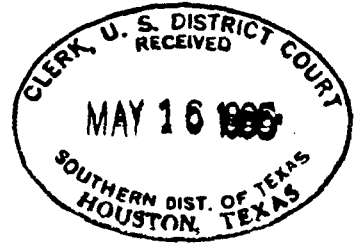


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- Modification Consent Decrees -

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION



DAVID RUIZ, et al.,)

Plaintiffs,)

UNITED STATES OF AMERICA,)

Plaintiff-Intervenor,)

vs.)

RAYMOND K. PROCUNIER, et al.,)

Defendants.)

Civil Action No. H-78-987-CA

STIPULATION MODIFYING CROWDING PROVISIONS OF AMENDED DECREE

Ruiz v. Estelle



PC-TX-003-004

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Exhibits

IT IS STIPULATED between plaintiffs and defendants as of the 10th day of May 1985, as follows:

I. SCOPE AND EFFECT OF STIPULATION.

This Stipulation supersedes the following provisions of the Amended Decree of May 1, 1981: Sections I.A, I.B.3 and 4, I.F, IV.C.2 and 3. It also modifies Section XII of the Stipulated Modification of Sections II.A. and II.D. of the Amended Decree. This Stipulation resolves all issues with regard to those provisions and obviates the need for the further hearing on crowding issues contemplated by the Fifth Circuit Court of Appeals. This Stipulation also resolves all issues raised by plaintiffs' pending Motion to Modify Amended Decree. The plaintiff class shall be precluded from seeking any further relief concerning matters addressed in this Stipulation, absent a showing of changed circumstances or defendants' failure to comply with any provision of this Stipulation or of Section I or Section II of the Consent Decree entered by the Court on April 20, 1981. All prior orders of the Court in this cause shall remain in full force and effect except to the extent specifically noted above. In particular, and notwithstanding the provisions of Section IV.C.1.(a), infra, Sections I.H.1 and 2 of the Stipulation and Order Modifying Court's Order of January 11, 1984, entered by the Court on April 2, 1984, shall remain in full force and effect and may be the subject of enforcement proceedings apart from this Stipulation.

II. CAPACITY.

A. Existing Units.

1. The maximum capacity of any existing unit shall be the maximum number of beds, excluding beds designated for punitive segregation and beds located in the unit's infirmary, but including beds to which roving inmate construction crews are assigned, to which prisoners may be assigned pursuant to this Stipulation. The maximum capacities of existing units, effective as of the time stated in Subsection II.J., infra, are as follows:

<u>Unit</u>	<u>Maximum Capacity</u>
Beto I	3,000
Beto II	888
Central	0
Clemens	851
Coffield	3,000
Darrington	1,610
Diagnostic	926
Eastham	2,050
Ellis I	1,900
Ellis II	2,200
Ferguson	2,100
Gatesville	1,079
Goree	1,058
Hilltop	1,049
Huntsville	1,900
Jester I	323
Jester II	378
Jester III	908
Mountain View	718
Pack I	864
Pack II	1,088
Ramsey I	1,400
Ramsey II	850
Ramsey III	1,000
Retrieve	770
Wynne	<u>2,300</u>
Total	34,210

2. The parties anticipate that the Central unit will be closed no later than September 1, 1989. Until that date, the maximum capacity of that unit shall be 935. In the event the Central unit is not closed on or before September 1, 1989, the maximum capacity of that unit shall be 720, and the combined maximum capacities of all units set forth in Section II.A.1, supra, shall not exceed 34,210.

B. Expansion of Existing Units.

The maximum capacity of any existing unit that has a maximum capacity of less than 2,000 may be increased to no more than 2,000 by means of new construction. Any permanent additional non-trusty housing facilities, however, shall meet the requirements of Section III.C infra, and the standards for space for dayroom activities shall be determined pursuant to Section III.D, infra. Furthermore, no permanent additional non-trusty housing facilities may be added to an existing unit unless, following the new construction, the entire unit will contain adequate space, based on its mission, for visiting, indoor recreation (arena/gymnasium), arts and crafts recreation, academic education, vocational education, outdoor recreation, canteen, dining, food preparation and storage, laundry, showering, dayroom activities and, if appropriate, industrial activities. In determining the adequacy of space for these functions, the standards set forth in or established pursuant to Section III.D., infra, shall be controlling.

C. New Units.

The maximum capacity of any new unit shall not exceed 2,250 prisoners, excluding prisoners assigned to trusty housing.

D. Reductions in Maximum Capacity.

1. The maximum capacity of any unit shall be reduced if and to the extent necessary to accommodate the assignment of prisoners to single occupancy cells and dormitory cubicles in accordance with the provisions of Sections II.I and IV.A.3, infra, and to achieve compliance with defendants' Classification Plan as finally approved by the Court.

2. The number of prisoners assigned to the Wynne unit or to the Beto I unit shall not be increased, beyond the number assigned to each of those units on April 15, 1985, upon the opening of new cells currently under construction at those units.

3. The maximum capacity of any unit shall be reduced if any facility, including cellblocks, dormitories or any portion thereof, used for the housing of prisoners at that unit on April 15, 1985 is, for any reason, closed or converted to any use other than the housing of prisoners; provided, however, that the maximum capacity of the Ferguson unit shall not be reduced by the closure or conversion of quonset huts (Dormitories 3, 4, 5 and 6), and the maximum capacity of the Wynne unit shall not be reduced by the closure of quonset huts (Outside Dormitories 1 and 2). In all other instances, the maximum capacity of a unit shall be reduced by the maximum capacity of any housing facility that is closed or used for any purpose other than the housing of prisoners. In the case of cells, the maximum capacity for the

purpose of this reduction shall be the number of closed or converted cells times two; in the case of dormitories, the maximum capacity shall be the bed space in closed or converted dormitories divided by 50 square feet or, if partitions providing at least 50 square feet per prisoner have been erected, the number of partitioned bed spaces.

