. The area will remain secure until UFU staff indicates that all evidence has been collected.

39. A staff member who was neither a witness nor a participant, will take clear, color, close-up photographs of inmates and staff of all areas of injury as soon as the injured party is escorted to the clinic. (Failure to properly photograph will be investigated and, when appropriate, disciplinary action will be taken.) A sufficient number of working cameras and supply of film shall be maintained in the CPSU and main clinics.

40. The photographs of the area of the incident and of the participants will be marked to include the name(s) of the subject(s), time, date, and location of the photograph and the name of the photographer. The photographs shall be enclosed in an envelope by the photographer, and the envelope shall be marked with the name of the inmate(s) or staff

member(s) being photographed, the number of photographs, the time, date, and location of the photographs and the name of the photographer. The envelope(s) of the photographs shall be included in the use of force package turned over to UFU. Nothing in this paragraph shall preclude UFU staff from taking photographs at any time.

41. Physical evidence from a use of force incident shall be collected, preserved and vouchered by a supervisor of the rank of Captain or higher in order to assure the chain of custody, except where it is immediately secured by the Investigation Division. All weapons and other contraband collected by uniformed staff in the CPSU shall be tagged, identified, photographed and retained in a sealed evidence envelope for at least eighteen months in a locked cabinet in the office of the CPSU Deputy Warden, except where the Investigations Division has assumed possession of the contraband, in which case the Investigations Division shall be responsible for the above evidentiary preservation procedures and for maintaining evidence in a locked cabinet. After eighteen months, if no charges are pending against staff or inmates, the contraband shall be destroyed, and appropriate documentation reflecting the disposal of the contraband shall be recorded and maintained in the office of the Deputy Warden.

Use of Force Package

42. When a use of force occurs, the tour commander will designate a Captain who was neither a participant nor a witness to the incident to compile a package in accordance with the procedures outlined in paragraph "36," above. The use of force package will contain the reports submitted by staff participants and witnesses; the notations of the tour commander or deputy warden in accordance with paragraph "36"; the photographs of staff and inmates sealed in an evidence envelope; a copy of the evidence envelope, voucher number, and photographs of any physical evidence; the identifying information for any handheld videotape;

relevant medical documentation, including injury to inmate reports and staff refusal of medical examination in accordance with paragraph "32"; DOC requests for treatment for staff claiming injuries; and copies of workers' compensation papers, where available (collectively, "UOF Package").

43. Use of force packages will be forwarded to CPSU-UFU within seven days of the incident, or of receipt of a complaint by the facility or by CPSU-UFU. CCC use of force reports for the CPSU shall be faxed to UFU as soon as they are prepared. Nothing in this paragraph shall preclude UFU staff from exercising their authority under Directive 7001R to collect documents at any time.

CPSU USE OF FORCE UNIT - INVESTIGATIONS

44. Investigations of all uses of force and allegations of uses of force in the CPSU, as well as allegations of staff misconduct in connection with incidents in which CPSU inmates are injured in the CPSU shall be conducted by CPSU-UFU. CPSU-UFU shall be under the direction of the Deputy Director of Investigations for CPSU-UFU. CCC reports shall be faxed to CPSU-UFU as soon as they are prepared.

45. CPSU-UFU staff will not be reduced from current levels during the life of this stipulation. The current staff includes: the Deputy Director, nine investigators, two captains, the Integrity Control Officer ("ICO") at the rank of Assistant Deputy Warden or Civilian Supervising Investigator assigned to the CPSU, two attorneys, and one clerical staff. Within 30 days after this Stipulation is entered as an Order of the Court, defendants shall provide to the plaintiffs and to the expert consultants an inventory of CPSU cases then pending in the Investigation Division, identifying which incidents have been pending for more than 60, 90, and 120 days. These cases shall constitute "the backlog." If the backlog is not resolved

by August 1, 1998, defendants with the joint expert consultants will formulate a plan that will resolve the backlog by December 31, 1998.

Deputy Director of Investigations - CPSU-UFU

46. The Deputy Director of the CPSU-UFU will be an attorney, or an individual with appropriate investigatory experience, chosen in consultation with the DOC Inspector General, and approved by the Commissioner of DOC. The Deputy Director shall not be removed or replaced without consultation with the Inspector General.

47. The duties and responsibilities of the Deputy Director of CPSU-UFU shall include, but are not limited to: supervising UFU staff; reviewing all UFU investigations; providing support and assistance to investigators in conducting investigations; assessing investigator skills and training needs; training and/or arranging for training; identifying and taking the necessary steps to insure the availability of the resources described in paragraphs "55" through "57"; establishing and ensuring the maintenance and utilization of the case tracking system described in paragraphs "67" and "68"; enforcing the requirements for UFU staff described in paragraphs "51" through "54," "58" through "66"; ensuring the completion of investigations within the time frames established in paragraph "58"; ensuring that all uses of force and allegations of uses of force in the CPSU, as well as allegations of staff misconduct in connection with incidents in which CPSU inmates are injured in the CPSU, are thoroughly investigated, looking for and apprising UFU investigators of any patterns in uses of force in the CPSU; and review of preliminary investigations and videotapes pursuant to paragraphs "48" and "80."

48. In cases where the Deputy Director determines that the preliminary review of the evidence indicates that a staff member has used excessive or unnecessary force, the CPSU

Deputy Director of Investigations may recommend to the Deputy Commissioner for Investigations and Trials that the staff member(s) be suspended or administratively transferred pending the outcome of an investigation. Such a recommendation will be made within 72 hours (excluding weekends and holidays) of the incident or of the Investigation Division's receipt of the allegation. See paragraph "80."

49. After a UFU investigation is completed and reviewed by the Deputy Director of CPSU-UFU, he/she will make a recommendation to the Director of Investigations and the Deputy Commissioner for Investigations and Trials. In the event that there is sufficient evidence to believe (more likely than not) that staff violated Department rules or regulations or applicable policy in connection with a use of force, or engaged in misconduct which created a risk of or resulted in an injury to an inmate, appropriate disciplinary action (for all applicable DOC policies, directives, rules and regulations) will be initiated against the staff member(s).

50. If the Deputy Director of CPSU-UFU identifies violations of institutional or Department procedures, or issues requiring appropriate supervisory follow-up (e.g. training), the Deputy Director of CPSU-UFU shall notify the Division Chief and the OBCC Warden in writing, with copies to the Deputy Commissioner for Investigations and Trials. The facility will be directed to take appropriate action and to notify CPSU-UFU within thirty days of the action taken.

CPSU Integrity Control Officer - ICO

51. The duties and responsibilities of the ICO assigned to the CPSU are set out in DOC Operations Order 11/93, attached as Appendix "A." In addition, they shall include, but are not limited to, the following:

- a. On a daily basis, review the UOF Log Book and Unusual Incident Log Book, and identify all incidents which appear on either Time Lapse Video and/or Facility hand-held video.
- b. Remove and secure all videos associated with use of force incidents. Insure that the originals of all videos have been vouchered and secured as evidence. If an inmate alleges that staff misconduct occurred either before or after the use of force incident, or if information to that effect is developed in the course of the investigation of the incident, all relevant tapes will be secured.
- c. Maintain an inventory of all vouchered evidence. The inventory shall be referenced by incident number and shall include the incident date, description of evidence vouchered, and voucher number.
- d. Review all videos associated with incidents, together with the preliminary report from the use of force log, within 24 hours of the incident, except for weekends and holidays. When the incident is not consistent with Department UOF policy or with the preliminary report, the ICO shall immediately notify the Deputy Director of UFU and the Warden of OBCC.
- e. The ICO shall make available to the Warden of OBCC a copy of any video associated with an incident in the CPSU.
- f. The ICO shall maintain the integrity of the recording system and evidence room in the CPSU. To that end the ICO shall:
 - (1) Insure that the chain of custody of all evidence is maintained until its receipt by CPSU-UFU.
 - (2) Insure that access to both the tape room and multiplexer room is limited to authorized personnel and that such access is documented.
 - (3) Twice monthly the ICO or his designee shall review all the time lapse equipment to insure that all recorders are receiving a camera signal.
 - (4) Whenever the ICO becomes aware of a recording malfunction he shall immediately notify the Communications Captain and the Deputy Director of UFU. Written notifications shall also be made to the Deputy Commissioner of the Investigations and Trials Division, the Director of the Investigations Division, and the Inspector General.

