

Consent Decrees

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

RONALD E. STEWART, et al.,

Plaintiffs,

v.

JAMES A. RHODES, ET AL.,

Defendants,

UNITED STATES OF AMERICA,

Amicus Curiae.

PEARLY WILSON, et al.,

Plaintiffs,

v.

GEORGE F. DENTON, et al.,

Defendants.

CIVIL ACTION NO. C 2-78-220

CIVIL ACTION NO. C 2-76-741

CONSENT DECREE

The parties to these consolidated actions, by and through their respective counsel, hereby stipulate and agree that:

1. This is a civil action alleging that conditions of confinement for inmates at the Columbus Correctional Facility (CCF) violate rights guaranteed to the inmates thereof by the Constitution of the United States and the Constitution and laws of the State of Ohio. The Complaint in Stewart was filed on March 9, 1978. The Complaint in Wilson was filed on October 19, 1976 and was consolidated with Stewart on October 10, 1978. By Order of this Court dated January 24, 1979, Pearly Wilson was deemed to be a representative of the plaintiff class, entitled to fully participate through his own counsel, for so much of these actions as were conducted on a consolidated basis. Moreover, the allegations in Wilson were to be considered allegations of the class in the consolidated matter. No member of the plaintiff class including the named plaintiffs and Pearly Wilson is barred, however, from separately pursuing claims of an individual nature.

Stewart v. Celeste



PC-OH-006-001

2. The plaintiffs are a class of persons certified as such by this Court on September 5, 1978, as consisting of all persons who are now, will be, or were since the time of the filing of the Complaint, inmates at CCF.

3. The defendants are James A. Rhodes, Governor of the State of Ohio, George F. Denton, Director of the Ohio Department of Rehabilitation and Correction, E. Blaine Haskins, Deputy Director of the Department, and David R. McKeen, Superintendent of CCF. All defendants are properly named and all are proper parties to this action in their individual and official capacities. All other defendants in Stewart are hereby dismissed.

4. Pursuant to this Court's Order of October 3, 1978, the United States of America has appeared and participated in this case as amicus curiae with the rights of a party. Said participation by the United States in this action shall continue.

5. This Court has jurisdiction over this action pursuant to 42 U.S.C. Section 1983 and 28 U.S.C. Section 1343.

6. The following groups of inmates are currently housed at CCF:

a) "reception" The reception inmates are those who are transferred to CCF following their conviction and are undergoing classification. These inmates are housed in cellblocks G-H-I-K;

b) "maximum unassigned" The maximum unassigned inmates are those who have been classified as maximum security and are awaiting transportation and those inmates transferred to CCF for reclassification due to misconduct at a medium security prison. These inmates are housed in cellblock A-B;

c) "administrative control" The administrative control inmates are those who are separated from the remainder of the prison population by classification due to the commission of serious violations of institutional rules or due to an indicated inability to adjust to the general population. These inmates are housed in cellblock C-D;

d) "protective control" The protective control inmates are those who are separated from the remainder of the prison population due to concerns for their safety. These inmates are housed in cellblock C-D;

e) "double protective control" The double protective control inmates are those who are separated from all inmates including others on protective control due to concerns for their safety. These inmates are housed in cellblock C-D;

f) "cadre" The cadre inmates are those who are assigned to CCF and have jobs at the institution. These inmates are housed in 2-E dormitory;

g) "medium classified" The medium classified inmates are those who are classified as medium security and are awaiting transportation to their prospective parent institution. These inmates are housed in 3-E dormitory and in cellblocks G-H-I-K;

h) "limited duty" The limited duty inmates are those who are housed in the Limited Duty Unit;

i) "disciplinary control" The disciplinary control inmates are those who are temporarily separated from the remainder of the inmate population for punishment as a result of committing an institutional rule violation. These inmates are housed in the disciplinary control unit, also known as the corrections cells.

Now, therefore, upon the full and informed consent of all parties to this litigation, in resolution of all claims asserted and relief sought herein, and without any finding of liability or any other determination on the merits, it is hereby ORDERED, ADJUDGED AND DECREED that defendants James A. Rhodes, George F. Denton, E. Blaine Haskins, and David R. McKeen, their agents, employees, successors in office, and any person or persons acting in concert with any of them are hereby permanently enjoined from operating the Columbus Correctional Facility in violation of the terms and provisions of this decree.

## I. CLOSURE OF CCF

Defendants are hereby enjoined from holding, detaining, or incarcerating any inmate in any part of CCF at any time after December 31, 1983.