E. Adjusted Capacity.

The adjusted capacity of any unit shall be the number of prisoners that can be assigned to that unit as the result of reductions required by Sections III.D.4, IV.C.2 and IX.B.5, infra.

F. Effect of Trusty Housing on Maximum Capacity.

Trusty housing facilities may be added to a unit only pursuant to Section III.B, infra. Trusty housing shall have its own capacity, which shall not count toward the maximum capacity of an adjacent unit.

G. Adherence to Capacities.

Pursuant to the timetable set forth in Section II.J, infra, defendants shall not permit the population at any unit to exceed its maximum capacity as established by Sections II.A-D, supra, or its adjusted capacity as established by Section II.E., supra, whichever is lower. Moreover, in order to meet each unit's classification and reclassification needs, defendants shall not permit the population of any unit to exceed the following relevant percentage of the maximum capacity, or, the adjusted capacity as defined in Section II.E, supra, whichever is

lower: 100 percent at any unit designated as a reception/diagnostic unit or a pre-release center and at trusty facilities described in Section III.B, infra; 99 percent at the Hilltop, Beto II, Jester III, Pack I, Pack II and Ramsey III units; and 95 percent at any other unit.

H. System-Wide Maximum Capacity.

TDC's system-wide maximum capacity shall be the sum of the maximum capacity or adjusted capacity, whichever is lower, of each TDC unit. Defendants shall not permit TDC's population to exceed 95 percent of the system-wide maximum capacity as defined in this Section; provided, however, that the total population actually assigned to the units listed in Section II.A.1, supra, shall not exceed 95 percent of the combined maximum capacities of those units as adjusted pursuant to Sections II.B, II.D., and/or II.E, supra.

I. Prisoners Required to be Assigned to Single Occupancy Cells.

1. Defendants shall assign the following classes of prisoners to single occupancy cells:

- (a) all prisoners under sentence of death;
- (b) all prisoners confined in administrative segregation;
- (c) all prisoners who are determined through the classification process to be assaultive or vulnerable to the extent they cannot safely be assigned to double occupancy cell or dormitory housing;

(d) all prisoners assessed to be mentally retarded pursuant to the Mentally Retarded Offender Plan, December 1, 1984, if their individual habilitation plans recommend that they be housed in a cell alone;

(e) all prisoners with a diagnosed psychiatric illness, as defined by the Psychiatric Services Plan, February 14, 1984, and the Comprehensive Health Care Plan, Chapter 150, December 15, 1984, who are assigned to a psychiatric acute care facility or a psychiatric intermediate care facility, unless the prisoner's individual treatment plan recommends double celling; provided, however, that in the event such a prisoner is assigned to a double occupancy cell, his treatment team first determines that such assignment is compatible with the treatment plan of the prisoner's assigned cellmate;

(f) all prisoners with a diagnosed psychiatric illness, as defined by the Psychiatric Services Plan, February 14, 1984, and the Comprehensive Health Care Plan, Chapter 150, December 15, 1984, who are being treated on out-patient status, if their individual treatment plans recommend that they be housed in a cell alone; and

(g) all prisoners whose medical treatment plans recommend that they be housed in a cell alone; provided, however, that the housing assignment of any patient housed at the TDC Hospital at the University of Texas Medical Branch - Galveston shall be determined by appropriate medical personnel at that unit.

2. The assignment of prisoners to single occupancy cells, required by Section II.I.1, supra, shall be implemented according to the following schedule:

(a) all prisoners under sentence of death who are classified as "death row segregation" shall be assigned to single occupancy cells forthwith;

(b) all prisoners under sentence of death who are classified as "death row work capable" shall be assigned to single occupancy cells not later than September 1, 1985;

(c) all prisoners confined in administrative segregation shall be assigned to single occupancy cells as follows:

- (1) 60% forthwith;
- (2) 75% by September 1, 1986;
- (3) 85% by September 1, 1987;
- (4) 90% by September 1, 1988; and
- (5) 100% by September 1, 1989; and

(d) all prisoners described in Sections II.I.1.(c), (d), (e), (f) and (g), supra, shall be assigned to single occupancy cells forthwith.

3. So long as sufficient cells are available, all assignments to single occupancy cells required by Section II.I.1, supra, must be made at units set forth in Section II.A.1, supra; provided, however, that certain prisoners assigned to administrative segregation may be assigned to newly constructed maximum security cells, constructed expressly for the purpose of housing

such prisoners; provided further that this Section II.I.3 shall not prevent the assignment of prisoners to single occupancy cells in in-patient medical or psychiatric facilities that may be constructed in the future.

J. Achievement of Maximum Capacities.

1. The unit capacities required by this Section II shall be effective according to the following schedule:

(a) by September 1, 1987, the required unit capacities shall be effective at the Coffield, Clemens, Darrington, Diagnostic, Mountain View, Ramsey I, Ramsey II, Retrieve, Eastham, Ferguson, Gatesville, Ellis I, Goree, Wynne and Huntsville units; and

(b) by September 1, 1989, the required unit capacities shall be effective at the Beto I, Beto II, Ellis II, Jester I, Jester II, Jester III, Pack I, Pack II, Hilltop, Ramsey III and Central units.

2. As the maximum capacity at each unit becomes effective according to the schedule set forth above, the system-wide maximum capacity of TDC shall be adjusted accordingly.

III. NEW CONSTRUCTION.

A. Dormitories.

Except to the extent provided in Section III.B, and Section IV.D.3, infra, no TDC unit hereafter constructed shall contain any dormitories, and no new dormitories shall be constructed at any existing TDC unit.