g. Whenever he is able, the ICO shall respond to ESU operations, anticipated uses of force, and alarms in the CPSU to observe the activity. The ICO will have a radio to monitor activity within the CPSU. The ICO shall prepare and forward to UFU for inclusion in the UFU investigation file a written report of observations of any use of force incidents. If the observations include failures to follow procedures, or breaches of security related to uses of force, the ICO shall immediately inform UFU verbally and prepare a report within 48 hours, excluding weekends and holidays. The ICO shall also communicate problems that he or she observed to the CPSU Unit Manager, Tour Commander, and/or Warden.

h. The ICO shall prepare a bi-weekly report summarizing all reported UOF incidents and set forth any observations, information, or concerns that the ICO has concerning the incident, including information obtained through review of the videotape of the incidents. The bi-weekly reports shall be forwarded to the Deputy Commissioner for Investigations and Trials, with copies to the Director for Investigations and the Deputy Director of CPSU-UFU.

i. The ICO shall prepare a monthly report summarizing all reportable incidents occurring in the CPSU, as well as statistical reports summarizing all CPSU use of force incidents for the month. The report shall be forwarded to the Deputy Commissioner for Investigations and Trials, with copies to the Director of Investigations and the Deputy Director of CPSU-UFU. Copies of the ICO reports will be sent to the Inspector General's Office, on request.

j. The ICO shall make unscheduled tours of all areas of the CPSU.

k. The ICO shall act as an observer of the daily operation of the CPSU. The ICO shall meet on a regular basis with the Warden and report on such observations.

l. The ICO shall be available to assist UFU investigators in the facility and shall provide investigators with any relevant information that he or she may have concerning an incident.

m. The Director of Investigations may utilize CPSU-UFU staff to assist the ICO in performing his or her obligations, including those described above.

52. When the ICO is on vacation, military or other extended leave, a CPSU-UFU Captain will perform the ICO's daily duties in the facility.

Investigator Training

53. All investigators assigned to the CPSU-UFU shall have completed a 40 hour training course no later than 60 days from the date this stipulation is approved and entered as an Order of the Court. Thereafter, any investigator newly assigned to UFU shall complete the 40 hour training at the beginning of their assignment to the Unit. The training curriculum shall include: interviewing skills and techniques; basic medical terminology; evaluating evidence; writing analytic reports; history of the failures in the investigations of uses of force in the Department and at the CPSU; operating procedures in the CPSU, vouchering procedures/preserving chain of custody; how to conduct a video review; instruction on OATH admissibility rules, burden of proof and investigator testimony; use and maintenance of the CPSU-UFU and Trials Division computer databases; and other CPSU-UFU procedures. Copies of the training curriculum for investigators will be provided to the expert consultants and plaintiffs' counsel when this Stipulation is entered as an order of the Court.

54. In addition, UFU investigators will receive a minimum of forty hours of investigatory training each year which may include training under the auspices of other agencies such as the New York City Police Department's Internal Affairs Bureau and Criminal Investigation Course or any training recommended by the parties' joint expert consultants.

UFU Resources

55. Medical professionals with appropriate expertise, including a medical doctor with experience and training in forensic pathology, will be designated to review and interpret medical records for the UFU investigators and to assist in the determination of how injuries were caused.

56. The CPSU-UFU Unit shall maintain for reference by UFU investigators, all of the following: a basic text of medical/anatomical terminology, a collection of materials on Investigation Techniques (curricula, handouts, articles and other materials from investigation courses shall be kept by subject matter), the Manual on the Conduct of Use of Force Investigations, the current CPSU Operating Manual, Department Directives, CPSU Institutional Orders, CPSU Post Orders, *Fisher* decision, and *Sheppard* stipulation.

57. The CPSU-UFU Unit shall maintain equipment suitable for viewing the handheld and time-lapse video tapes.

Conduct of Investigations

58. CPSU-UFU investigations will be completed as quickly as possible but in no event later than 60 days after the date of the incident. Any requests for extensions shall be in writing to the Captain and to the Deputy Director of CPSU-UFU and shall state the reason(s) additional time is required. The Captain shall record the reason for the Deputy Director's grant or denial of the request. All requests for extensions and approval/disapprovals shall be included in the CPSU-UFU investigation file.

59. CPSU-UFU Investigations will be conducted in accordance with the UFU Standard Operating Procedure ("SOP"). CPSU-UFU Investigations of uses of force or alleged uses of force, or other staff misconduct which resulted in injury to a CPSU inmate, shall include: (1) comprehensive identification, as far as possible, of all inmate and staff participants and witnesses; (2) interviews of inmate participants and witnesses as specified in paragraph "60"; (3) interviews of staff participants and witnesses as specified in paragraph "64"; (4) full review of all relevant documents, including facility documents and relevant medical data, including reports from all treating facilities -- whether in the facility or elsewhere -- at which staff and

inmates received medical care for injuries sustained in the course of the incident; (5) workers' compensation documents; (6) interviews with medical staff, the forensic pathologist or a medical specialist in cases specified in paragraph "63"; (7) a review of the relevant videotapes covering the period preceding the use of force and through use of force and escort to clinic or other location; (8) a detailed narrative of the incident as it appears in the relevant videotape(s) with reference to TL numbers and times; (9) explicit findings as to the sequence of each application of force that was used; (10) resolution, when possible, of disputed matters, with reference to particular evidence in the investigative file, including audio and video tapes, statements of staff and inmates, and without relying on the status of the witness; (11) consideration, when appropriate, of inmate participants' and witnesses' history of violence, infraction history, and classification; (12) consideration of staff participants' and witnesses' prior involvement in use of force incidents as reflected in DOC records, Directive 5003 summaries, Investigation Division records, employee performance service records (22-R), and the Investigation Division and Trials Division case tracking records; (13) documents that reflect the staff participants' and witnesses' history shall be included in the UFU investigation file, *e.g.* printouts from the case tracking system, 5003 summaries, forms 22-R; (14) prior to closing the case, all investigators who conducted interviews relevant to the case or otherwise participated in the investigation will meet to discuss the reliability of the evidence.

60. CPSU-UFU investigators will interview and obtain written statements from all inmates who have been involved in, alleged to have been involved in, who witnessed, or may have information relevant to a use of force incident or incident in which a CPSU inmate was injured as a result of correction officer misconduct. Investigators shall make reasonable efforts to identify and interview inmates who may have information about events which precipitated the

incident under investigation. Investigators will conduct a thorough canvass of the area for inmate witnesses. Inmates who have been identified will be offered the opportunity to be interviewed confidentially in a private setting. Investigators will interview the subject inmate and conduct a canvas for witnesses within forty eight hours of the incident (seventy-two hours on weekends and holidays).

61. Inmates claiming injury will be asked to sign medical release forms which will be used by CPSU-UFU to obtain and review medical and hospital records.

62. In the event that an inmate who is material to an investigation of an incident involving serious inmate injury is uncooperative, will not be interviewed or will not sign a medical release form, the Inspector General may be contacted by the Investigation Division for assistance.

63. CPSU-UFU shall obtain and review medical and hospital records relevant to the use of force incident. In any use of force where the inmate was treated at a hospital or referred for urgent care, or sustained injury requiring x-rays or sutures, or where there is a factual dispute between participants as to how an injury occurred, the extent and the cause of the injuries shall be assessed by UFU after consultation with the treating physicians(s), medical personnel or forensic experts on how the injuries could or could not have been sustained.

64. Some number of staff involved in the incident being investigated shall be interviewed whenever the staff reports do not adequately explain the injury sustained by the inmate, or there are factual inconsistencies between staff reports or between staff and inmate accounts. In any case where there is sufficient evidence to charge staff with misconduct based on a videotape of a use of force, UFU investigators shall consult with a UFU attorney or the

Deputy Director of UFU to decide whether staff should be interviewed and whether staff should be confronted with videotape evidence during an interview.