Between the date of this decree and the date of closure, CCF will operate under the interim measures set forth below. The Court makes no finding as to whether current conditions or the full implementation of the interim measures does or does not provide the plaintiff class with the full constitutional and statutory rights due them. The Court does find, and the parties agree, that taken together the interim measures are reasonable considering the fixed date for the closure of CCF.

## II. POPULATION

Defendants are hereby enjoined:

✓ A. From holding more than 1,750 prisoners in CCF (not including "absent with leave" or "absent without leave") as of the date of this decree without prior permission from this Court.

✓ B. From failing or refusing to reduce the number of inmates held at CCF so that the maximum permissible population is consistent with the chart below.

<u>Effective-Date</u>	<u>Maximum Population</u>
Date of Decree	1,750
December 31, 1980	1,500
December 31, 1981	1,250
December 31, 1982	1,150

✓ C. From holding more than one inmate in any cell at CCF any time after December 31, 1982. Effective immediately, no inmate shall be double-celled at CCF for longer than 100 days. Effective December 31, 1980 no inmate shall be double-celled at CCF for longer than 70 days. Effective December 31, 1981 no inmate shall be double-celled at CCF for longer than 35 days. For the purposes of this paragraph, the rooms at the Limited Duty Unit (LDU) are not to be considered as cells. The number of double-celled inmates shall be kept to a minimum.

ok? D. From holding more than ninety (90) inmates in each of the four (4) E dormitories.

fr E. From holding any inmates in any housing unit not currently occupied without obtaining prior approval from this Court. This provision shall not apply to the currently unoccupied dormitory in E building.

### III. EXERCISE AND RECREATION

Defendants are hereby enjoined:

A. From failing or refusing to develop areas designated for indoor and outdoor recreational activities in addition to the areas currently in use.

done One additional indoor facility, currently contemplated to consist of one floor of the industrial building, shall be available for use by May 1, 1980 and one additional outdoor facility, currently contemplated to be a fenced yard located north of the industrial building, shall be available for use by July 1, 1980 and fully equipped by November 1, 1980. Said areas shall have sufficient equipment including television sets and be of sufficient size to accomplish the purposes of this Decree.

B. From failing or refusing to provide inmates with an adequate program of exercise and recreation in accordance with the paragraphs below, including, at a minimum:

ok 1. All maximum unassigned, medium classified, protective control and reception inmates shall be provided with the opportunity for at least two hours (exclusive of movement time) of exercise or recreation in the institution's recreational facilities at least twice per week as of the date of this decree and at least three (3) times per week as of May 1, 1980. Reception inmates scheduled for tests, interviews, etc. may be required to forego any recreation or exercise scheduled for them in the event of a specific scheduling conflict. Defendants shall, however, make every effort to reschedule missed recreation or exercise opportunities for said inmates.

2. All double protective control and administrative control inmates shall be provided with the opportunity for at least one hour of recreation or exercise at least twice weekly indoors, effective

immediately. By April 1, 1980 defendants shall provide each such inmate with the opportunity for at least one hour of exercise or recreation at least four (4) times per week, at least one of which shall be outdoors, weather permitting. An outdoor recreation area *done* shall be made available for such inmates by April 1, 1980. Defendants shall utilize their best efforts to provide such inmates with as frequent opportunities for recreation or exercise as is possible, and shall make maximum possible utilization of the indoor and outdoor recreation spaces available.

3. All inmates who have been confined in the disciplinary control unit for over ten (10) consecutive days shall thereafter be given the opportunity for one hour of recreation or exercise each day until their release from the disciplinary control unit. After April 1, 1980, at least one exercise period per week shall be outdoors, weather permitting. During the first ten (10) days of confinement, inmates shall be allowed to exercise as provided in the current administrative regulations.

C. From withholding or denying recreation or exercise opportunities as a disciplinary sanction except insofar as it follows from confinement in the disciplinary control unit to the extent provided in B(3) above and except for offenses relating to the abuse of recreation or exercise opportunities.

*obtain* D. From failing or refusing to establish a schedule for the use of all designated recreation areas and all other areas used for recreation or exercise. Defendants shall maintain a log listing each area, the date and time used, the group or individual using the facility (i.e., the range designation or the name of the inmate), and the number of inmates using the area.

*C* E. From failing or refusing to make maximum utilization of all designated and other recreation areas on a six day per week basis, with three separate exercise periods per day, weather and daylight permitting.

*obtain*

F. From using any means of physical restraints including but not limited to handcuffs, leg irons, and belly chains on inmates during exercise or recreation periods unless the superintendent of CCF personally finds it to be necessary and prepares a specific statement in writing and with supporting reasons stating that the inmate in question should not exercise without restraints.

The superintendent shall keep a log of all such findings.