B. Trusty Housing.

1. Defendants may construct dormitories for trusty housing, but no more than one trusty facility may be constructed on the site of any existing or future unit. Only prisoners classified as SAT I, SAT II or Line Class 1 - Out may be assigned to such housing, and then only if the prisoner's assignment is not precluded by defendants' Classification Plan. Trusty housing shall be free standing and substantially self contained, although it may be adjacent to a unit. Prisoners assigned to a trusty facility shall not be permitted or required to use or rely upon the facilities of an adjacent unit except in an emergency, for special events or for provision of medical care that cannot be provided at the trusty facility. Each trusty facility shall contain adequate space, consistent with the special nature of trusty housing, for visiting, outdoor recreation, indoor recreation (arena/gymnasium), arts and crafts recreation, academic education, dining, food preparation and storage and canteen. Defendants shall forthwith provide plaintiffs' counsel with drawings and space standards for trusty facilities. Within ten days of receipt of the drawings and space standards, plaintiffs' counsel shall notify defendants, in writing, of any objections they may have to the proposed standards. In the event plaintiffs' counsel find any proposed space standard(s) to be inadequate, such standard(s) shall be submitted for resolution by experts in accordance with the procedures set forth in Section III.D., infra. Recognizing that the prompt construction of

trusty facilities is essential to defendants' compliance with this Stipulation, the parties agree that this process shall be completed as quickly as possible, and in no event later than June 15, 1985.

2. Each trusty facility shall contain a mini-law library consisting of the volumes required by Section VIII.A.2 of the Texas Department of Corrections Rules Governing Access to Courts, Counsel and Public Officials. Prisoners assigned to a trusty facility shall be permitted to check out other law books from the collection housed in the adjacent unit. The number of books that can be checked out at any one time by a trusty and the length of time any book may be held shall be determined by regulations established by defendants to ensure reasonable access to legal materials by prisoners assigned to the trusty facility as well as by prisoners assigned to the adjacent unit.

3. All trusty housing constructed pursuant to this Section shall meet the standards set forth below.

(a) All dormitories shall provide at least 60 square feet per prisoner of living space, exclusive of bathing, toilet and activity space.

(b) No double bunks shall be used.

(c) Privacy partitions shall be constructed, separating each bunk. The resulting configuration shall consist of three and one-half walls, which shall extend at least 12 inches above the top of the bed.

(d) Defendants shall not confine more than 100 prisoners to any trusty dormitory, or more than 200 prisoners to any single trusty facility.

(e) Dormitory hygiene shall meet the following standards: one lavatory with tempered hot and cold running water for each six prisoners assigned; in units to which female prisoners are assigned, one toilet for each eight prisoners assigned; and, in units to which male prisoners are assigned, one toilet for each fifteen prisoners assigned and one urinal, or foot of urinal trough, for each fifteen prisoners assigned.

(f) The ratio of shower facilities shall not be less than one shower to 15 prisoners.

(g) Dayroom space in close proximity to each living area and equalling 17.5 net square feet per occupant times the maximum capacity of the trusty facility shall be provided. During the hours the dayroom may be used, the doors from the dormitory to the dayroom shall remain unlocked, and prisoners shall be permitted free access to and from the dayroom. All dayrooms shall be equipped with a lavatory, drinking fountain, urinal or toilet, television set, and reading and game tables.

C. Cells.

1. All general population cells hereafter constructed at any new or existing unit shall contain at least 60 square feet if one prisoner is to be housed in the cell and at least 80 square feet if two prisoners are to be housed in the cell.

Defendants shall not house more than one prisoner in a newly constructed cell containing less than 80 square feet, and no cell shall house more than two prisoners. All administrative segregation cells hereafter constructed at any new or existing unit shall contain at least 60 square feet. All newly constructed cells shall be provided with a lavatory with tempered hot and cold running water and a toilet that can be flushed by the prisoner. They also shall contain a desk, stool, clothes hook, bunk, shelf and lockable storage unit for each occupant; provided, however, that lockable storage units and clothes hooks need not be installed in cells occupied by prisoners in administrative segregation.

2. All cells presently scheduled to be constructed at the Mountain View unit and the Gatesville unit shall meet the requirements of Section III.C.1 supra. Cells presently under construction at the Wynne unit and the Beto I unit, as well as 222 cells presently scheduled to be constructed at the Diagnostic unit, however, shall not be required to meet those standards; provided, however, that the cells scheduled to be constructed at the Diagnostic unit shall be used only for the housing of prisoners undergoing the normal diagnostic process.

D. Space Requirements.

1. Any new unit shall contain adequate space, based on its mission, for visiting, indoor recreation (arena/ gymnasium), arts and crafts recreation, academic education, vocational education, outdoor recreation, canteen, dining, food preparation

and storage, laundry, dayroom activities and industrial activities. The ratio of shower facilities shall not be less than one shower to 15 prisoners.

2. In order to achieve the objectives of Section III.D.1, supra, defendants' expert, with the assistance of an expert selected by plaintiffs, shall develop space standards and configurations for a prototype unit. Plaintiffs undertake to select an expert who will render this assistance in an efficient and timely manner. The space standards and configurations shall be based on the assumption of a mixed prisoner population, including general population prisoners with various custody classifications, as well as prisoners in administrative segregation who are to be assigned to single occupancy cells pursuant to Section II.I, supra, and shall assume the presence of prisoners requiring academic education, vocational education and industrial activities. The space standards and configurations for the prototype unit shall be guided by the specifications (area calculations) contained in the report prepared by Henningson, Durham & Richardson, Inc., submitted to the Texas Board of Corrections on February 18, 1985, as adapted to achieve the mission of the prototype unit.