65. Each UFU Investigation Division file shall include, but is not limited to, the following: (1) the entire UOF package and any other materials from the facility; (2) record/log of date and time reports received, and investigative tasks performed; (3) record of time staff and inmate interviews begin and end; (4) written synopsis of the content of staff and inmate interviews (5) a report from the medical consultant or a written synopsis of any medical consultation including reference to the documentation presented to person consulted with; (6) the narrative portion of the ICO monthly report relevant to the use of force; (7) written synopsis of any contact with the ICO concerning the use of force incident; (8) any written notes about relevant videotapes made by the ICO; (9) copies of any Memoranda of Complaint; (10) preliminary memorandum concerning the investigation where it exists; (11) the final closing memorandum signed and dated by the investigator and by the Deputy Director of UFU; and (12) other documentation required under this Stipulation (such as notation regarding staff medical treatment (paragraphs "32" and "36")).

66. CPSU-UFU reports shall be comprehensive with support for all conclusions identified in writing.

Case Tracking System

67. DOC's Investigations and Trials Division shall install and utilize computerized database programs with searching and reporting capabilities. Every use of force incident that occurs in the CPSU and is investigated by UFU will be entered into the database. Information in the database shall be used for the supervision of UFU, for the purpose of retrieving information useful in investigations, and for resolution of disciplinary charges.

68. Information including the following, shall be entered in data, narrative (comment) fields, or in non-computerized form (where indicated below): date of incident; date of UFU investigation closing; number of days from date of incident to closing; name of assigned UFU investigator; UFU supervisor; UFU case number (and UOF number, unless it is the same as the UFU number); outcome of investigation (closed with or without charges); DR/MOC number(s); date Deputy Commissioner approves closing; date MOC is received by the Trials Division; date charges served; time of incident; location of incident; names and shields of officers/supervisors, both participants and witnesses, involved in incident; whether a supervisor was present; name and shield of area or activity captain; name of tour commander on duty; name of inmate(s); injuries to inmate(s); injuries to staff (when records are available); type of force used (*e.g.* gas, baton, shield, punches, holds); was inmate in restraints when force was applied; was a weapon alleged; was weapon recovered; did the incident occur during a cell extraction, an escort, a search; reason given by staff for need to use force (*e.g.* assault on staff, inmate fight, dangerous condition); name of assigned attorney; result of discipline (*e.g.* administratively filed, negotiated plea agreement, guilty or not guilty at OATH); and, there shall be a field where narrative/descriptive information may be noted that would be useful for future investigations and or disciplinary proceedings. The following, if not contained in a computerized database, shall be compiled on a paper checklist maintained for each investigator, for all cases assigned to the investigator: were staff interviews conducted, were inmate interviews conducted, voucher number(s) for videotapes, was hand-held tape viewed, was time-lapse tape viewed, were medical records obtained, was there a medical consult, were forms 22R obtained, and was 5003 data obtained.

Disciplinary Charges

69. When a case is closed by UFU with a recommendation for charges, it will be forwarded to the Director of Investigations for his or her signature within two business days. The Director shall review the conclusions and recommendations within seven days after their receipt. He or she may either send the case back to CPSU-UFU for further investigation, endorse the conclusions and recommendations, or decline to approve them. If the Director declines to endorse the conclusions and recommendations, he/she shall state the reason. When the Director has either endorsed the conclusions and recommendations or declined to approve them, the file will be forwarded to the Deputy Commissioner for Investigations and Trials for review. The Deputy Commissioner will review the case within two days. If the Deputy Commissioner declines to endorse the conclusions and recommendations, he/she shall state the reason, and forward the file to the First Deputy Commissioner. If the Deputy Commissioner has endorsed the conclusions and recommendations for charges, the Operations Division will assign a memorandum of complaint number and the file will be immediately forwarded to the Trials Division.

70. Notification of charges shall be made to the First Deputy Commissioner of the Department of Correction and the Warden of OBCC.

71. The Trials Division will prepare and serve charges within two weeks of receipt of the file. Requests for an extension of the time to serve charges must be made to the Assistant Commissioner for Trials and a note kept in the file stating the reason for the request. No later than thirty days after the service of charges, the Trials Division will have the case placed on the calendar by OATH for a formal conference. If a plea agreement is not reached at the formal conference, the Trials Division attorney will request the next available trial date.

This period may be extended when (1) the Department of Correction is awaiting notification from a local or federal prosecutorial agency of its intention to proceed with criminal charges, or is awaiting the resolution of criminal proceedings; or (2) unforeseen or unusual circumstances, such as the involvement of large numbers of inmates and staff or the unavailability of personnel not within the control of the Department causes delay in the trial preparation stage.

72. The Department with the joint expert consultants shall within 30 days from the date this stipulation is entered as an order of the Court, formulate penalty guidelines consistent with the Department's commitment to impose meaningful discipline for violation of the Department's use of force and reporting requirements.

73. Employees in the Trials and Litigation Division shall formulate and negotiate plea dispositions and make recommendations to OATH judges consistent with this policy, the policy of progressive discipline, and the formulated penalty guidelines. Negotiated pleas shall not be entered until they have been approved by the Deputy Commissioner of Investigations and Trials and reviewed by the Department's Inspector General.

CPSU VIDEOTAPES

CPSU Time-Lapse Video Coverage

74. Defendants have installed and will continue to maintain and operate a system of wall-mounted video cameras which provide 0.9 second time-lapse coverage twenty four hours per day, seven days per week throughout the CPSU housing areas, corridors, stairwells, recreation yards, elevators, visit areas and CPSU intake and search areas. The camera locations are listed in Appendix "B."

75. Except where they have already done so, Defendants shall install additional cameras to cover the following areas, provided that such cameras can be located in vandal-proof areas:

- a. in each CPSU cell block: directly over the steps leading to the lower tiers from the front of the cellblock, and a side view of each staircase leading to the upper tiers (right and left side, middle of block);
- b. in the CPSU intake: the rear area magnetometer; outside the mesh holding cages, pointing away from toilets, and oriented so as to obtain optimal coverage, directly over the steps leading to the lower tiers from the front of the cellblock, and a side view of each staircase to the upper tiers;
- c. on each floor of the CPSU: in the corridor between the two blocks: the entrance to the blocks, and the corners in the corridor near the entrance doors;
- d. in the subdivided recreation yards: reposition the current cameras, and add cameras, to assure optimal coverage, provided that such cameras need not be mounted inside the recreation cages;

76. Defendants will make every effort, subject to budgetary constraints, to have all additional cameras contain a higher quality (sharper focus) lens.

77. Defendants reserve the right to install additional video cameras in the event incidents occur in areas not subject to wall mounted video surveillance, or to make other upgrades or modification that provide improved camera coverage.

78. Protective vests worn by facility staff and ESU will have visible identifying numbers (front and back) which can be read by the time-lapse cameras. Pursuant to Operations Order 6/91 ("Identification and Issuance of Protective Vests"), attached as Appendix "C," officers will report the number of their equipment prior to the incident if time permits, or when the vest is returned at the conclusion of the incident.

79. All inmates being processed as new admissions into the CPSU shall be searched in an area subject to continuous video-taped camera surveillance. Absent immediate security concerns within the intake area requiring his or her attention, a captain shall observe the searches of new admission inmates. The Department shall continue to maintain a new admissions logbook which will include the name and identifying information regarding each new inmate admitted to the CPSU, the time of the inmate's arrival at the CPSU, his classification, the time housed, and the housing area to which the inmate was assigned.

Preservation and Preliminary Review of Videotapes

80. All tapes that contain information relevant to a use of force incident or other staff misconduct shall be reviewed by the ICO or UFU personnel within 48 hours of the incident, excluding weekends and holidays. When this preliminary review reveals conduct which the ICO or UFU staff member reasonably believes may warrant suspension, or reveals that the incident in which an inmate suffered blunt force trauma or other serious physical injury occurred outside the view of the cameras, the Deputy Director of UFU shall be notified immediately. The Deputy Director of UFU shall view the videotape promptly and, when appropriate, make recommendation for suspension, for removal from the CPSU and/or for removal from posts with inmate contact, or, in a case where the incident is not on camera, initiate an immediate investigation. Such action by the Deputy Director of UFU shall be made within 72 hours of the incident or of receipt of a complaint.