*it may*

G. From failing or refusing to employ a full-time recreation specialist whose duties shall be to plan for and direct the maximum utilization of all exercise and recreation facilities set forth in this Decree.

*OK*

H. From failing or refusing to purchase recreational equipment, some of which shall be placed in cellblocks C-D.

#### IV. PROGRAMS

Defendants are hereby enjoined:

A. From failing or refusing to provide inmates, except those in administrative control, disciplinary control and double protective control with activities outside of their cell for at least twenty-five (25) hours per week, effective immediately. As of May 1, 1980 said inmates shall be provided at least thirty-five (35) hours per week of activities outside their cells. As of December 31, 1980, said inmates shall be provided with at least forty (40) hours per week of activities outside their cells.

*implement*

B. From failing or refusing to submit a plan to increase out of cell hours beginning after December 31, 1981. Said plan shall be submitted by no later than May 1, 1981.

C. From failing or refusing to develop in and out of cell programs such as educational, vocational and leisure time activities so as to provide administrative control and double protective control inmates with as much time out of their cells as possible.

D. From failing or refusing to provide protective control inmates with their three meals per day in the dining room.

V. SANITATION AND HYGIENE

Defendants are hereby enjoined:

A. From failing or refusing to establish and implement a written daily program of housekeeping and maintenance which shall provide, at a minimum, for:

1. daily sweeping of common areas;
2. daily availability of adequate amounts of cleansers, cleaning implements, and hot water for cleaning for use by inmates in their cells. The responsibility for housekeeping within a cell is that of the inhabitant(s) thereof. Cell housekeeping is to be supervised, monitored, and enforced by the prison staff;
3. supervision of all inmates assigned to housekeeping and maintenance functions;
4. weekly sanitation inspection of all areas by a designated member of the staff with written report to the Superintendent;
5. procedures for the prompt and adequate collection, storage and disposal of trash;
6. cleaning and maintenance of showers and shower areas.

B. From failing or refusing to provide inmates with showers as follows:

1. at least three (3) times per week for administrative control, disciplinary control, and double protective control inmates;
2. at least three (3) times per week or following each participation in a recreation or exercise period, whichever is greater, for all other inmates.

C. From failing or refusing to provide inmates with adequate and clean clothing and linen, including, at a minimum:

1. sufficient clothing and laundry equipment so as to allow two clothing changes per week;
2. written rules and procedures for the laundering of state and personal clothing which guards against loss. All lost state clothing shall be promptly replaced.



D. From failing or refusing to implement a systematic and thorough pest control program including, at a minimum:

1. taking all recommended steps to prevent birds from entering or staying in the prison's buildings, including the screening of all windows;
2. using a professional licensed pest control service throughout the institution, including in cellblock and dormitory buildings, on at least a monthly basis and more frequently where necessary;
3. surveying all buildings for rodent entries and the permanent sealing of all such entries;
4. consulting with the Ohio Department of Health concerning the extermination of rodents throughout the CCF compound, including all unoccupied buildings and areas.

E. From failing or refusing to maintain safe, sanitary, and healthful conditions in the food service operations and facilities including, at a minimum:

1. maintaining the kitchen and dining rooms in compliance with the provisions of the Ohio Department of Health Food Service Operation Law , Rules and Interpreting Guide;

2. providing training for all inmate food service workers in proper sanitary procedures in accordance with Ohio Department of Health requirements;

3. Providing for food to be served at the appropriate temperatures to those inmates who do not eat in the main dining room.

F. From holding any inmate in any cell in which:

1. the plumbing fixture is inoperable; or
2. the electrical fixture is inoperable for more than eight (8) hours; or

3. the temperature remains for more than two hours at a reading below 65°F. or in the summer above the highest outdoor temperature of the day. Defendants shall continuously monitor and record the temperatures in all inmate housing areas.

G. From failing or refusing to provide hot water to inmates in their cells between the time of wake up and lights out, at least before each meal, on wake up and before lights out.

#### VI. MAINTENANCE

Defendants are hereby enjoined:

A. From failing or refusing to enter into an agreement within thirty (30) days of the date of this Order to have a thorough and professional survey and analysis by the Division of Public Works and/or an outside concern of the heating, ventilation, lighting, plumbing, and water systems at CCF. Said survey shall be completed within sixty (60) days thereafter and shall include at a minimum:

1. a detailed evaluation of the existing state of the heating, ventilation, lighting, water and sewer lines, plumbing fixtures and lines;

2. a recommendation on what steps are needed to maintain CCF and the items listed above in a safe, sanitary, operable, and healthful state until the date of closure, noting priorities and the estimated cost thereof. Said report shall be submitted to the parties and filed with this Court immediately upon completion.