3. In the event that plaintiffs' expert and defendants' expert cannot reach agreement on the amount or configuration of space required for visiting, indoor recreation (arena/gymnasium), arts and crafts recreation, academic education, vocational education, outdoor recreation, canteen, dining, food

preparation and storage, laundry, dayroom activities or industrial activities, the two experts shall select a third expert to make a final determination of any disputed space or configuration requirement. This process shall be governed by the provisions of 9 U.S.C. §§2 et seq. Within six months of the commencement of operation of the prototype unit, the parties and their experts shall confer to determine any necessary adjustments or alterations of the configurations or space standards. Any disputes concerning proposed adjustments or alterations shall be resolved in the manner set forth above with respect to the initial development of space standards and configurations for the prototype unit. If it is determined that the space or configurations provided in the prototype unit for visiting, indoor recreation (arena/gymnasium), arts and crafts recreation, academic education, vocational education, outdoor recreation, canteen, dining, food, preparation and storage, laundry, dayroom activities or industrial industries are insufficient, appropriate adjustments shall be made in units constructed thereafter; provided, however, that TDC shall be required to make alterations to the existing prototype unit only if necessary, and then only to the extent necessary, to achieve compliance with the provisions of this Stipulation.

4. The space standards and configurations developed pursuant to Section III.D.3, supra, shall be met in any new unit, as adjusted to the unit's mission and planned maximum capacity; provided, however, that any deviation from the developed standards shall be approved, in advance of construction, by the

parties, or, pursuant to appropriate motion, by the Court. If approval of a deviation is not obtained and a noncompliant unit is constructed, that unit's maximum capacity shall be reduced to the number of prisoners that can be accommodated in the available space in accordance with each of the standards established by the experts.

IV. EXISTING UNITS.

A. Dormitories.

1. Defendants shall not confine any prisoner to a dormitory providing less than 50 net square feet per prisoner of living space, exclusive of bathing, toilet and activity space.

2. Defendants shall eliminate double bunks from all dormitories.

3. Defendants shall erect privacy partitions separating each bunk in all dormitories. The resulting configurations shall consist of three and one-half walls, which shall extend at least 12 inches above the top of the bed.

4. Except at the Diagnostic unit, defendants shall not confine more than 80 prisoners to any dormitory.

5. The total amount of dayroom space in any existing dormitory shall not be decreased, and the amount of such space per prisoner shall be increased by any reduction of population in dormitories required by this Stipulation. If a dayroom is physically separated from the sleeping area, it shall contain a drinking fountain, lavatory and toilet or urinal, and prisoners

must be afforded at least hourly ingress to and egress from the dayroom. Unless the doors from the dormitory to the dayroom remain unlocked during the time the dayroom may be used, sufficient staff shall be available to ensure such ingress and egress.

6. No later than June 1, 1985, all dayrooms shall be equipped with a television set and reading and game tables, and all toilets, lavatories, urinals and showers presently installed in existing dormitories shall be functioning.

7. Dormitory hygiene shall meet the following standards: one lavatory for each six prisoners assigned; in units to which female prisoners are assigned, one toilet for each eight prisoners assigned; and, in units to which male prisoners are assigned, one toilet for each fifteen prisoners assigned and one urinal, or foot of urinal trough, for each fifteen prisoners assigned. In dormitories in which any prisoner is required to shower in the dormitory, the ratio of showers shall be at least one shower to 15 prisoners.

8. The requirements of Sections IV.A.1 - 5 and 7 shall be accomplished according to the following schedule:

(a) by September 1, 1987, the requirements shall be accomplished at the Coffield, Clemens, Darrington, Diagnostic, Mountain View, Ramsey I, Ramsey II, Retrieve, Eastham, Ferguson, Gatesville, Ellis I, Goree, Wynne and Huntsville units; and

(b) by September 1, 1989, the requirements shall be accomplished at the Beto I, Beto II, Ellis II, Jester I,

Jester II, Jester III, Pack I, Pack II, Hilltop, Ramsey III and Central units.

B. Cells.

1. No cell shall house more than two prisoners. No later than June 1, 1985, all cells shall be provided with a functioning lavatory and a functioning toilet that can be flushed by the prisoner.

2. Dayroom space presently afforded in general population cellblocks shall not be reduced. No later than September 1, 1986, cellblocks at the Ramsey I, Ellis I, Goree and Huntsville units that do not contain separate, dedicated dayroom space shall be provided with such dayroom space in an amount commensurate with that provided in other cellblocks in existing units, or defendants shall make some alternative arrangements with the approval of plaintiffs' counsel.

3. Prisoners must be afforded at least hourly ingress to and egress from the dayroom and, unless the dayroom doors from the cellblock to the dayroom remain unlocked during the time the dayroom may be used, sufficient staff shall be available to ensure such ingress and egress. No later than June 1, 1985, all dayrooms shall be equipped with a television set and reading and game tables. No later than September 1, 1986, administrative segregation dayroom space shall be equal to the occupant capacity x 20 net square feet; provided, however, that no administrative segregation dayroom space shall be smaller than 350 square feet.

By that same date all dayrooms shall be equipped with a drinking fountain, lavatory, and toilet or urinal.

C. Space Requirements.

1. Defendants shall provide the space described below at all existing units.

(a) Increased space for indoor recreation, outdoor recreation, and arts and crafts recreation shall be provided at existing units in amounts adequate to permit compliance with the requirements of Section V, infra. As quickly as possible, but not later than November 1, 1985, defendants shall construct the outdoor recreation facilities set forth in Exhibit A, attached hereto. As quickly as possible, but not later than November 1, 1986, defendants shall construct all gymnasiums set forth in Exhibit B, attached hereto. After construction and three months of operation, the adequacy of the size of all facilities constructed for indoor recreation (arena/gymnasium), outdoor recreation or arts and crafts recreation shall be evaluated and established by the experts in accordance with the procedures set forth in Section III.D, supra, and this process shall be completed as quickly as possible and in no event later than January 31, 1987. Any additional space determined by the experts to be necessary shall be constructed as quickly as possible, but in no event later than September 1, 1989. Each outdoor yard shall contain a hard surface basketball court with adequate drainage, a handball wall, facilities for volleyball and appropriate recreational equipment. All gymnasiums shall

accommodate and be adequate for basketball, volleyball, weight-lifting, ping-pong and handball, and shall contain toilets and lavatories.