81. It shall be the responsibility of CPSU-UFU to inspect on a daily basis, and to insure proper maintenance of, the time-lapse camera system in the CPSU. Tapes shall be retained for 90 days and then recycled unless they contain information relevant to a use of force incident. "Tapes relevant to a use of force" shall mean those tapes which, in the determination

of the assigned investigator, contain events leading up to the use of force, as well as those which show the escort of the inmate from the scene of the incident to his being secured in a cell or taken to a clinic. Such tapes shall be identified, logged as evidence, and placed in an evidence safe under the exclusive custody and control of the CPSU-UFU.

82. All handheld tapes of use of force incidents, anticipated use of force incidents, or extractions, whether taken by OBCC or other DOC staff (*e.g.*, ESU staff), shall be identified and preserved.

- a. Facility handheld tapes shall be marked with the name and shield number of the camera operator, the date and/or the use of force number, location of taping, and the inmate(s) name(s). Such tapes shall be deposited in a locked drop box located in the Main OBCC Control Room. When there is a use of force, the relevant tape(s) will be logged as evidence and secured by UFU staff. The remaining tapes deposited in the locked drop box will be kept there, or in the CPSU Deputy Warden's office, and UFU shall randomly select such tapes for review of their content. Such tapes may be recycled after 60 days from the date of taping.
- b. ESU tapes shall be marked with the date and facility. In addition, the tape shall contain a filmed identification of the camera operator's name and shield, and inmate(s) name(s). Handheld tapes of ESU use of force incidents in the CPSU shall be turned over to the ICO or other CPSU UFU staff consistent with the timeframes set forth in this Stipulation. Such tapes shall be logged as evidence and secured by UFU staff. ESU tapes not turned over to UFU pursuant to a use of force investigation shall be preserved for 60 days (after which time they may be recycled) and shall be made available to UFU upon request.

Hand-held Video Taping

83. No Department staff member shall be assigned to operate a video camera unless he/she has been trained in its operation.

84. All films taken by the handheld cameras shall provide continuous coverage throughout the incident and the subsequent escort until the inmate is resecured, alone, in a locked

cell, or is presented to clinic staff for examination, shall record picture and sound, and shall have on-screen date and time display.

85. Defendants shall ensure that a sufficient number of hand-held video cameras are provided to CPSU staff to perform the following: record all encounters held between CPSU inmates and uniformed staff in which the use of force is reasonably anticipated, including but not limited to those situations in which an inmate refuses to submit to a search, in his cell or elsewhere in the unit, or refuses to enter or leave a cell, or refuses to comply with an order; to record all cell extractions, including those conducted by the ESU. In addition, the Department shall continuously record non-routine movements of CPSU inmates from their cells to an area not covered by the wall-mounted cameras. (For the purposes of this paragraph, "routine movement" is understood to mean movement of inmates to programs and services.) The movement of any CPSU inmate to and from the OBCC Main Intake shall be videotaped by a handheld camera. Nothing in this paragraph shall require staff to wait for the provision of a handheld video camera where safety or security concerns require an immediate response. However, as soon as circumstances permit, a video camera shall be utilized to film inmate movement as required by this paragraph.

86. Defendants will revise Command Level Order 61/96, subject to review and approval by the joint expert consultants, within 30 days of the date this Stipulation and Order is signed by the Court, to include examples of anticipated uses of force, including cell extractions, and to require that after an incident is terminated the hand-held camera be utilized to do a full body scan of the inmate to record his physical condition. Order 61/96 will also require that when CPSU inmates are transferred to an area that is not covered by wall-mounted

video cameras (*e.g.*, the Main OBCC intake, the Main OBCC clinic), the entire transfer will be recorded on a hand-held video camera.

87. Order 61/96 shall also require that video taping of an anticipated use of force (including cell extractions) shall include: pointing and focusing the camera in a manner that records, to the greatest extent possible, a full picture of the inmate and officers, and taping prior to the initiation of the incident and continuing through the remainder of the incident; *e.g.* utilization of gas prior to entry, all in-cell activity beginning from the time the cell is opened through the inmate's being escorted to the clinic or to intake. If the assigned camera operator fails to record an anticipated use of force properly, this failure will be investigated and, when appropriate, disciplinary action taken.

THE PARTIES' JOINT EXPERT CONSULTANTS

88. The parties have jointly retained as their consultants two correction experts, Steve J. Martin and Norman Carlson, ("the joint expert consultants") to assist them and the Court in the implementation of this Stipulation and Order. Messrs. Martin and Carlson shall be paid by the City of New York at rates agreed by them and the parties, and shall be reimbursed by the City for any costs and expenses reasonably incurred by them in the performance of their duties under this Stipulation and Order.

89. The joint expert consultants shall be provided by the City with any equipment, including multiplex digiscan video devices, which they deem necessary to perform their duties.

90. The joint expert consultants shall perform the services outlined in this Stipulation for a period of two years from the date the Stipulation is entered as an Order of the

Court. Thereafter, their services shall either be completed, or, on agreement of the parties, be extended.

91. In order to discharge their responsibilities under this Stipulation and Order, Messrs. Martin and Carlson shall: (1) have unlimited access to all records and documents required to be prepared or maintained by this Stipulation and Order, and any other relevant records and documents maintained by defendants and not privileged; (2) have unlimited access to OBCC and limited access to such other facilities within the jurisdiction of the New York City Department of Correction as may be necessary to interview or to meet with current or former CPSU staff and inmates, at any time, with reasonable advance notice, when they deem such access necessary; provided, however, that line CPSU staff shall not be questioned about specific use of force incidents; (3) conduct interviews or arrange informal conferences with all officials, staff members, and employees of the New York Department of Correction and any other New York City agencies whose policies or practices are addressed by the terms of this Stipulation and Order. Such persons shall cooperate with Messrs. Martin and Carlson and respond directly and promptly to all oral or written inquires and/or requests related to compliance with the terms of this Stipulation and Order; provided, however that such persons may, but shall not be required to, generate documents not otherwise required to be created under this Stipulation and Order; (4) confer privately with members of the plaintiff class; (5) attend formal meetings or proceedings at the Department's offices and its facilities, subject to defendants' security or operational concerns; (6) in regard to the CPSU, assess the adequacy of defendants' use of force policy, staffing and supervision practices, training programs, and any other practices addressed by this Stipulation and Order which are intended to insure that the plaintiff class is reasonably safeguarded from injury caused by staff misconduct; (7) make such recommendations to the

parties as may be appropriate to insure compliance with this Stipulation and Order; and (8) perform such additional consultative tasks, or make such other recommendations, as the parties jointly may request.

92. The joint expert consultants shall submit written reports to the Court and to the parties every 90 days during the first year this Stipulation and Order is in effect, and thereafter every 120 days, that: (1) assess the current state of compliance with the Stipulation and Order, including whether progress has been made and whether compliance has been maintained for a substantial period of time; (2) make recommendations for changes in policies and procedures which are operative in the CPSU, or which in their opinion should be operative; (3) analyze and review incidents, and determine whether correction officer misfeasance or nonfeasance may have been a factor in the circumstances giving rise to such incidents; (4) review and assess compliance by facility supervisors with the requirements of paragraphs "22" and "24"; (5) assess the adequacy of facility reporting in the CPSU and whether the facility is in compliance with the requirements of this Stipulation and Order; (6) evaluate CPSU-UFU investigative activities and assess whether CPSU-UFU is in compliance with the requirements of this Stipulation and Order; (7) evaluate the Trials and Litigation Division activities and whether their performance conforms with the requirements of this Stipulation and Order; and (8) report any other matters which affect the security and safety of the plaintiff class; provided, however, that such matters will not necessarily be deemed a violation of the provisions of this Stipulation and Order.

