UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EVERETT HADIX, et al.,

Plaintiffs,

v.

PERRY JOHNSON, et al.,

Defendants.

Case No. 4:92-CV-110

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PLAINTIFFS' PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW

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I. PROCEDURAL BACKGROUND AND ISSUES PRESENTED

1. This class action challenging conditions of confinement within Michigan's oldest and largest prison resulted in a Consent Decree addressing fire safety, among a number of conditions of confinement. Consent Decree, May 13, 1985 (E.D. Dkt. 199); Order Accepting Consent Decree Judgment, May 13, 1985 (E.D. Dkt. 213).

2. Over time, certain issues in this case were transferred from the Eastern District of Michigan to this Court. Among the issues transferred to this Court were medical and mental health issues. Order of Transfer, June 5, 1992 (E.D. Dkt. 835). In addition, fire safety issues involving the Egeler and Parnall facilities were transferred to this Court. Order of Transfer, March 18, 1999 (E.D. Dkt. 1342) (Egeler); Order of Transfer, Nov. 15, 2000 (E.D. Dkt. 1432) (Parnall).

3. Following the transfer of the fire safety issues at Egeler, but prior to the transfer of the same issues at Parnall, the Court held a hearing on Defendants' motion for termination of injunctive relief pursuant to the Prison Litigation Reform Act ("PLRA"), 18 U.S.C. § 3626(b). The Court thereafter issued findings in which it concluded that Defendants' failures to address the fire safety dangers at the Egeler Facility had resulted in current and ongoing constitutional violations. Findings of Fact and Conclusions of Law, Feb. 18, 2000 ("2000 Findings") at 51 (Dkt. 1372).

4. Defendants were also ordered to report on their remedial plans to address fire safety. Order, May 2, 2001 at 4 (Dkt. 1443). In response, Defendants failed to propose any remedy for the fire safety violations. Defs.' Report of Their Remedial Plans for Fire Safety, Temperature and Ventilation and Facility A, June 8, 2001 at 2 (Dkt. 1445).

5. The Court held a subsequent fire safety hearing involving both the Egeler and Parnall facilities in May 2002. Following those hearings, the Court found a constitutional violation with regard to the lack of fire safety in Blocks 1-3 and 7 of the Egeler Facility and Block 8 of the Parnall facility. Findings of Fact and Conclusions of Law, Oct. 29, 2002 ("2002 Findings") at 263 (Dkt. 1658).

6. The Court again ordered further submissions on the appropriate remedy for the constitutional violation with regard to fire safety. 2002 Findings at 264 (Dkt. 1658). Defendants again responded without proposing any remedy for the fire safety problems. Defs.' Br. Regarding Alternatives to Compartmentalization to Remedy Alleged Fire Safety Problems and Risks, Dec. 30, 2002 (Dkt. 1687); *see also* Defs.' Reply to Pls.' Resp. to Defs.' Br. Regarding Alternatives to Compartmentalization to Remedy Alleged Fire Safety Problems and Risks, Feb. 18, 2003 (Dkt. 1694).

7. On Feb. 25, 2003, the Court issued an injunction, noting the following:

> The very substantial failures of these facilities to allow for timely egress in the event of a fire, to exhaust smoke, to sprinkle fire, and to unlock doors means, simply, that many inmates in each facility would likely suffer smoke inhalation or death in the event of fire. Simply put, these risks are grave and unacceptable.

Injunction, Feb. 25, 2003 at 1-2 (Dkt. 1696).

8. The Court ordered Defendants to implement the break-up plan developed pursuant to Section VIII of the Consent Decree, with the additional step of subdividing Egeler so that the exit distance from any cell would not exceed 150 feet. In addition, the Court ordered Defendants to correct the deficiencies previously found in the unlocking systems, exhaust systems and sprinkler systems of Blocks 1-3 and 7-8, or adopt other ameliorative changes that would offer equivalent levels of fire protection. Injunction, Feb. 25, 2003 at 2 (Dkt. 1696).