(b) As quickly as possible, but not later than September 1, 1985, inmate dining facilities shall be adequate to permit each meal to be served within a two and one-half hour period and to allow each prisoner at least 20 minutes within which to eat; provided, however, that the two and one-half hour limit shall not apply to a unit during the course of renovation of a kitchen at that unit.

(c) As quickly as possible the ratio of shower facilities for general population prisoners shall be one shower to fifteen prisoners. The renovations necessary to accomplish this ratio shall commence immediately, with priority being given to those units requiring major renovation of shower facilities. Not later than September 1, 1986 this requirement shall be accomplished at no fewer than one half of all existing units, as designated by TDC. Not later than September 1, 1987 this requirement shall be accomplished at all remaining units.

2. If any requirement mandated by Section IV.C.1 supra, is not met on a unit according to the schedule set forth above, that unit's maximum capacity shall be reduced as set forth below.

(a) Within 45 days, the maximum capacity shall be reduced to the average of the levels permitted by the extent of

compliance with each of the requirements set forth in Section IV.C.1, supra.

(b) If all deficiencies have not been corrected within six months following the reduction of population pursuant to Section IV.C.2.(a), supra, the unit's maximum capacity shall be reduced to the lowest level permitted by the extent of compliance with any of the requirements set forth in Section IV.C.1, supra.

(c) In no event shall a unit's maximum capacity be required to be reduced below the level established by the terms of the Amended Decree prior to the appeal thereof.

(d) Reductions in capacity required by this Section IV.C.2 may be accomplished by transferring prisoners to other units, provided such transfers are consistent with the terms of this Stipulation and the provisions of defendants' Classification Plan. Until the space deficiency is corrected, however, defendants shall not exceed the adjusted capacity of the unit established by this Section IV.C.2.

D. Temporary Housing.

1. Not later than September 1, 1985, defendants shall cease to use for the housing of prisoners, even on a temporary basis, tents or any facilities not constructed for the purpose of housing, including but not limited to runs, hallways, laundry distribution rooms, converted dayroom space, and gymnasiums; provided, however, that not more than 145 prisoners may continue

to be housed on cellblock runs at the Diagnostic unit until September 1, 1987.

2. Defendants may continue to use only the following existing quonset huts for the housing of prisoners at the Eastham unit (Dormitories 9, 10, 11 and 12), the Ellis I unit (Dormitories A-1 and A-2), the Ferguson unit (Dormitories 3, 4, 5 and 6) and the Wynne unit (Outside Dormitories 1 and 2), but only if, no later than September 1, 1987, such housing conforms to the requirements of Section IV.A, supra.

3. The terms of Sections IV.D.1 and IV.D.2, supra, shall not preclude defendants from using tents or quonset huts to house roving inmate construction crews or to house prisoners temporarily displaced from their regular housing units because of housing renovation. Roving inmate construction crews and prisoners temporarily displaced from their regular housing units because of housing renovation may be housed in tents or quonset huts only if each prisoner is afforded at least 50 square feet of living space, exclusive of bathing, toilet and activity space. Prisoners temporarily displaced from their regular housing units because of housing renovation, however, may not be housed in tents or quonset huts for a period exceeding six months, and all such assignments must be in accordance with the terms of defendants' Classification Plan. All temporary construction permitted by this Section IV.D.3 shall provide reasonable sanitary facilities and dayroom activity space.

V. NON-PROGRAMMATIC AND RECREATIONAL ACTIVITY.

A. Weekday Activity.

TDC shall afford substantially full-time work, educational, vocational and/or on-the-job training opportunities to all general population prisoners who are medically capable of participating in these activities. In addition to these programs, each general population prisoner shall be given an opportunity to be involved in recreational and other non-programmatic activity no fewer than four hours a day on each non-holiday weekday, out of his cell or dormitory sleeping area, and he shall be given an opportunity to spend at least two of those four hours in a gymnasium, an outdoor recreation yard, or in some form of in-shop hobby and crafts activity if the prisoner is enrolled in such activity; provided, however, that each such prisoner shall be given an opportunity to spend at least one of those two hours in a gymnasium or an outdoor recreation yard. The balance of the prisoner's non-programmatic time may be spent in a dayroom, library, writ room, chapel or other recreational facility or activity; provided, however, that the prisoner must have alternatives to the dayroom for a substantial portion of that time. Time spent by a prisoner in a dayroom during population counts or awaiting access to a dining room or to commissary shall not be regarded as non-programmatic or recreational activity for the purpose of this Section V.A. Any medically capable, general population prisoner who is not afforded substantially full - time work, educational, vocational and/or on-the-job training

opportunities shall be provided additional non-programmatic and recreational opportunities commensurate with any shortfall in his opportunity for programmatic activities.

B. Weekend and Holiday Activity.

On each scheduled non-work day (Saturday, Sunday and holidays for most prisoners), each general population prisoner shall be given an opportunity to spend at least three hours in a gymnasium or an outdoor recreation yard, or in some form of in-shop hobby and crafts activity if the prisoner is enrolled in such activity; provided, however, that each such prisoner shall be given an opportunity to spend at least two of those three hours in a gymnasium or an outdoor recreation yard. In addition, he shall be given the opportunity to spend at least four hours in a dayroom, library, writ room, chapel, or other recreational facility or activity; provided, however, that the prisoner must have alternatives to the dayroom for a substantial portion of that time. Time spent by a prisoner in a dayroom during population counts or awaiting access to a dining room or to commissary shall not be regarded as non-programmatic or recreational activity for the purpose of this Section V.B.