93. Specifically, the joint expert consultants shall in their reports to the Court and to the parties: (1) assess the appropriateness of staff members' conduct in use of force incidents, with particular reference to the identification of those incidents in which the force used

appears to have been unnecessary or excessive, in which the inmate was struck with blows, was subjected to force while restrained, or suffered injuries; (2) assess the appropriateness of staff activity in the CPSU in conducting cell extractions and other inmate movement; (3) assess the appropriateness of staff conduct in utilizing chemical agents; (4) assess the quality of use of force reporting, with particular reference to the requirement that staff reports be prepared accurately, independently and without collusion; (5) assess the quality and timeliness of CPSU-UFU reviews of use of force incidents in the CPSU, with particular reference to the consideration of medical evidence, interviews of staff and inmates, review of videotapes, the manner in which the CPSU-UFU reviewed staff reports, and the formulation of investigative conclusions; (6) assess the adequacy of the OBCC Warden's and CPSU Deputy Warden's supervision of the Unit, with particular reference to how such supervision is exercised in connection with the use of force, and its reporting and monitoring; and (7) assess the adequacy of the activity of the Trials and Litigation Division, with particular reference to the timeliness and disposition of disciplinary prosecutions; and (8) assess the adequacy of the Department of Correction's central office personnel in supervising the Unit.

94. To facilitate the preparation of their reports to the parties and to the Court, and to enable them to provide continuing advice and recommendations to the parties, the joint expert consultants shall be provided every two weeks with the following documents: 24 hour reports reflecting all reportable incidents which have occurred in the CPSU in the preceding 14 days, including suicide attempts; the injury to inmate reports from the CPSU from the preceding 14 days; all use of force packages and unusual incident packages including allegations of use of force which have been assembled during the preceding 14 days; all CPSU-UFU files which have been completed within the preceding 14 days; all green sheets that have been served during the

preceding 14 days; all Trials and Litigation Division files which have been completed within the preceding 14 days. Upon request of the joint expert consultants, the following documents will be made available to the experts, or shall be available for their inspection on site: copies of color photographs of inmates and staff; copies of audio tapes of interviews of Department staff; and videotapes relevant to incidents reported, or which reflect an anticipated use of force involving CPSU staff in the CPSU. The joint expert consultants will decide, at the end of six months, whether some of the documents identified above need to continue to be provided to them, or at less frequent intervals.

95. On a monthly basis, the Department shall provide to the joint expert consultants the following: infraction log book; admission log book; and a list of inmates discharged from the CPSU; memoranda (including monthly reports) prepared by the CPSU Integrity Control Officer; a list of all weapons and other dangerous contraband seized by CPSU staff; all records of command discipline imposed during the previous month; any changes in the Operating Manual for the CPSU, or institutional, operations or post orders affecting uniformed and/or civilian staff in the CPSU regarding the care, custody, or control of CPSU inmates, a list of open CPSU-UFU investigations, indicating use of force number, date of incident, and when the CPSU-UFU case was opened; a list of open disciplinary cases pending in the Trials and Litigation Division, the date MOCs were received by the Trials Division, the date the charges were served by the Trials Division, and whether the case has been placed on the OATH calendar; a list of the disciplinary cases closed by Trials and Litigation during the preceding month, including the date of the disposition, the disposition of each charge, and the penalty imposed; the printout from the Investigations Division triggering the interview and review conducted pursuant to Paragraphs "22" through "24," as well as any memoranda generated as

a result of such review and interview; the screening reports and recommendations prepared by the Investigation Division for candidates for assignment to the CPSU; all documents reviewed by department staff in connection with the assignment and transfer of uniformed staff assigned to the CPSU; the names and shield numbers of uniformed staff designated for assignment to and from the CPSU; and such additional documentation as the joint expert consultants may request.

MONITORING BY PLAINTIFFS' COUNSEL

96. The parties' counsel and Department officials shall meet at least every 60 days to discuss issues arising under this Stipulation and Order.

97. To facilitate monitoring of defendants' compliance with the terms of this Stipulation and Order:

- a. Plaintiffs' counsel shall be permitted to confer confidentially, without interference, with any individual class member. Subject to security concerns and procedures in the facility, plaintiffs' counsel may photograph such class member in the visit area. Upon 24 hours' notice to the Warden of OBCC, providing the names of those inmates with whom plaintiffs' counsel wishes to meet and the attorney's anticipated time of arrival, the Department shall reserve an attorney visit room and pre-clear those inmates prior to the scheduled arrival time. The inmate(s) shall be produced shortly after the attorney's arrival (but in no event prior to the anticipated arrival time) unless unforeseen security concerns arise or unless the requested inmate(s) cannot be produced because of court or the inmate's refusal to appear for the interview.
- b. Plaintiffs' counsel, for good cause and upon request to defendants' counsel, shall have access to specific areas within OBCC for purposes of observing compliance with the Stipulation and Order whenever they have a reasonable belief that such measures are necessary and that other sources of information are inadequate; provided, however, that such access may be subject to reasonable security and scheduling conditions established by defendants.
- c. Upon request to defendants' counsel, plaintiffs' counsel shall be permitted to view a videotape of an incident within 5 days of receipt of the request, and shall be provided with copies of videotapes within 20 days of receipt of the request.

- d. Defendants shall provide to plaintiffs' counsel the documents and materials they will provide to the parties' joint expert consultants, and at the same times.

EXPANSION OF THE CENTRAL PUNITIVE SEGREGATION UNIT: OTHER SEGREGATION UNITS

98. The parties agree that the terms of this Stipulation shall apply to any facility, including any areas of facilities, housing the CPSU if it is relocated or expanded; provided that it shall not apply to any other existing punitive segregation units or to any punitive segregation units that may be established and that are not a relocation or expansion of the CPSU.

Notice

99. Defendants shall provide to each person upon admission to the CPSU, and shall post conspicuously in the Unit visiting area, a notice prepared by plaintiffs' counsel, reviewed for security concerns by defendants' counsel, and approved by the Court (1) advising members of the plaintiff class that a federal court order has been entered addressing use of force by uniformed staff assigned to the CPSU and summarizing the contents of that order; and (2) stating the names and addresses and telephone numbers of plaintiffs' counsel and the Court. Defendants shall also provide to each uniformed and civilian staff member who works in the CPSU, or provides services to CPSU inmates, a written notice summarizing the allegations in the complaint in this case and terms of this judgment, and stating the name, address and telephone number of defendants' counsel. In addition, defendants shall ensure that the telephone number of plaintiffs' counsel is registered for each CPSU inmate so it can be dialed as a "legal call."

CONCILIATION OF DISPUTES UNDER THIS STIPULATION

100. In the event that a dispute arises as to whether defendants are in compliance with the terms of this Stipulation, counsel for the parties shall proceed as follows:

- a. Counsel for the parties shall make a good faith effort to resolve the dispute. Prior to institution of any proceeding before the Court to enforce the terms of this Stipulation, plaintiffs' counsel shall notify defendants' counsel in writing of any claim by plaintiffs that defendants are not in compliance with identified provisions of this Stipulation. Unless otherwise resolved, the parties' counsel (and such members of the Department as may be appropriate) shall meet within five business days of the receipt of said notice, in an attempt to arrive at an amicable resolution of the claim. If such efforts fail, either party, by counsel, within five business days of such meeting, may request a conference with the joint expert consultants or other person(s) jointly agreeable, in an attempt to resolve the matter amicably. If such meeting is not held within ten business days, or if, after five business days following such meeting, the matter has not been resolved, defendants shall be so informed by plaintiffs' counsel, and plaintiffs may then apply to the Court for enforcement of the provisions of the Stipulation identified in the above-described notice.
- b. When, however, plaintiffs' counsel asserts a claim of non-compliance that involves a threat to the immediate physical well-being of any member of the plaintiff class, plaintiffs' counsel shall have due recourse to the Court within 24 hours of notification to defendants' counsel of such claim.

CONTINUING JURISDICTION

101. The Court shall retain jurisdiction over this action for the purpose of enforcing the provisions of this Stipulation. In the event of any motion for systemic relief based upon defendants' alleged non-compliance with the substantive requirements of the Stipulation, defendants shall be considered to be in "compliance" therewith unless plaintiffs establish that defendants' failures or omissions to meet the terms of the Stipulation were not minimal or isolated, but were substantial and sufficiently frequent or widespread as to be systemic.

102. In any future contested proceeding, stipulated facts may be submitted to the Court summarizing the record in this action.

TERMINATION OF PROSPECTIVE RELIEF

103. The provisions of this Stipulation shall terminate, upon defendants' motion, two years after the date this Stipulation is entered as an order of this Court, unless the Court makes written findings, based on the record, that prospective relief (a) remains necessary to correct a current and ongoing violation of the plaintiff class' constitutional rights; (b) extends no further than necessary to correct such violation; and (c) is narrowly drawn and the least intrusive means to correct such violation.