9. Defendants subsequently filed a plan to address the fire safety violations. That plan included eight elements: reduce travel distances by constructing a horizontal wall with an within each block to divide each block into two smoke compartments; add an electronically operated remote unlocking system within Blocks 1-3, including a control panel at the guard station; add a smoke control system consisting of exhaust fans in each cell block; add sprinklers to unsprinklered areas of the blocks; remove unused transformers and other electrical equipment from the basements of the cellblocks; increase the height of the guardrail on the open side of each tier of cells to 3'6"; remove unenclosed storage areas and laundries; and enclose the laundry area in Block 8. Defs.' Filing Pursuant to the Court's Feb. 25, 2003 Injunction and Request for Stay, Attachment 1, Dec. 23, 2003 (Dkt. 1739).

10. Defendants appealed to the Sixth Circuit from the injunction issued by the Court. The court of appeals affirmed in part, reversed in part, and remanded the fire safety issue to this Court, asking the Court to identify the point at which the fire safety deficiencies in the record become constitutional violations. The court of appeals also noted the following:

> [T]his Court was informed at oral argument that Defendants have taken steps to remedy some of the problems noted by the district court, such as removing the dry transformers from the basement and installing additional sprinklers. It is unclear to us whether those remedies are sufficient to cure the constitutional violations at the *Hadix* facilities.

Hadix v. Johnson, 367 F.3d 513, 529 (6th Cir. 2004).

11. Following remand, Defendants completed the installation of additional sprinklers in the cellblocks; removed unused electrical equipment from the basements; increased the guardrail height on the tiers; and removed unenclosed storage areas and laundry facilities while enclosing the Block 8 laundry area. T. 43-44, 5/5/05 (Parties' Stipulation). Notwithstanding

the changes in the laundry facilities, however, significant amounts of loose laundry are still stored without fire-safe enclosures in Block 8. Pls.' Exh. 3B at 19-20 (Walden Testimony).

12. The Court held a hearing on May 5-6, 2005 on whether the lack of fire safety at the facilities violates the Eighth Amendment and, if so, what remedy is necessary to address that violation.

II. BACKGROUND OF THE EXPERTS

A. CURTISS PULITZER

13. Curtiss Pulitzer is a licensed architect with over 29 years of experience in the planning and development of justice facilities in more than 40 states including prisons in Arkansas, Delaware, Florida, Hawaii, Iowa, Maine, Minnesota, New Hampshire, North Carolina, Pennsylvania, Tennessee, Vermont, and the District of Columbia. Mr. Pulitzer has worked on the planning and design of six different reception centers, including both new and renovated facilities. T. 218, 5/6/05 (Pulitzer). *See* Pls.' Exh. 2. Mr. Pulitzer provided credible expert testimony.

B. MICHAEL DIMASCIO

14. Michael DiMascio is an expert in fire protection engineering. He is a registered Professional Fire Protection Engineer. His education includes a degree in civil engineering and an M.S. degree in fire protection engineering. He has experience with large correctional facilities and with older correctional facilities. He is a member of a number of professional organizations, including the Society of Fire Protection Engineers (SFPE), the National Fire Protection Association (NFPA), the Building Officials and Code Administrators (BOCA), NFPA 921 Technical Committee (Guide for Fire and Explosion Investigators) (Past Member),

and the NFPA 101, Code for Safety to Life from Fire in Buildings and Structures, Subcommittee on Detention and Correctional Occupancies. *See* Pls.' Exh. 1A; Finding 52 at 12, 2002 Findings. Mr. DiMascio provided credible expert testimony.

C. JERRY WALDEN, M.D.

15. Jerry Walden graduated from the University of Michigan Medical School and is certified by the American Board of Family Physicians. He is the founder and executive director of the Packard Community Clinic. His previous positions include serving as Chief Medical Officer of the U.S. Penitentiary in Terre Haute, Indiana. He was selected by the Michigan Academy of Family Physicians as the Family Physician of the Year in 2000. He has testified as an expert witness in a number of cases, and has served as the Plaintiffs' expert witness in this case since 1999. Pls.' Exh. 3A at 1-2 (Walden *Curriculum Vitae*); *see also* Pls.' Exh. 3B at 2-3 (Walden deposition). Dr. Walden provided credible expert testimony.