C. Forfeiture of Non-Programmatic and Recreational Activity.

Any prisoner who is assigned to a job consistent with his medical classification and who refuses an order to turn out for work shall forfeit all non-programmatic and recreational activity required by this Section V for that day. In the absence

of imposition of disciplinary sanctions consistent with the Court's orders in this cause, however, no such forfeiture shall extend beyond the duration of the prisoner's refusal to work or three days, whichever is less, and no such forfeiture shall be imposed unless it is based upon a written report documenting the date and time of the denial and the reason, if any, that the prisoner gave for refusing the order.

D. Implementation.

The program of non-programmatic and recreational time required by this Section V shall be implemented at all units as quickly as possible. Implementation shall occur at each unit as quickly as outdoor recreation or gymnasium facilities are available at that unit, but in no event later than November 1, 1986.

VI. ALLOCATION OF NECESSITIES.

A. Clothing.

1. All prisoners shall be provided with a daily change of socks and underwear, and a change of pants and shirts on each working day; provided, however, that changes of pants and shirts shall occur at least three times a week.

2. All prisoners shall be kept furnished with at least one pair of shoes.

3. All clothing shall be clean and in good repair.

B. Towels.

1. Each prisoner shall be provided with a clean towel each time he showers.

2. Each prisoner shall be provided with a towel for use in his cell or dormitory, and exchanges of such towels shall be made at least once a week.

3. All towels that are issued shall be clean and in good repair.

C. Linens.

1. All prisoners shall be provided with adequate blankets and at least a weekly change of sheets and pillow cases.

2. Mattresses shall be sanitized and blankets and pillows shall be cleaned on at least a semi-annual basis.

3. All linens, mattresses, blankets and pillows shall be kept in good repair and shall be clean upon their issuance. Mattresses shall be properly sanitized before being reissued.

D. Allocations and Improved Distribution.

1. In order to facilitate compliance with Sections VI.A - C, supra, defendants shall purchase or otherwise obtain, and have on hand during the course of each fiscal year, the following clothes and linens per prisoner:

- 8 pants per year,
- 8 shirts per year,
- 8 shorts per year,
- 10 pairs of socks per year,
- 4 cell towels per year,
- 8 shower towels per year,
- 4 sheets per year,
- 3 pillow cases per year, and
- 4 pairs of shoes per year.

2. Defendants shall take all necessary actions to accomplish the timely and efficient distribution of the required clothes and linens to prisoners.

E. Implementation.

All requirements of this Section VI shall be met no later than January 1, 1986.

VII. VISITING.

A. General Visiting.

All prisoners, apart from those whose assignment to solitary confinement for disciplinary reasons precludes visiting and those involved in the intake diagnostic process, shall be permitted to have at least four visits of two hours duration each month on weekends. The increase in opportunity for visiting required by this Section VII.A. shall be accomplished as quickly as possible on a unit-by-unit basis, and shall be accomplished at all units no later than September 1, 1989.

B. Contact Visiting.

1. Based on institutional behavior all prisoners classified as State Approved Trusty I, II, III or IV shall be eligible for contact visiting according to the following schedule:

(a) no later than September 1, 1985, eligible prisoners classified as State Approved Trusty I or II shall be permitted to have contact visits outdoors, weather permitting;

(b) no later than September 1, 1986, eligible prisoners classified as State Approved Trusty III or IV shall be permitted to have contact visits outdoors, weather permitting; and

(c) no later than September 1, 1989, defendants shall provide adequate indoor facilities at each unit to allow eligible prisoners classified as State Approved Trusty I, II, III or IV to have contact visits indoors.

VIII. MAINTENANCE AND REPAIRS.

A. Development of Plan for Remediation of Deficiencies Other Than Major Structural Deficiencies and Comprehensive Preventive Maintenance Plan.

1. As quickly as possible, but in no event later than September 1, 1985, defendants shall file with the Court a detailed plan specifying the measures to be taken to remedy the deficiencies (except those referred to in Section VIII.B, infra) found in the report of Theodore Gordon and Robert McKain, appended to the Twenty-Second Monitor's Report. The plan shall be developed with due regard for Theodore Gordon's recommendations for remedial action and shall require that all deficiencies except those referred to in Section VIII.B, infra, be fully remedied by September 1, 1987, according to a schedule to be set forth in the plan.

2. No later than January 1, 1986, defendants shall file with the Court a comprehensive preventive maintenance plan. This plan shall set forth an adequate program of preventive maintenance and specify that the program be commenced immediately and maintained thereafter.

B. Major Structural Deficiencies.

1. Defendants shall prepare a unit-by-unit inventory of the specific installations, replacements or repairs needed to remedy the major structural deficiencies described in Section VIII.B.2, infra. Theodore Gordon and an expert of defendants' choice shall be afforded the opportunity to formulate the inventory process and shall be given an opportunity to review the inventory and conduct such physical inspections of units as either of them deems necessary. In the event of any disagreement with the inventory prepared by TDC, plaintiffs and defendants each shall choose an expert, and these two experts shall choose a third expert to resolve the disagreement. This process shall be governed by the provisions of 9 U.S.C. §§2 et seq. The inventory shall be completed, filed with the Court and presented to the parties and the Special Master by January 1, 1986, and shall be the basis for monitoring defendants' compliance with this Section VIII.B.

2. Defendants shall complete all necessary installations, replacements or repairs identified in the inventory described in Section VIII.B.1, supra, as quickly as possible and by September 1, 1989, according to a schedule submitted with the inventory, and shall at least

(a) provide ventilation of at least 10 cubic feet of fresh or purified air per minute per prisoner in housing areas and provide adequate ventilation in shower areas and kitchens;

(b) distribute adequate (but not excessive) heat uniformly throughout prisoner housing areas;

(c) provide electrical capacity, including emergency power, to meet population needs;

(d) repair all roof leaks or replace roofs as necessary;

(e) install secondary means of egress in all prisoner housing and activity areas and ensure a safe and efficient unlocking system for such exits;

(f) provide water system capacity to ensure an adequate supply for prisoner consumption and hygiene; and

(g) provide sanitary and environmentally healthful conditions in all units' kitchens and dining areas.