EFFECTIVE DATES


104. Unless otherwise stated, the terms of this Stipulation shall take effect or apply upon its entry as an order of the Court.

Dated: New York, New York
May 26, 1998

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Assistant Corporation Counsel

SO ORDERED:


U.S.D.J.
7/10/98

APPENDIX A: DOC OPERATIONS ORDER 11/93



THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION
OPERATIONS ORDER



<input checked="" type="checkbox"/> NEW		<input type="checkbox"/> REVISED		SUBJECT
EFFECTIVE DATE	NUMBER	PAGE 1	INTEGRITY CONTROL OFFICER	
4/ 2 /93	11/93	OF 3 PAGES		
AUTHORIZED BY THE CHIEF OF DEPARTMENT				
MARRON HOPKINS, CHIEF OF DEPARTMENT			SIGNATURE	

I. **PURPOSE**

This Operations Order is being promulgated to describe the role and responsibility of the Investigation Division Integrity Control Officer.



II. **POLICY**

- A. The Integrity Control Officer (ICO) is the representative of the Investigation Division within the facility to which he/she is assigned, and answers directly to the Deputy Commissioner of Investigation or his/her designee.
- B. The ICO is not assigned to assume responsibilities of any member of the facility's staff, but rather to ensure the integrity and security of that institution.
- C. The ICO shall have unrestricted access to any and all areas of the facility.
- D. The Integrity Control Officers' duties are varied and cover a broad spectrum of areas. The duties and responsibilities include, but are not limited to those listed below.

III. **PROCEDURES**

A. **GENERAL DUTIES**



1. The ICO will review the following log books on a daily basis:
 - a. The facility clinic log books
 - b. The CCC log book
 - c. Use of Force log books
2. The ICO will review the following log books periodically:

	EFFECTIVE DATE 4/ 2 /93	SUBJECT INTEGRITY CONTROL OFFICER	
	OPERATIONS ORDER		
	NUMBER 11/93	PAGE 2 OF 3 PAGES	

III. PROCEDURES (Continued)

- c. Post Order folders
 - d. NON-CCC or Significant Incident log book
3. The ICO shall maintain an accurate logging/tracking system for statistical purposes which will assist the Division in monitoring a variety of incidents, such as uses of force, sexual abuse, slashings, etc.
 4. The ICO will submit to the Deputy Commissioner of Investigations a monthly report summarizing his/her review of the facilities unusual incidents for the month.
 5. The ICO shall be available to assist investigators from the Investigation Division, who are assigned to cases within the ICO's facility.
 6. The ICOs shall not be assigned to work any prescribed tours and are therefore expected to vary their tour, but will work various tours of duty as requested by the Deputy Commissioner of Investigation or his/her designee.
 7. The ICO shall periodically address the facility staff at roll call and inform them as to his/her duties thereby establishing a network of information between himself/herself and the line officers.
 8. The ICO is assigned to the Investigation Division and performs his/her functions at the assigned facility. The ICO will maintain an office at that facility and will serve as the liaison between the staff assigned to that facility and the Investigation Division staff.
 9. The ICO shall remain vigilant concerning potential security breaches and shall make appropriate notifications to the Commanding Officer of the facility when such breaches are discovered.
 10. The ICO shall monitor employees assigned to the facility and report any reasonable suspicion of drug abuse to the Deputy Commissioner of Investigation or his/her designee.
 11. It shall be the responsibility of the ICO to visit all areas within the facility at frequent and at irregular hours.
 12. The ICO shall report corruption related matters directly to the Office of the Inspector General.

B. USE OF FORCE

	EFFECTIVE DATE 4/ 2 /93	SUBJECT INTEGRITY CONTROL OFFICER	
	OPERATIONS ORDER		
	NUMBER 11/93	PAGE 3 OF 3 PAGES	

III. PROCEDURES (Continued)

2. The ICO shall review all Injury Reports submitted by facility staff and interview inmates whose injuries appear questionable. Special attention shall be focused on inmate injuries sustained as a result of inmate and staff altercations.
3. Upon the review of an incident, if the ICO deems that an independent investigation is warranted, the Deputy Commissioner of Investigation or his/her designee shall be notified.
4. In the event that the ICO becomes an active participant in an incident, the ICO is to notify the Deputy Commissioner of Investigation or his/her designee. In the event that an ICO becomes an actual participant in a use of force incident, another individual will be assigned to conduct the investigation.
5. The ICO shall not be required to submit a written report to the Tour Commander. Any report that may be required shall be submitted to the Office of the Deputy Commissioner for Investigation or his/her designee.

IV. SPECIAL INSTRUCTIONS

Commanding Officers shall prepare and promulgate institutional orders to ensure compliance with the provisions of this order.

V. REFERENCES

- A. The Decision and Order in the case of CHARLES FISHER, et al. v. RICHARD KOEHLER et al., 83 CIV. 2128 (mel) 1989.; the stipulation and order of settlement in the case of JAMES JACKSON, et al. v. ALBERT MONTEMAGNO, et al., CIV-2384 (as) 1991.
- B. Directive 7000R, Office of Inspector General Investigative Procedures, 8/5/91.
- C. Directive 7001R, Investigation Division, 9/28/92.
- D. Operations Order 07/87, Integrity Control Officer, 2/9/87.

APPENDIX B: LIST OF CPSU CAMERA LOCATIONS

(REVISED 5/28/98)

OTIS BANTUM CORRECTIONAL CENTER CAMERA LISTING
COMMUNICATION UNIT INSTALLATION

<u>CAMERA #</u>	<u>LOCATION</u>
1	1S RIGHT UPPER FRONT TIER
2	1S RIGHT UPPER REAR TIER
3	1S RIGHT LOWER FRONT TIER
4	1S RIGHT LOWER REAR TIER
5	1S LEFT UPPER FRONT TIER
6	1S LEFT UPPER REAR TIER
7	1S LEFT LOWER FRONT TIER
8	1S LEFT LOWER REAR TIER
9	1S HOLDING ROOM
10	1S HOLDING ROOM ENTRANCE
11	1S SEARCH ROOM
12	1S SHOWER AREA ENTRANCE
13	1S ENTRANCE
14	1S LOWER LEVEL
15	1S FLOOR
16	1S MULTIPURPOSE ROOM
17	1SW LEFT UPPER FRONT TIER
18	1SW LEFT UPPER REAR TIER
19	1SW LEFT LOWER FRONT TIER
20	1SW LEFT LOWER REAR TIER
21	1SW RIGHT UPPER FRONT TIER
22	1SW RIGHT UPPER REAR TIER
23	1SW RIGHT LOWER FRONT TIER
24	1SW RIGHT LOWER REAR TIER
25	1SW HOLDING ROOM
26	1SW HOLDING ROOM ENTRANCE
27	1SW SEARCH ROOM
28	1SW SHOWER ENTRANCE AREA
29	1SW ENTRANCE
30	1SW LOWER LEVEL
31	1SW INTAKE AREA
32	1SW RIGHT INTAKE TIER
33	1SW LEFT INTAKE TIE
34	SPARE
35	2S RIGHT UPPER FRONT TIER
36	2S RIGHT UPPER REAR TIER
37	2S RIGHT LOWER FRONT TIER
38	2S RIGHT LOWER REAR TIER
39	2S LEFT UPPER FRONT TIER
40	2S LEFT UPPER REAR TIER
41	2S LEFT LOWER FRONT TIER
42	2S LEFT LOWER REAR TIER
43	2S HOLDING ROOM
44	2S HOLDING ROOM ENTRANCE
45	2S SEARCH ROOM
46	2S SHOWER AREA ENTRANCE
47	2S ENTRANCE
48	2S LOWER LEVEL
49	2S FLOOR