B. From failing to submit a plan to comply with the recommendations of said report within thirty (30) days of its submission. The provisions of section XXIII of this Decree shall apply to said plan.

C. From failing or refusing to take prompt action to repair all broken or malfunctioning plumbing, lighting, windows and window mechanisms, and heating.

#### VII. FIRE SAFETY

Defendants are hereby enjoined:

A. From holding any inmates after June 1, 1980 on any of the floors of the James Infirmary other than the basement and the first floor unless:

1. the existing stairway is enclosed with construction having at least a two hour fire rating; and

2. an additional exit stair is provided on the end of each wing of said floor.

In the interim, Defendants shall have one staff member physically present on each occupied ward on each said floor at all times.

B. From failing or refusing to provide an adequate second means of egress from each area of the institution, including, but not limited to each range of cellblocks A, B, C, D, G, H, I, K.

C. From failing or refusing to adequately protect all means of egress including, but not limited to:

1. sealing all wall penetrations and separating the stairs to the visiting, classification and gym areas from each floor with construction and self-closing doors having a one hour fire rating;

2. separating the path of egress from the disciplinary control unit to the outside by construction having a two-hour fire rating;

3. providing class B or equivalent self-closing fire doors on each level of stairs for the Limited Duty Unit;

4. separating the stairs from the corridor of the first floor of the Limited Duty Unit by construction having a two hour rating;

D. From failing or refusing to eliminate the use of all mattresses and pillows not approved by the Ohio Fire Marshal.

E. From failing or refusing to provide each inmate with metal lockers or boxes or similar storage facilities for use inside the cells and dormitories.

F. From failing or refusing either to remove storage areas near inmate housing areas or to provide a fire rated door and detection system for such areas including, but not limited to, storage areas on the first floor of the E Dormitory building, the James Infirmary, and the operations building.

G. From failing or refusing to provide a means of protection against injury from smoke inhalation either by vacating the top range of cellblocks A, B, G, H, I, K or by providing sufficient exhaust to the outside to produce one air change every ten (10) minutes in those areas.

H. From failing or refusing to provide adequate equipment, planning, and training to combat fires including, but not limited to:

1. providing additional pressurized water fire extinguishers in all areas of the facility;

2. inspecting exposed extinguishers daily and inspecting extinguishers in secure areas weekly;

3. inspecting all extinguishers in accordance with NFPA#10;

4. providing additional breathing apparatus so that two sets are readily available in each area of the facility. Breathing apparatus sets shall be installed in quick release wall mounts;

5. testing all standpipe hose and flowing each standpipe at least yearly;

6. removing the bolts from the standpipe cabinets to provide rapid access to these hose lines;

7. improving working relationships with the fire department by frequently inviting each shift for inspection of the facility.

I. From failing or refusing to provide a thorough program of fire safety training, including but not limited to:

1. thoroughly training all correctional staff members in use of fire fighting equipment including hose lines and breathing apparatus;

2. instituting monthly reviews of fire equipment training and periodic retraining;

3. instituting fire drills at least quarterly;

4. reviewing all emergency procedures with staff semi-annually;

5. providing inmates with some instructions on expected behavior in a fire condition.

J. From failing or refusing to provide emergency lighting in all inmate housing areas.

K. From failing or refusing to utilize and train staff in the use of keys which can be identified by sight and feel. No more than three (3) keys shall be required to move inmates from their cells to a safe location.

L. From failing or refusing to separate the basement of the Administration Building from the first floor with fire resistive construction.

M. From failing or refusing to install smoke detectors in inmate housing areas in the LDU, the Infirmary and the Disciplinary Control Unit.

N. From failing or refusing to have at least two (2) correctional officers on duty in each of cellblocks A, B, G, H, I, K (that is two in A, two in B, etc.) during the third shift.

#### VIII. MEDICAL CARE

Defendants are hereby enjoined:

A. From failing or refusing to establish and implement written guidelines and procedures to assure that inmates with health care complaints have timely access to medical personnel, including, at a minimum:

1. weekday sign-up lists for inmates with medical complaints;
2. all inmates on said lists to be seen by a member of the medical staff within twenty-four (24) hours;
3. immediate transmittal of emergency complaints to a member of the medical staff;
4. emergency transportation to outside medical facilities;
5. no member of the correctional staff shall inhibit, interfere with, or delay any aspect of the health care delivery system;
6. necessary dental care, including extractions, fillings, and prosthesis, to be provided to all inmates at CCF;
7. the routine tuberculin test given to each inmate upon admission to CCF shall be read by a trained member of the medical staff;
8. emergency equipment, as required by the medical director shall be kept available and operable at the infirmary and LDU;

9. the immediate transfer from CCF to a proper medical facility shall be ordered by the medical director or a staff physician of all inmates in need of medical isolation.