3. In the event all necessary installations, replacements or repairs required by Section VIII.B.2, supra, are not completed by September 1, 1989, defendants shall bear the burden of proving and showing good cause resulting in any delay beyond that date; provided, however, that all such installations, replacements or repairs shall be completed in any event by September 1, 1991.

IX. STAFFING.

A. Employment of Sufficient Staff.

Defendants shall employ sufficient security, and non-security staff to implement the terms of this Stipulation and all prior operative orders of the Court in this cause.

B. Minimum Level of Security Staffing.

1. No later than September 1, 1987, defendants shall employ at least the following numbers of security personnel:

<u>Position</u>	<u>Number</u>
Assistant Warden	40
Major	40
Captain	101
Lieutenant	300
Sergeant	415
Correctional Officers	7,283

These security personnel do not include psychiatric aides whose employment is required by defendants' Psychiatric Services Plan or the designated correctional officers and supervisory staff required by defendants' Mentally Retarded Offender Plan.

2. Defendants reserve the right to augment supervisory security personnel beyond the levels set forth above by converting correctional officer positions to fund supervisory positions as necessary. In no event, however, shall any unit's staffing level be less than that approved by the Court in its Order of October 26, 1982. Furthermore, the deployment patterns reflected in the staffing study approved by the Court on October 26, 1982 shall guide defendants' deployment of staff at all units.

3. No later than June 1, 1985, defendants shall submit to plaintiffs and the Special Master a security staffing analysis providing adequate security for prisoners in all units. As quickly as possible thereafter, defendants and plaintiffs shall confer regarding the proposed staffing levels and deployment patterns to determine whether further modification of the

Stipulated Modification of Sections II.A and II.D of the Amended Decree is desirable.

4. No later than September 1, 1985, defendants shall employ sufficient security staff (majors, captains, lieutenants, sergeants, and correctional officers) to create and thereafter maintain a ratio no lower than one such staff member for each six prisoners, based on TDC's actual population.

5. In the event defendants fail to actually employ the aggregate number of security staff required by Section IX.B.4, supra, the system-wide population shall be reduced to the extent necessary to achieve a ratio no lower than one security staff member for each six prisoners. In the event defendants fail after June 30, 1985 to employ the aggregate number of staff required by the Court's Order of October 26, 1982, defendants shall reduce TDC's population to the extent the percentage of shortfall in staff exceeds the percentage by which TDC's actual population falls short of the maximum system-wide capacity.

C. Reassessment of Staffing Levels.

Defendants shall reassess the adequacy of TDC's levels of security and non-security staffing by January 31, 1987 so that any necessary changes can be brought to the attention of the legislature.

D. Staffing in New Construction.

Any unit constructed in the future and all additions to existing units shall be staffed in a manner sufficient to provide

the level of security and surveillance contemplated by the staffing levels set forth in this Section IX, taking into account the design and mission of any such new institution or addition. In particular, trusty facilities authorized by Section III.B, supra, may be staffed less intensively than units; provided, however, that prisoners assigned to such trusty facilities shall be included in the calculation of TDC's actual population for the purposes of Sections IX.B.4 and IX.B.5, supra.

X. OTHER PROVISIONS.

A. Acknowledgements.

In entering into this Stipulation, the parties acknowledge that the safety and security of prisoners and staff is a matter of mutual concern. The parties further acknowledge that certain conditions and eventualities are within the contemplation of the parties. These include the possibility that TDC may experience a substantial increase or decrease in its population; that the rate of crime and/or conviction within the state of Texas may continue at its current rate or increase or decrease substantially; that the incidence of parole may increase or decrease substantially; that the cost of construction of new facilities and/or renovation of existing facilities may increase or decrease substantially; that substantial difficulty may or may not be encountered by TDC in attracting and employing security and non-security staff; and that substantial construction delays may or may not occur with respect to the renovation of existing units or the construction of new facilities, units or additions thereto.

B. Retention of Remedies

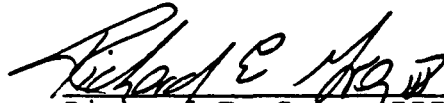
All parties shall retain all remedies available in law or equity for the enforcement of the obligations contained in this Stipulation. Any party at any time may seek, by appropriate motion, to modify the provisions of this Stipulation.

C. Continuing Monitoring and Effect of Orders.

Any party at any time may seek, by appropriate motion, the Court's review of the extent of monitoring, if any, required of any or all of the Court's orders in this cause by the Court, the Office of the Special Master, or by experts employed by plaintiffs' counsel at defendants' expense. Further, any party at any time may seek, by appropriate motion, the Court's determination of the continued need, or level of need, for the Office of the Special Master. Finally, to the extent permitted by Rule 60(b), Federal Rules of Civil Procedure, any party at any time may seek, by appropriate motion, relief from any judgment or order entered in this cause.



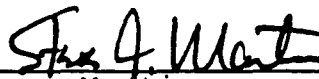
William Bennett Turner
Counsel for Plaintiffs



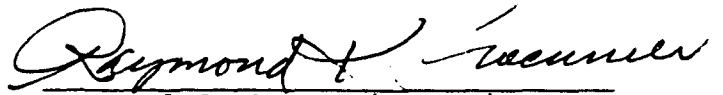
Richard E. Gray, III
Counsel for Defendants



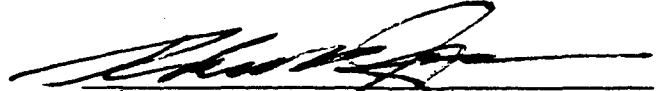
Toni Hunter
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Steve Martin
General Counsel
Texas Department of Corrections