D. ELIZABETH J. FERGUSON

16. Elizabeth J. Ferguson is Plaintiffs' expert in aging and disability systems, programs and services. She has testified for Plaintiffs on prior occasions in this case and has previously provided expert testimony regarding aging and disabilities service systems. Finding 45 at 11, 2002 Findings; Finding 27 at 5, 2000 Findings. Ms. Ferguson provided credible expert testimony.

E. WAYNE CARSON

17. Wayne Carson's expert testimony was less credible than that of Mr. DiMascio because Mr. Carson primarily analyzed only code compliance and did not seriously consider the implications of Prof. Mowrer's model in the context of the specific characteristics of the

population of these facilities and their expected evacuation times.

III. PHYSICAL DESCRIPTION OF BLOCKS

A. BLOCKS 1, 2 AND 3

18. The cells in Blocks 1-3 are arranged back-to-back in the center of the block and face the outer walls. *See* Pls.' Exh. 23.

19. Blocks 1-3 are approximately 276 feet long by 59 feet wide by 42 feet high. Finding 1387 at 255, 2002 Findings.

20. The ceiling height in Blocks 1-3 is 51 feet. Finding 1398 at 257, 2002 Findings.

21. There are also 16 cells for the disabled and 24 Quarantine cells in Block 1. The Quarantine cells have solid doors with a food slot and must be individually unlocked. Some of the cells for the disabled are singles; others are doubles. T. 222, 5/6/05 (Pulitzer); T. 26-27, 5/5/05 (Fushi); T. 249, 250, 5/6/05 (Ferguson); T. 329, 5/6/05 (Hughes).

B. BLOCK 7

22. Block 7 is a five-story open structure with five tiers of cells on either outside wall facing each other across an open common area. It is 362 feet long by 59 feet wide by 51 feet high. The block contains approximately 19,000 square feet. Finding 1388 at 255, 2002 Findings.

23. The galleries are about three feet wide and have a pinch point, a narrowing of the gallery to 20 or 24 inches wide. T. 252, 5/6/05 (Ferguson); Pls.' Exh. 3B at 16, 18 (Walden Testimony).

24. The atrium in Block 7 has fixed chairs and tables. Pls.' Exh. 3B at 14; T. 252, 5/6/05 (Ferguson).

C. BLOCK 8

25. Block 8 is approximately 287 feet long by 51 feet high. Finding 1185 at 219, 2002 Findings (75 feet shorter than Block 7). Like Block 7, Block 8 is a five-story open structure with five tiers of cells on either outside wall facing each other across an open common area. Finding 1388 at 255, 2002 Findings.

26. The galleries in Block 8 are also between 30 and 36 inches wide and have pinch points at the center of each which measure 24 inches wide. Pls.' Exh. 3B at 16, 18.

D. OTHER AREAS

27. The laundry has a posted exit route that terminates on the first floor rather than outside the building. T. 312-13, 5/6/05 (DiMascio).

28. The metal factory lacks a proper chemical storage and dispensing area. T. 312, 5/6/05 (DiMascio).

IV. PRISONER CHARACTERISTICS

A. EGELER

1. CLASSIFICATION

29. Prisoners in Blocks 1-3 are undergoing admission screening, including medical screening. Pls.' Exh. 3B at 21-22.

30. Prisoners in Block 7 have completed their admission screening and are awaiting transfer to their institutional assignment. Pls.' Exh. 3B at 22.

31. Block 1 contains a group of cells on Base on the south side that are called Quarantine cells. These cells are used for segregation and for prisoners with medical problems. Suicidal prisoners are commonly housed there. Pls.' Exh. 3B at 7-8.

32. Information gained through the intake history and physical examination is relevant to making housing decisions. Pls.' Exh. 3B at 32.

33. Prisoners frequently do not provide their history or receive their physicals for fifteen days. Pls.' Exh. 3B at 32-33. Pls.' Exh. 5 at 3 (PD-03.04.100 (2/14/05)).