*Obtain*

B. From failing or refusing to provide for an independent audit and evaluation of the health care delivery system at CCF on an annual basis.

#### IX. PSYCHIATRIC CARE

The parties anticipate that the Department of Mental Health and Mental Retardation and the Division of Forensic Psychiatry will cooperate in complying with this decree. Defendants' thirty day plan shall contain specific information concerning the nature and extent of this cooperation.

Defendants are hereby enjoined:

A. From failing or refusing to provide access to psychiatric care within a reasonable time from the time of referral or request. In accordance with this, defendants shall see that persons referred to the psychiatric department are seen by a psychiatrist at least by the following minimal times. If no psychiatrist is available at CCF within the specified time limits, the inmate is to be transported to an appropriate psychiatric facility, such as the Central Ohio Psychiatric Hospital, for appropriate examination and treatment. Such transportation shall not constitute a transfer or admission to said psychiatric facility and the inmate shall thereafter be returned to CCF.

*log*

1. if a referral is designated routine by the referral source, a psychiatrist shall see the inmate no later than one week after the date of referral;

2. if a referral is designated "ASAP" (as soon as possible) by the referral source, a psychiatrist shall see the inmate no later than one day after the date of referral;

3. if a referral is designated urgent by the referral source a psychiatrist shall see the inmate no later than one (1) hour after the time of referral;

4. If an inmate is received into CCF and is currently on psychotropic medication he shall be seen by the psychiatrist within one week of his arrival;

5. if an inmate is received into CCF and has a history of psychiatric hospitalizations, he shall be seen by a psychiatrist within two (2) weeks of his arrival.

B. From failing or refusing to develop a procedure for determining within one working day whether a referral is urgent, "ASAP" or routine, including provisions that such determination shall be made by a qualified mental health professional. For purposes of this Decree, a qualified mental health professional is a master's degree social worker, licensed clinical psychologist, or psychiatrist.

C. From failing or refusing to develop procedures which will insure that persons seen by a psychiatrist return for their next appointment as scheduled by the psychiatric department.

D. From failing or refusing to maintain psychiatric records which include at least;

1. documentation by history and findings justifying psychiatric diagnoses and treatment;
2. Follow-up required;
3. Results of follow-up.

E. From failing or refusing to provide inmates with the quantity and quality of psychiatric care necessary to adequately treat their psychiatric illness. In accordance with this provision the defendants shall:

1. transfer to Lima State Hospital those inmates who qualify for admission to that hospital in accordance with state law;

X 2. provide in-patient psychiatric treatment for those inmates in need of such treatment. To comply with this provision defendants may either develop an in-patient facility at CCF or transfer inmates to an appropriate in-patient facility;

→ 3. immediately discontinue the use of the Ward 1 cells in the infirmary and the corrections cells for the housing of prisoners in need of psychiatric care, except that once furnished with plumbing and lighting fixtures, the Ward 1 cells may be used where necessary to control assaultive inmates, as determined by a psychiatrist.

[ Each inmate placed in a Ward 1 cell shall be evaluated daily by a psychiatrist and released from the Ward 1 cell unless his behavior mandates otherwise. Furthermore, one cell in Ward 1 may be utilized without being furnished with plumbing and lighting fixtures for the

temporary holding of suicidal inmates as determined by a psychiatrist. No person shall be held in said cell for longer than two (2) hours. When occupied, said cell shall be under constant visual observation of a member of the staff. Any unit used for housing psychiatrically ill inmates shall have twenty-four (24) hour supervision by medical or psychiatric staff.

4. From failing or refusing to maintain a log noting the name of the inmate, the date and time admitted to any Ward 1 cell, the name of authorizing psychiatrist, the observing personnel, the date and time of any reauthorization, the name of the reauthorizing psychiatrist, and the date and time of release.

F. From failing or refusing to provide adequate staff including psychiatrists, master's degree social workers, licensed clinical psychologists, and clerical staff to provide psychiatric care and treatment as outlined above.

G. From allowing correctional personnel to interfere in the provisions of psychiatric care and treatment.

☒ RECEPTION

Defendants are hereby enjoined:

A. From failing or refusing to complete the first phase of the reception and classification process ~~within the first twenty-one (21) days~~ that an inmate is at CCF.

The first phase of reception is the first twenty-one (21) days at CCF when an inmate is undergoing the testing and interview phase of the reception process.