OTIS BANTAM CORRECTIONAL CENTER CAMERA LISTING

<u>CAMERA #</u>	<u>LOCATION</u>
50	2S MULTIPURPOSE ROOM
51	2SW LEFT UPPER FRONT TIER
52	2SW LEFT UPPER REAR TIER
53	2SW LEFT LOWER FRONT TIER
54	2SW LEFT LOWER REAR TIER
55	2SW RIGHT UPPER FRONT TIER
56	2SW RIGHT UPPER REAR TIER
57	2SW RIGHT LOWER FRONT TIER
58	2SW RIGHT LOWER REAR TIER
59	2SW HOLDING ROOM
60	2SW HOLDING ROOM ENTRANCE
61	2SW SEARCH ROOM
62	2SW SHOWER AREA ENTRANCE
63	2SW ENTRANCE
64	2SW LOWER LEVEL
65	2SW FLOOR
66	2SW MULTIPURPOSE ROOM
67	2SW MULTIPURPOSE ROOM
68	3S RIGHT UPPER FRONT TIER
69	3S RIGHT UPPER REAR TIER
70	3S RIGHT LOWER FRONT TIER
71	3S RIGHT LOWER REAR TIER
72	3S LEFT UPPER FRONT TIER
73	3S LEFT UPPER REAR TIER
74	3S LEFT LOWER FRONT TIER
75	3S LEFT LOWER REAR TIER
76	3S HOLDING ROOM
77	3S HOLDING ROOM ENTRANCE
78	3S SEARCH ROOM
79	3S SHOWER AREA ENTRANCE
80	3S ENTRANCE
81	3S LOWER LEVEL
82	3S FLOOR
83	3S MULTIPURPOSE ROOM
84	3SW LEFT UPPER FRONT TIER
85	3SW LEFT UPPER REAR TIER
86	3SW LEFT LOWER FRONT TIER
87	3SW LEFT LOWER REAR TIER
88	3SW RIGHT UPPER FRONT TIER
89	3SW RIGHT UPPER REAR TIER
90	3SW RIGHT LOWER FRONT TIER
91	3SW RIGHT LOWER REAR TIER
92	3SW HOLDING ROOM
93	3SW HOLDING ROOM ENTRANCE
94	3SW SEARCH ROOM
95	3SW SHOWER AREA ENTRANCE
96	3SW LAW LIBRARY ENTRANCE
97	3SW ENTRANCE
98	3SW LOWER LEVEL
99	3SW LAW LIBRARY
100	3SW LAW LIBRARY

OTIS BANTAM CORRECTIONAL CENTER CAMERA LISTING

<u>CAMERA #</u>	<u>LOCATION</u>
101	SPARE
102	SPARE
103	SPARE
104	SPARE
105	4S RIGHT UPPER FRONT TIER
106	4S RIGHT UPPER REAR TIER
107	4S RIGHT LOWER FRONT TIER
108	4S RIGHT LOWER REAR TIER
109	4S LEFT UPPER FRONT TIER
110	4S LEFT UPPER REAR TIER
111	4S LEFT LOWER FRONT TIER
112	4S LEFT LOWER REAR TIER
113	4S HOLDING ROOM
114	4S HOLDING ROOM ENTRANCE
115	4S SEARCH ROOM
116	4S SHOWER AREA ENTRANCE
117	4S ENTRANCE
118	4S LOWER LEVEL
119	4S FLOOR
120	4S MULTIPURPOSE ROOM
121	4SW LEFT UPPER FRONT TIER
122	4SW LEFT UPPER REAR TIER
123	4SW LEFT LOWER FRONT TIER
124	4SW LEFT LOWER REAR TIER
125	4SW RIGHT UPPER FRONT TIER
126	4SW RIGHT UPPER REAR TIER
127	4SW RIGHT LOWER FRONT TIER
128	4SW RIGHT LOWER REAR TIER
129	4SW HOLDING ROOM
130	4SW HOLDING ROOM ENTRANCE
131	4SW SEARCH ROOM
132	4SW SHOWER ENTRANCE AREA
133	4SW ENTRANCE
134	4SW LOWER LEVEL
135	4SW FLOOR
136	4SW MULTIPURPOSE ROOM
137	4SW MULTIPURPOSE ROOM
138	5S RIGHT UPPER FRONT TIER
139	5S RIGHT UPPER REAR TIER
140	5S RIGHT LOWER FRONT TIER
141	5S RIGHT LOWER REAR TIER
142	5S LEFT UPPER FRONT TIER
143	5S LEFT UPPER REAR TIER
144	5S LEFT LOWER FRONT TIER
145	5S LEFT LOWER REAR TIER
146	5S HOLDING ROOM
147	5S HOLDING ROOM ENTRANCE
148	5S SEARCH ROOM
149	5S SHOWER ROOM ENTRANCE
150	5S ENTRANCE
151	5S LOWER LEVEL

OTIS BANTUM CORRECTIONAL CENTER CAMERA LISTING

<u>CAMERA #</u>	<u>LOCATION</u>
152	5S FLOOR
153	5S MULTIPURPOSE ROOM
154	5SW LEFT UPPER FRONT TIER
155	5SW LEFT UPPER REAR TIER
156	5SW LEFT LOWER FRONT TIER
157	5SW LEFT LOWER REAR TIER
158	5SW RIGHT UPPER FRONT TIER
159	5SW RIGHT UPPER REAR TIER
160	5SW RIGHT LOWER FRONT TIER
161	5SW RIGHT LOWER REAR TIER
162	5SW HOLDING ROOM
163	5SW HOLDING ROOM ENTRANCE
164	5SW SEARCH ROOM
165	5SW SHOWER AREA ENTRANCE
166	5SW ENTRANCE
167	5SW LOWER LEVEL
168	5SW FLOOR
169	5SW MULTIPURPOSE ROOM
170	5SW MULTIPURPOSE ROOM
171	SPARE
172	1S CORRIDOR
173	1SW CORRIDOR
174	2S CORRIDOR
175	2SW CORRIDOR
176	3S CORRIDOR
177	3SW CORRIDOR
178	4S CORRIDOR
179	4SW CORRIDOR
180	SPARE
181	5S CORRIDOR
182	5SW CORRIDOR
183	VISIT ENTRANCE
184	VISIT CORRIDOR
185	VISIT CORRIDOR
186	VISITS 1
187	VISITS 2
188	VISITS 3
189	VISITS 4
190	VISITS 5
191	VISITS 6
192	VISITS 7
193	YARD 1
194	YARD 2
195	YARD 3
196	YARD 4
197	YARD 5
198	YARD 6
199	YARD 7
200	YARD 8
201	1FL ELEVATOR CORRIDOR
202	2FLR ELEVATOR CORRIDOR

OTIS BANTUM CORRECTIONAL CENTER CAMERA LISTING

<u>CAMERA #</u>	<u>LOCATION</u>
203	3FL ELEVATOR CORRIDOR
204	4FL ELEVATOR CORRIDOR
205	5FL ELEVATOR CORRIDOR
206	IAD TAPE ROOM
207	3S LOWER ISOLATION TIER
208	3S LOWER ISOLATION TIER

The above Camera # Listing indicates slots for 7 Cameras as spares. This was done in case there was a need to add an additional camera in those areas and maintain the chronological number system. Keep in mind that this brings the actual total of cameras in the new system to 201

EXISTING CAMERA SYSTEM

1	ELEVATOR 1
2	ELEVATOR 2
3	ELEVATOR 3
4	ELEVATOR 4
5	ELEVATOR 5
6	MAIN STAIR BASEMENT
7	MAIN STAIR BASEMENT PLATFORM
8	MAIN STAIR CPSU VISIT
9	1FL MAIN STAIR
10	SOUTH ROOF
11	1FL SOUTH YARD EXIT
12	SOUTH STAIR PLATFORM
13	SOUTH STAIR MEZZANINE
14	ELEVATOR LOBBY-CORRIDOR
	ENTRANCE TO CPSU
15	1FL SOUTHWEST EXIT TO SALLYPORT
16	1FL SOUTHWEST PLATFORM
17	1FL SOUTHWEST MEZZANINE
18	SOUTH EXIT DOOR (OUTSIDE VIEW)
19	MAIN STAIR 1 ST PLATFORM
20	YARD EXTERIOR
21	YARD INTERIOR
22	SW EXIT DOOR (OUTSIDE VIEW)
23	SW ROOF
24	BASEMENT ELEVATOR LOBBY
25	SOUTH EXTERIOR YARD
26	SW YARD ENTRANCE FOR SALLYPORT
	CAT WALK
27	MAIN ROOF
28	1FL MAIN STAIR MEZZANINE
29	1FL MAIN STAIR MEZZANINE PLATFORM
30	2FL MAIN STAIR
31	2FL MAIN STAIR PLATFORM
32	1FL SOUTH STAIR MEZZANINE
	PLATFORM
33	2FL SOUTH STAIR
34	2FL SOUTH STAIR PLATFORM
35	2FL SOUTH STAIR MEZZANINE
36	1FL SW STAIR MEZZANINE PLATFORM