34. On average, 243 prisoners enter the reception process at Egeler each week. Pls.' Exh. 46 at 5 (Resp. No. 11).

35. Defendants estimate that healthy prisoners without special needs are transferred from Egeler within 30 days. Pls.' Exh. 46 at 5 (Defs.' Resp. to Interrog., 12/1/04, No. 12). Policy provides that intake processing shall normally be completed within four weeks of arrival at Egeler. Pls.' Exh. 6 at 7 (PD-04.01.105 (2/14/05)).

36. Prisoners with serious health problems who remain for more than thirty days are typically housed in Block 7. T. 218, 5/6/05 (Pulitzer). *See* Pls.' Exh. 46 at 5 (Defs.' Resp. to Interrog., 12/01/04, Nos. 11, 12); Pls.' Exh. 7B (RGC processing information).

2. HEALTH CHARACTERISTICS

37. Prisoners are much more likely than would be members of the general public to meet the criteria for enrollment in a Chronic Care Clinic. Pls.' Exh. 3B at 34-35.

38. With minor exceptions, a prisoner must have a serious medical condition to qualify for enrollment in a Chronic Care Clinic. For example, the criteria for enrollment in the Cardiac Chronic Care Clinic are cardiomyopathy, coronary artery disease, dysrhythmia or cardiac arrhythmia, congestive heart failure, valvular heart disease, peripheral vascular disease or other circulatory diseases. Pls.' Exh. 3B at 35-37.

39. All of these are serious diseases in that they are potentially life-threatening and entail a

high rate of morbidity, even though individual cases vary in their degree of severity. Pls.' Exh. 3B at 37.

40. Most of these diagnoses require medical monitoring, attention to vital signs and medical history, attention to weight, and attention to laboratory data. Pls.' Exh. 3B at 38.

41. Most of the people in the Chronic Care Clinics are on medication and have a significant disorder. These are sick people. Pls.' Exh. 3B at 146-47.

42. Many prisoners in the *Hadix* facilities suffer from chronic diseases. Moreover, those serious medical conditions are not always identified by the health staff. Indeed, in a sizable percentage of instances in which prisoners in the *Hadix* facility died of disease, the prisoner had not been placed in a Chronic Care Clinic to address his health needs. Pls.' Exh. 3B at 39-40.

43. Approximately twenty (20%) percent of the population in Egeler is enrolled in a Chronic Care Clinic. This percentage does not include those persons who have yet to receive their history and physical, and therefore have yet to be evaluated for enrollment. Pls.' Exh. 3B at 32-33; Pls.' Exh. 46 at 5.

44. In light of the fact that physicals are frequently not completed until the prisoner's fifteenth day in Egeler, and that Defendants estimate the average stay in Egeler at 30 days, the percentage of prisoners who qualify for a Chronic Care Clinic is necessarily higher and may be significantly higher. Pls.' Exh. 3B at 98.

45. Parole violators who have been out of prison for one year or less do not receive new history and physical examinations. The policy that excludes parolees returning to prison within a year from the requirement of a new history and physical has no exception for parolees

who report new diseases, or who have abnormal vital signs. Pls.' Exh. 5 at 3.

46. The only health appraisal required by policy for parolees returning to prison within a year does not include any physical examination beyond the collection of vital signs and a dental screening and examination. Pls.' Exh. 5 at 3-4.

47. Medical conditions that require diagnosis and treatment can slip through because new histories and physicals are not provided to all prisoners, particularly in light of the high level of disease in the *Hadix* population Pls.' Exh. 3B at 24.

48. The failure to provide physicals to all arriving prisoners is problematic, particularly given the number of substance abusers and dual diagnosis prisoners. T. 220, 5/6/05 (Pulitzer).

49. In addition, the fact that new prisoners frequently do not receive their history and physical until the prisoners are almost half-way through their stay in Egeler means that at any given time there are a large number of prisoners whose degree of health risk in the event of a fire has not been fully determined. *See* Pls.' Exh. 3B at 98.