B. From failing or refusing to allow reception inmates to use radios in their cells and to have individual razors and mirrors during shaving periods, consistent with institutional rules regarding possession of such items.

C. From failing or refusing to provide jobs on a voluntary basis for all inmates who have completed the first phase of reception. All such inmates who work less than 100 hours per month shall be paid at a rate of ten (10) cents per hour. The available work shall be allocated among as many inmates as possible.



XI. MAXIMUM UNASSIGNED

*SM* A. From failing or refusing to establish procedures for the periodic review of those maximum unassigned inmates who have been transferred to CCF from medium security institutions. Said procedures shall include but shall not be limited to:

1. written criteria and guidelines for said reviews, with inmates to be notified thereof;
2. reviews to be conducted by classification personnel and to include an interview with the inmate.

*R* B. From failing or refusing to establish procedures whereby those maximum unassigned inmates who have been transferred to CCF from medium security institutions may request a transfer to a medium security institution. Upon receipt of such a request, a hearing shall be scheduled within fourteen (14) days. Inmates shall be notified of this provision upon transfer to CCF.

C. From failing or refusing to provide work and payment on the same basis set forth in X(c) above.

XII. LDU

Defendants are enjoined:

*SM* A. From failing or refusing to establish written guidelines for admission to and care at LDU. Every inmate (including current LDU inmates and each new LDU inmate upon admission) shall be evaluated to determine the level of nursing care and personal assistance needed by said inmate and a written nursing and personal assistance plan shall be developed. This evaluation and plan shall also include the type of work the inmate may perform. All nursing and personal assistance care shall be provided by appropriately trained personnel, except that correctional officers may be used for personal assistance care for a period of six (6) months from the date of this decree. No inmate shall be authorized or permitted to provide nursing or personal assistance care to any other inmate.

B. From failing or refusing to provide adequate housing arrangements for mobility impaired inmates at LDU, including at a minimum:

1. ground floor housing to provide inmates with at least seventy-five (75) square feet of living space within the area set aside for housing;
2. equipping an adequate number of showers, sinks, and toilet facilities so as to be safe and accessible to handicapped inmates, with rails, shower chairs, and other similar devices.

C. From failing or refusing to provide programs for the inmates of LDU, including at a minimum, developing and implementing programs designed to meet the special needs of the aged and aging population of LDU. Defendants shall consult with gerontologist(s) or other similarly qualified person(s) in the development of such programs.

### XIII. DISCIPLINARY PROCEDURES

Defendants are hereby enjoined:

From failing or refusing to provide all inmates with a written copy of the CCF rules and regulations and a description of the disciplinary process upon admission to CCF.

B. From failing or refusing to establish and implement written guidelines allowing inmates staff assistance in preparing or presenting their case to the Rules Infraction Board (RIB) when the inmate is unable to effectively represent himself due to the complexity of the charge or to his physical or mental capacity, including at a minimum:

1. guidelines for staff to use in determining when said assistance shall be made available.
2. forms to indicate the staff member's determination of whether assistance should be provided, which shall be completed at each RIB hearing;
3. a determination of who shall provide the required assistance, taking into account the inmate's choice.

#### XIV. Access to Courts

Defendants are hereby enjoined:

A. From failing or refusing to provide all inmates at CCF with access to persons trained in the law and/or to legal research facilities. Defendants shall provide at least forty (40) hour per week coverage by at least senior law students (or the equivalent) in each of the cellblocks. The law students shall be under the supervision of an attorney. Inmates shall have scheduled access to said law students on an unrestricted basis. Research material commonly used by inmates shall be kept in each cellblock for use by said students and by the inmates. Defendants shall also provide for physical access to the law library by all inmates.

There is a presumption that all inmates may go to the law library after seeing a law student unless the supervising attorney finds that the facilities in the cellblock are adequate for the needs of the inmate.

B. From failing or refusing to provide adequate postage and suitable writing and mailing materials -- for the purpose of communicating with any attorney duly licensed to practice law in the State of Ohio -- to any inmate having less than Five Dollars (\$5.00) in his institutional account and earning less than Five Dollars (\$5.00) per month.

#### XV. MAIL

Defendants are hereby enjoined:

- A. From having inmates deliver packages to other inmates.
- B. From failing or refusing to provide a staff member in the mail-room at all times when it is open.
- C. From failing or refusing to provide thorough orientation sessions for new staff concerning the receipt and delivery of legal mail as set forth in defendants' regulations.
- D. From failing or refusing to provide inmates with access to reading materials, such as books and periodicals, as such reading materials are reasonably available and consistent with administrative regulations governing the use of reading materials at CCF.