OTIS BANTUM CORRECTIONAL CENTER CAMERA LISTING

<u>CAMERA #</u>	<u>LOCATION</u>
37	2FL SOUTHWEST STAIR
38	2FL SOUTHWEST PLATFORM
39	2FL SOUTHWEST MEZZANINE
40	2FL MAIN STAIR MEZZANINE
41	2FL MAIN STAIR MEZZANINE PLATFORM
42	3FL MAIN STAIR
43	3FL MAIN STAIR PLATFORM
44	2FL SOUTH STAIR MEZZANINE PLATFORM
45	3FL SOUTH STAIR
46	3FL SOUTH STAIR PLATFORM
47	3FL SOUTH STAIR MEZZANINE
48	2FL SW STAIR MEZZANINE PLATFORM
49	3FL SOUTHWEST STAIR
50	3FL SOUTHWEST STAIR PLATFORM
51	3FL SOUTHWEST STAIR MEZZANINE
52	3FL MAIN STAIR MEZZANINE
53	4FL MAIN STAIR
54	3FL MAIN STAIR MEZZANINE PLATFORM
55	4FL MAIN STAIR PLATFORM
56	3FL SOUTH STAIR MEZZANINE PLATFORM
57	4FL SOUTH STAIR
58	4FL SOUTH STAIR MEZZANINE
59	4FL SOUTH STAIR PLATFORM
60	3FL SW STAIR MEZZANINE PLATFORM
61	4FL SOUTHWEST STAIR
62	4FL SOUTHWEST STAIR PLATFORM
63	4FL SOUTHWEST STAIR MEZZANINE
64	4FL MAIN STAIR MEZZANINE
65	4FL STAIR MEZZANINE PLATFORM
66	5FL MAIN STAIR
67	5FL MAIN STAIR PLATFORM
68	4FL SOUTH MEZZANINE PLATFORM
69	5FL SOUTH MEZZANINE PLATFORM
70	5FL SOUTH STAIR PLATFORM
71	5FL SOUTH STAIR
72	5FL SOUTHWEST STAIR MEZZANINE
73	5FL SOUTHWEST STAIR PLATFORM
74	4FL SOUTHWEST STAIR MEZZANINE PLATFORM
75	5FL SOUTHWEST STAIR
76	5FL MAIN STAIR MEZZANINE
77	5FL MAIN STAIR MEZZANINE PLATFORM
78	MAIN ELEVATOR MECHANIC ROOM VESTIBULE
79	5FL MAIN STAIR ELEVATOR LOBBY
80	VISIT EXIT DOOR
81	CORRIDOR TO CPSU FROM AB CONTROL

OTIS BANTUM CORRECTIONAL CENTER CAMERA LISTING

NEW SYSTEM TOTAL CAMERAS BEING RECORDED	201
OLD SYSTEM TOTAL CAMERAS BEING RECORDED	81
TOTAL NUMBER OF CAMERAS	282

APPENDIX C: DOC OPERATIONS ORDER 6/91



THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION
OPERATIONS ORDER



<input type="checkbox"/> NEW		<input checked="" type="checkbox"/> REVISED		SUBJECT IDENTIFICATION AND ISSUANCE OF PROTECTIVE VESTS
EFFECTIVE DATE 2 / 18 / 91	NUMBER 6/91	PAGE 1 OF 4 PAGES		

AUTHORIZED BY THE CHIEF OF OPERATIONS

GERALD A MITCHELL, CHIEF OF DEPARTMENT


SIGNATURE**I. PURPOSE**



This order is promulgated to establish departmental policy and procedures regarding the identification and recording of all protective vests issued to staff members when responding to emergency situations.

II. POLICY

- A. The New York City Department of Correction shall require all facilities to adequately and uniformly identify all protective vests, and record the issuance of these vests to staff members when responding to any facility alarm or Mutual Assistance Plan (M.A.P.) call-out.
- B. Commanding Officers of facilities and divisions shall ensure the following:
1. That all protective vests assigned to the facility for use by staff members, are stenciled with identification numbers in accordance with the procedures specified in this Operations Order.
 2. That a log book is maintained within each facility control room, for the specific purpose of recording the identification numbers stenciled on all protective vests issued to staff members who are responding to any facility alarm or M.A.P. call-out.

III. PROCEDURES**A. LOG BOOK**

1. The log book shall be maintained by the on-duty supervisory officer assigned to the control room, or by the on-duty tour commander in the absence of the control room supervisor.
2. Log book entries shall be made for each time protective vests are worn for the purpose of responding to any facility alarm (founded or unfounded) or M.A.P. call-out.

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III. **PROCEDURES** (Continued)

A. **LOGBOOK** (Continued)



NOTE: *If time permits, the log entries should be done before the response team is deployed to the area of the alarm or M.A.P. call-out. All response team supervisors will be responsible for ensuring that the names of all members responding to the emergency, and the corresponding identification number of the protective vest each member wore, is duly recorded and legible.*

3. Log book entries shall contain the following information:
 - A. Date of alarm (or M.A.P. call-out).
 - B. Time of alarm (or M.A.P. call-out).
 - C. Specific location/origin of alarm (or M.A.P. call-out).
 - D. Facility and C.C.C. unusual incident numbers (if applicable).
 - E. Protective vest number.
 - F. Name, rank and shield number of member to whom vest was issued.
4. After ensuring that the log book entries have been properly entered, the on-duty tour commander shall affix his/her signature directly under the last entry for each facility alarm or M.A.P. call-out occurring during his/her tour.

B. **NUMBERING PROTECTIVE VESTS**

The method of identifying facility protective vests shall be as follows:

1. Two inch (2") facility letters shall be stenciled on both the front and back of each protective vest, (i.e., AMKC-001, AMKC-002, etc.).
2. The facility abbreviation shall be utilized to identify the command from which the vest originates (i.e., AMKC, BCF, RMSC, etc.). Satellite facilities (i.e. Forbell, Hart Island, Wards Island) shall use their own abbreviation, and not that of their parent command.
3. Each protective vest will be the consecutively numbered with two (2) digit numbers, within each command. (Larger facilities may need three (3) numbers for consecutive numbering due to their large number of vests).

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III. **PROCEDURES** (Continued)

B. **NUMBERING PROTECTIVE VESTS** (Continued)

4. Facilities/Commands shall utilize the abbreviations as indicated below:



AMKC	KCH
ARDC	MDC
BCF	MNCT
BHPW	MTF
BKHD	MTF2
BKCT	MTF3
BXHD	NIC
BXCT	OBOC
CIFM	ONHD
EHPW	ONCT
ERU	RISU
FB	RMSC
GMDC	SSD
GRVC	TD
HI	WF
JATC	WI

EXAMPLE:

<u>COMMAND</u>	<u>VEST NUMBERING</u>
BXHD	BXHD-01 through 50 (or as needed)
AMKC	AMKC-001 through 150 (or as needed)
KCHPW	KCH-01 through 20 (or as needed)
TD	TD-01 through 50 (or as needed)

NOTE: Any protective vest that becomes unusable and has to be replaced, must be replaced by a vest that is numbered with the same number as the vest removed from service. Consecutive numbering is very important for both inventory and control purposes.

ERU will make every attempt to assist commands with the stenciling of the protective vests, whenever possible.

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IV. SPECIAL INSTRUCTIONS

Commanding Officers of facilities and divisions shall be responsible for promulgating proper measures to insure compliance with the provisions of this Operations Order.

V. CHANGES IN DEPARTMENTAL PROCEDURES

Operations Order number 35/86, dated September 22, 1986, entitled "Identification and Issuance of Protective Vests", and all subsequent amendments are hereby superseded by this Operations Order.