50. There are prisoners in wheelchairs confined in Block 1. Pls.' Exh. 3B at 11.

3. POTENTIAL IMPAIRMENTS TO FIRE PROTECTION AND EGRESS

51. As discussed in more detail below, prisoners with physical problems, including orthopedic problems, neurological problems, cardiac problems, pulmonary problems, diabetics, persons with HIV; the mentally ill; and persons with communicative disabilities or lack of English would have particular difficulties in evacuating the cellblocks. Pls.' Exh. 3B at 25-26.

52. Prisoners at a reception center are entering very unfamiliar surroundings, and are bewildered and uncertain. T. 219, 5/6/05 (Pulitzer).

53. Staff report that there are not enough Base cells available for prisoners who require

such housing for health reasons, and that it can take a month or more for a prisoner with a medical need for Base housing to be moved to Base from another gallery. Pls.' Exh. 3B at 13.

54. Defendants estimate that approximately six prisoners for whom English is a second language go through the classification process each month. Pls.' Exh. 46 at 8 (Resp. No. 19).

55. Prisoners going through the reception process at Egeler sometimes do not understand that they are expected to open the door to their cell when they hear the fire alarm. Pls.' Exh. 21A at 034 (Defs.' Evacuation Drill Reports for 2004).

B. PARNALL

1. CLASSIFICATION

56. Prisoners in Parnall are classified as Level I, the lowest level of custody. T. 95, 5/5/05 (Embry).

2. HEALTH CHARACTERISTICS

57. The sickest and most vulnerable prisoners are concentrated at the *Hadix* facilities. Finding 166 at 31, 2000 Findings.

58. Sixty (60%) percent of prisoners in Block 8 are enrolled in a Chronic Care Clinic, a rate of disease that is radically higher than the rate one would expect in the general population. Pls.' Exh. 3B at 83.

59. For a period of time shortly before trial, there was a prisoner in Block 8 confined to a wheelchair. At the time of trial Block 8 housed a prisoner on crutches. T. 117, 5/5/05 (Hladki).

60. Parnall is not designated as a wheel chair accessible facility. T. 118, 5/5/05 (Hladki).

61. Everyone on Base in Block 8 has a physical limitation that requires them to be on Base. T. 80, 5/5/05 (Meeker).

3. POTENTIAL IMPAIRMENTS TO FIRE PROTECTION AND EGRESS

62. As set forth in more detail below, the large number of prisoners with chronic diseases in Parnall results in significant and unusually high numbers of persons who would be unable to evacuate from the cellblock at a normal speed, and whose difficulties might also impair the evacuation of other prisoners. Pls.' Exh. 3B at 25-26; T. 256, 5/6/05 (Ferguson).

V. OPERATIONAL AND PHYSICAL CHARACTERISTICS, INCLUDING FIRE SAFETY PROVISIONS

A. RISK FACTORS AND CONDITIONS

63. According to Defendants' evacuation diagram of the Base Level of Block 7, if prisoners evacuate from the mid-point of Fourth Gallery and travel in opposite directions, they must travel 246 feet to the farthest exit. Pls.' Exh. 27 at 006.

64. According to Defendants' evacuation diagram of Fourth Gallery of Block 8, if prisoners in Block 8 evacuate from the midpoint of Fourth Gallery of the block and travel in opposite directions, they must travel 258 feet to the farthest exit. Pls.' Exh. 27 at 008.

65. The total distance a prisoner must travel to exit is over 200 feet in all cellblocks. T. 193, 5/5/05 (Carson).

66. There are only two officers in each of the units during the night shift, which places the population at extreme risk in a serious fire situation. The staffing level on the night shift has been reduced from three to two per cellblock. T. 221-22, 5/6/05 (Pulitzer).

67. Prisoners are at greatest risk at night when they must be awakened before they can be evacuated. T. 222, 5/6/05 (Pulitzer).

68. Defendants' staff admitted that a fire at night would result in a longer evacuation time because those in need of evacuation would be sleepy. T. 69, 5/5/05 (Fushi).

69. On the night shift the Resident Unit Manager and other non-custody staff are not likely to be in the housing unit. T. 73, 5/5/05 (Fushi).