#### XVI. VISITING

Defendants are hereby enjoined:

A. From failing or refusing to immediately establish and implement procedures to allow visits by reception inmates during the first phase of reception.

B. From failing or refusing to permit contact visits by an inmate, other than inmates in the first phase of reception, administrative control and disciplinary control.

C. From failing or refusing to allow visits with non-family members.

D. From failing or refusing to provide adequate and sufficient facilities so inmates may receive visits consistent with this Decree.

E. From failing or refusing to allow inmates the number of visits permitted by Departmental regulations, provided that visitation by an approved visitor on any one day shall count as one visit.

F. From failing or refusing to provide access to a public telephone to any inmate who requests its use because of any urgent personal matter such as death or serious illness in his immediate family or other urgent family business which cannot be delayed without adverse legal or economic consequences to the inmate's family.

#### XVII. RELIGIOUS SERVICES

Defendants are hereby enjoined:

A. From denying the free exercise of religion to inmates in reception, maximum unassigned, medium classified, protective control, limited duty, and cadre in accordance with the remaining provisions of this section.

B. From failing or refusing to establish weekly group religious services in the chapel for protective control inmates. If five or more inmates are of the same religious persuasion they shall be provided services from a minister of this religion. Otherwise, nondenominational services shall be provided for these inmates.

C. From failing or refusing to provide weekly individual religious consultations on request for administrative control inmates, double protective control inmates and those protective control inmates who do not desire to attend group services.

D. From failing or refusing to establish written policies and procedures consistent with this section.

OR

XVIII. RACIAL SEGREGATION

Defendants are hereby enjoined:

A. From assigning inmates to cells at CCF on the basis of race unless the superintendent of the institution personally finds it to be necessary and prepares a specific statement in writing and with supporting reasons stating that the inmate in question should not be confined in an integrated cell; such finding is to be made a part of the inmate's prison record.

B. From failure or refusing to comply with the Consent Order entered September 24, 1978, which is hereby incorporated herein by reference.

XIX. RESTRAINTS

Defendants are hereby enjoined:

A. From using four-way restraints as a means of punishment.

B. From using any type of restraints which, when applied, prevents a prisoner from rising from his bed, using toilet facilities, or eating, on any inmate in a locked cell except in extreme circumstances, such as when the inmate threatens suicide or experiences a violent episode of mental instability, or needs to be completely subdued for a very short period of time after behaving violently toward another person.

C. From applying restraints for a period not longer than three (3) hours on the order of a shift supervisor. Any continued use of restraints must be approved by a physician, either personally or by telephone, within the three-hour period. This extension may be for no longer than eight (8) hours. Authorization for continued use of restraints beyond this initial extension can be given only by a physician based on a personal examination of the inmate and only for reasonable periods not to exceed eight (8) hours.

The inmate may not be continued in restraints beyond the authorized period without a further personal examination and authorization by a physician.

D. From failing or refusing to release the inmate or place him in lesser restraints unless the physician finds that his behavior mandates otherwise.

E. From failing or refusing to keep a log noting the name of the inmate restrained, the reason for the restraint, the type of restraint used, the time of the initial restraint, the time of each authorization and the name of the physician, and the time of release.

#### XX. STAFF

Defendants are hereby enjoined:

A. From failing or refusing to hire and train adequate and sufficient staff to perform all the duties and functions required by this Consent Decree and for the orderly management of CCF. The defendants shall include in the plan, discussed in Section XXIII of this decree, the number and type of staff needed to implement this decree.

B. From failing or refusing to provide each correctional officer a periodic training program which shall include instruction in the rehabilitation of inmates and the officer's role in such rehabilitation.

C. From failing or refusing to notify, instruct, and train their current employees concerning this Decree and to instruct and train new employees concerning this Decree.

#### XXI. INSPECTION

Defendants are enjoined:

A. From failing or refusing to arrange thorough and professional fire safety inspections of CCF twice yearly. The second inspection in each year may be limited to a follow-up on those violations disclosed by the first inspection. Said inspections shall be based on nationally accepted fire safety standards and guidelines and this Decree. The parties anticipate said inspections being performed by the Office of the Ohio Fire Marshal.

*Obtain  
See*

B. From failing or refusing to arrange thorough and professional public health inspections of CCF on a monthly basis during the first year after the signing of this Decree, and quarterly thereafter. Said inspections shall include the following components: food service; nutrition; environmental sanitation; building code (including plumbing and electrical systems). Said inspections shall be based on accepted public health standards and guidelines and this Decree.

*obtain*  
C. From failing or refusing to have detailed reports prepared concerning each of the above inspections by each inspecting authority. Said reports shall be filed with this Court and served on counsel of record.