Raymond C. Procunier, Director
Texas Department of Corrections



Robert D. Gunn, Chairman
Texas Board of Corrections



Jim Mattox, Attorney General
of the State of Texas

EXHIBIT A

OUTDOOR RECREATION AREAS

<u>Unit</u>	<u>Existing Areas</u>	<u>Planned Areas</u>
Beto I		60,000 sq.ft. (1) 60,000 sq.ft. (1) 60,000 sq.ft. (1) 31,590 sq.ft. (1) 29,500 sq.ft. (1)
Beto II		12,000 sq.ft. (1) 12,000 sq.ft. (1)
Central		53,900 sq.ft. (1)
Clemens		8,613.25 sq.ft. (1) 23,485 sq.ft. (1)
Coffield	48,400 sq.ft. (1) 48,400 sq.ft. (1) 28,900 sq.ft. (1) 28,900 sq.ft. (1) 28,900 sq.ft. (1) 28,900 sq.ft. (1)	
Darrington		21,669 sq.ft. (1) 16,940 sq.ft. (1)
Diagnostic		45,100 sq. ft. (1)
Eastham	84,384 sq.ft. (1) 22,668 sq.ft. (1)	16,940 sq.ft. (1) 21,850 sq.ft. (1)
Ellis I	20,160 sq.ft. (1) 13,000 sq.ft. (1) 17,904 sq.ft. (1) 32,650 sq.ft. (1)	
Ellis II		53,550 sq.ft. (1) 115,954 sq.ft. (1)

<u>Unit</u>	<u>Existing Areas</u>	<u>Planned Areas</u>
Ferguson*		12,615 sq.ft. (1) 12,615 sq.ft. (1) 8,256 sq.ft. (1) 8,256 sq.ft. (1) 8,256 sq.ft. (1) 8,256 sq.ft. (1)
Gatesville - Reception Center Riverside Terrace Valley		30,000 sq.ft. (1) 24,000 sq.ft. (1) 13,000 sq.ft. (1)
Goree	33,000 sq.ft. (1)	6,180 sq.ft. (1) 33,000 sq.ft. (1)
Hilltop Hackberry Sycamore		38,232 sq.ft. (1) 38,500 sq.ft. (1) 54,795 sq.ft. (1)
Huntsville	18,400 sq.ft. (1)	
Jester I	26,680 sq.ft. (1)	
Jester II		13,920 sq.ft. (1)
Jester III		60,750 sq.ft. (1) 12,441 sq.ft. (1)
Mt. View		106,384 sq.ft. (1)
Pack I		21,000 sq.ft. (1) 19,200 sq.ft. (1)
Pack II		73,147 sq.ft. (1)
Ramsey I		12,500 sq.ft. (1) 12,500 sq.ft. (1) 12,500 sq.ft. (1)

<u>Unit</u>	<u>Existing Areas</u>	<u>Planned Areas</u>
Ramsey II		19,188 sq.ft. (1) 39,549.25 sq.ft.
Ramsey III		36,940 sq.ft. (1) 74,000 sq.ft. (1)
Retrieve		11,988 sq.ft. (1) 21,000 sq.ft. (1)
Wynne		22,494 sq.ft. (1) 21,000 sq.ft. (1) 16,600 sq.ft. (1) 20,000 sq.ft. (1) 13,125 sq.ft. (1)

* The 6 proposed outdoor recreation areas at the Ferguson Unit will be temporary due to construction on the unit.

EXHIBIT B

OUT-OF-CELL SURVEY SUMMARY: GYMNASIUMS

<u>UNIT</u>	<u>EXISTING GYMS</u>	<u>PROPOSED GYMS</u>
Beto I	23,696 sq.ft. (1)	13,464 sq.ft. (1)*
Beto II	9,755 sq.ft. (1)	0
Central	4,335 sq.ft. (1)	7,500 sq.ft. (1)
Clemens	9,587 sq.ft. (1)	0
Coffield	8,674 sq.ft. (1)	15,000 sq.ft. (1) 15,000 sq.ft. (1)
Darrington	9,441 sq.ft. (1)	9,755 sq.ft. (1)
Diagnostic	0	7,500 sq.ft. (1)
Eastham	8,750 sq.ft. (1)	9,755 sq.ft. (1)
Ellis I	8,469 sq.ft. (1)	9,755 sq.ft. (1)
Ellis II	10,462.86 sq.ft. (1) 10,462.86 sq.ft. (1)	0 0
Ferguson	8,816.5 sq.ft. (1)	9,755 sq.ft. (1)
Gatesville	0	0
Riverside	0	6,000 sq.ft. (1)
Terrace	0	6,000 sq.ft. (1)
Valley	0	9,755 sq.ft. (1)
Goree	4,222 sq.ft. (1)**	0
Hilltop	0	5,934 sq.ft. (1)*
Hackberry	0	6,000 sq.ft. (1)
Sycamore	0	6,000 sq.ft. (1)
Huntsville	6,065.35 sq.ft.** 6,065.35 sq.ft.** 6,065.35 sq.ft.**	0 0 0
Jester I	0	7,500 sq.ft. (1)
Jester II	0	9,755 sq.ft. (1)
Jester III	9,755 sq.ft. (1)	0
Mountain View	6,419 sq.ft. (1)	0

<u>UNIT</u>	<u>EXISTING GYMS</u>	<u>PROPOSED GYMS</u>
Pack I	9,755 sq.ft. (1)	0
Pack II	9,755 sq.ft. (1)	0
Ramsey I	8,394 sq.ft. (1)	9,755 sq.ft. (1)
Ramsey II	9,246 sq.ft. (1)	0
Ramsey III	9,755 sq.ft. (1)	0
Retrieve	7,921 sq.ft. (1)**	0
Wynne	0	22,680 sq.ft. (1)* 9,755 sq.ft. (1)

* Currently under renovation or construction

** Requested funding for renovation of existing facilities

Others requested funding for construction or renovation '86-'87