70. Even though some support staff can assist in the event of a fire emergency, to do so they must travel substantial distances, between 600-800 feet, to the facility. Back-up staff would have to travel to the control center to get extra emergency keys and then return a distance of 600-800 feet to assist in opening cells. T. 222, 224, 5/6/05 (Pulitzer); *see also* Pls.' Exhs. 25 and 26.

71. When prisoners arrive on Base during an evacuation in Egeler, staff must open doors to let them out into the yard. T. 226, 5/6/05 (Pulitzer).

72. There is not enough room to pass another person on the stairs in Block 7. Pls.' Exh. 3B at 16-17, 19.

73. There is also not enough room to pass another person on the stairs or the pinch points in Block 8. Pls.' Exh. 3B at 16-17, 19. Assistant Resident Unit Manager Ronald Embry confirmed that it would be difficult if someone were attempting to go up the stairs while people were exiting. T. 98, 5/5/05 (Embry).

74. The risks are not limited to the persons with a disability or other problem. If one of these prisoners fell, or had a condition that caused him to move more slowly than others, then other prisoners would be placed at increased risk of harm. T. 256, 5/6/05 (Ferguson); *see also* Pls.' Exh. 3B at 145.

75. Although the changes in the handrails are an improvement, it would still be possible to slide under them and off the gallery. Pls.' Exh. 3B at 17.

76. The stairs in all the cellblocks lack non-skid coverings and feel somewhat slippery. This is especially true of Block 1. Pls.' Exh. 3B at 9.

77. The floor near the shower in Block 2 was wet and slippery. If and when the sprinklers would go off, the water on the floor would be very slippery. The floors had similar composition in each of the housing units. T. 251, 253, 5/6/05 (Ferguson).

78. The gallery in Block 7 feels slippery, even without any possible water from a sprinkler. Pls.' Exh. 3B at 16.

79. The terrazzo floor in Block 7 is highly polished and a bit slippery. About a third of the open space in the atrium in Block 7 is occupied by square tables set at an angle that are bolted to the floor. There are about ten feet of unencumbered space on each side of the tables. Pls.' Exh. 3B at 14.

80. The fixed chairs and tables in Block 7 could become a barrier to evacuation in the event of an emergency. T. 252, 5/6/05 (Ferguson).

81. Prisoners in Egeler undergoing the reception process are allowed to keep their personal legal property, which includes books, pleadings, documents and correspondence. Qualifying legal property is permitted without limitations in amount. In addition, prisoners in Egeler for reception processing are allowed religious items other than reading material, personal addresses, prescription glasses, and medically necessary items. Pls.' Exh. 6 at 2 (PD-04.01.105 (2/14/05)); Pls.' Exh. 19 at 3-4 (PD-04.07.112 (11/15/04)).

82. A number of prisoners at Egeler receive medical accommodations that would increase the fuel available in a fire. These accommodations include Prisoners the following: cotton blanket (133045); cotton blanket (136057); mattress (136169); cotton blanket (152363); non-wool blanket (168576); extra sheet (190524); extra sheet (197090); extra pillow (200156); extra bedding (unspecified) (207303); extra sheet (220836); cotton blanket (231840); extra pillow (233507); sheets (234899); cotton blanket (245575); sheet (249428); extra pillow

(257849); sheet (266171); cotton blanket (269530); sheet (271373); extra bedding (unspecified) (341839); sheet (361175); sheet (380243); blanket (449279); sheet (494020); and extra sheet (510124). Pls.' Exh. 39A.

83. At the time of Plaintiffs' expert tour on March 18, 2005, there was a pile of laundry in a laundry bin near the laundry room in Block 8. The laundry pile was approximately three feet by six feet by four feet. Pls.' Exh. 3B at 19-20.

B. FIRE PROTECTION AND ALARM SYSTEMS

84. Each sprinkler head activates individually. The sprinkler head is designed to activate when its heat sensor is exposed to a temperature of 135-265° Fahrenheit. Pls.' Exh. 3B at 12-13.