XXII. NON-RETALIATION AND EXPUNGEMENT

A. Complaints by members of the plaintiff class about conditions at CCF and/or about compliance with the terms of this Decree shall not be the basis for disciplinary action except that false accusations and statements by inmates or staff may be the subject of disciplinary action when made in a knowing, deliberate, and malicious attempt to cause significant injury to another party and the potential for such injury is substantiated. The burden of proof in such cases shall always rest with the institution. Failure of an inmate to substantiate his grievance accusations shall not, by itself, be used as grounds to initiate disciplinary action.

B. The defendants, their agents, and employees shall not consider the participation of the named plaintiffs or any member of the plaintiff class in this lawsuit for any purpose, including, but not limited to parole, job assignments, discipline, and privileges. All references to this case, including but not limited to witness statements, records of visits from counsel for the plaintiffs or the amicus, and disciplinary proceedings based on statements made in any document filed with the Court, shall be removed from the file of every member of the plaintiff class.

XXIII. PLAN

A. Within thirty (30) days from the date of this decree, unless otherwise provided herein, the defendants shall file with this Court a plan to achieve compliance with each provision of this decree. Said plan shall set forth a detailed statement of the means to be used to achieve compliance along with a detailed timetable setting forth dates for interim and final relief measures.

B. Plaintiffs and amicus curiae shall file any objections to any such plan within thirty (30) days of the filing of said plan.

C. Defendants shall file detailed Compliance Reports at three month intervals for the first year and at six month intervals thereafter. Said timetable shall provide for full compliance within the time limits specified in the subsections above. For those subsections which do not have specified time limits, the timetable shall provide for full compliance with sections V(B) (1), VII(N) and XII(A) and (C) within sixty (60) days. The timetable shall provide for full compliance with sections VII(D) (pillows only) and XX within ninety (90) days, and with section V(E) and VII(B), (C), (E), (F), (G), (L), and (M) within six (6) months. All other provisions of this Decree which are not specified herein and which do not contain separate timetables shall be fully implemented within thirty (30) days.

XXIV. ATTORNEYS FEES

In accordance with 42 U.S.C. §1988, attorneys for the plaintiffs shall, within fifteen days of the date of this Decree, submit to the Court itemized statements of costs and hours incurred in the prosecution of this action. Attorneys for the defendants may respond to such statements within fifteen days thereafter.

XXV. NOTICE TO CLASS AND CONTINUING JURISDICTION

A. This decree shall become effective on the date of entry, with conditional approval of the Court. Within ten days of the date of entry, defendants shall provide notice to the class by providing a copy of this Decree to all class members housed at CCF, all new inmates, and by posting copies of this Decree in all housing units of all male correctional facilities within their jurisdiction.



A copy of this Decree shall be provided to every inmate at the time of his arrival at CCF. In addition, copies of this Decree shall be made available in all parole offices and parole officers shall be instructed to inform parolees of this Decree.

B. Members of the plaintiff class shall have the right to submit written comments and/or objections to the Court within sixty days of the entry of this Decree. After consideration of the defendants' plan, the responses thereto by plaintiffs, and amicus, and the comments of the absent members of the class, the Court shall, if warranted, enter final approval of the decree.

C. This Court specifically retains jurisdiction over this matter to insure compliance and to issue any additional orders required in the interest of justice.

IT IS SO ORDERED.

\_\_\_\_\_  
United States District Judge

The undersigned agree to the entry of this Order.

For Defendants:

\_\_\_\_\_  
James A. Rhodes  
Defendant

\_\_\_\_\_  
George F. Denton  
Defendant

\_\_\_\_\_  
E. Blaine Haskins  
Defendant

\_\_\_\_\_  
David R. McKeen  
Defendant

\_\_\_\_\_  
William J. Brown  
Attorney General

\_\_\_\_\_  
Allen P. Adler  
Assistant Attorney General

\_\_\_\_\_  
Leo J. Conway  
Assistant Attorney General

For Stewart Plaintiffs:

\_\_\_\_\_  
Jean P. Kamp  
Counsel for Plaintiffs

\_\_\_\_\_  
Clement W. Pyles  
Counsel for Plaintiffs

For Wilson Plaintiffs

\_\_\_\_\_  
Alvin J. McKenna  
Counsel for Plaintiffs

\_\_\_\_\_  
D. Michael Miller  
Counsel for Plaintiffs

For Amicus Curiae:

\_\_\_\_\_  
*Stephen A. Whinston*  
Stephen A. Whinston  
Counsel for Amicus Curiae

\_\_\_\_\_  
*Adjoa A. Burrow*  
Adjoa A. Burrow  
Counsel for Amicus Curiae