85. In a fire in December 2004 that resulted in prisoner and staff injuries, the prisoner tampered with the sprinkler, and it did not activate. Pls.' Exh. 33A-8 (videotaped staff report following the fire in Block 1 South on 12/13/04).

86. It is not difficult to incapacitate a sprinkler. T. 308, 5/6/05 (DiMascio).

87. Recent fires in the cellblocks were not discovered by smoke detectors and there was no evidence that any such detectors are actually functioning in a manner that contributes to fire safety. *See* Pls.' Exh. 33A-2 at 006, 010, 012; T. 89, 5/5/05 (Meeker); T. 341-43, 5/6/05 (Davidson); *see also* Pls.' Exh. 33B-1 (fire incident report does not check that fire detection or alarm equipment activated).

C. UNLOCKING MECHANISMS

88. Cell doors in Blocks 1-3 do not open automatically or electronically. The only electronic release operates on expanded metal gates at the end of each gallery. These doors are

electronically opened from the control center only. A key lock is also provided on the end doors of each gallery with every officer having a key to open the doors manually in case of electronic failure. Pls.' Exh. 28 (Attachment 25 to Defs.' Resp. to Interrogatories, 12/1/04); *see also* Pls.' Exh. 46 at 9-10 (Defs.' Resp. to Interrogatories, 12/1/04).

89. There are 20 breaker boxes in each cellblock in Blocks 1-3. These breaker boxes must be operated to unlock all the cells. Two of the breaker boxes are on each of the five levels on each side. Within each box a breaker bar must be attached and then turned manually to open half the cells on that side of that level. T. 223-24, 5/6/05 (Pulitzer).

90. The cell doors in Blocks 1-3 are opened in an emergency by a manual gang release at the end of each gallery. Each manual gang release breaker will open one-half of a gallery. Cell doors can also be opened manually by using a cell key to open each door one at a time. Pls.' Exh. 28 (Attachment 25 to Defs.' Resp. to Interrogatories, 12/1/04); *see also* Pls.' Exh. 46 at 9-10 (Defs.' Resp. to Interrogatories, 12/1/04).

91. Staff in Block 1 indicated that using the breaker bar to open the locks on each gallery individually might work as well or better than having the gallery locks opened from the control center. Pls.' Exh. 3B at 11-12.

92. A fire drill report for Block 3 dated October 5, 2004 notes the following: "Several prisoners did not open their cell doors when brakes were thrown so had to be keyed out by the SCBA [self-contained breathing apparatus] teams. It appears that newer prisoners did not know if this was a fire drill or al[a]rm was for lockdown." Pls.' Exh. 21A at 034.

93. The process for opening cells doors in each of Blocks 1-3 requires opening twenty separate breaker boxes on the galleries. The same process is required in Blocks 7 and 8. In

Blocks 7 and 8 there are also electronic release mechanisms in a control center in a separate building that can open cell doors one at a time, or by sections. Pls.' Exh. 28; *see also* Pls.' Exh. 46 at 9-10.

94. Blocks 7 and 8 also resemble Blocks 1-3 in having breaker box release systems that must be opened at 20 separate locations. In Blocks 7 and 8, however, there is a back-up remote control release system. T. 223, 5/6/05 (Pulitzer).

95. If manual release is necessary in Block 7 or 8, a lever in the control box at the end of each gallery must first be thrown to switch the electric release system off. A manual release lever must then be thrown at the end of each gallery to open a group of cell doors at a time. Individual cells can also be opened manually by using a "T" handle bar located in each control box. Pls.' Exh. 28; *see also* Pls.' Exh. 46 at 9-10.

96. The group override unlocking mechanism in Block 8 does not work when the cells are placed on the "closed mode"; even if it worked, it is potentially unsafe to have the only remote release system outside the block. Pls.' Exh. 26 at 004.

97. Neither the Quarantine cells nor the cells for the disabled can be operated by the breaker bar system, but must be individually unlocked. T. 223, 5/6/05 (Pulitzer);

98. The locking mechanisms frequently break down and fail to open cell doors and other cellblock locks. These lock failures involve both the doors of individual cells and locking mechanisms for groups of cells. *See generally* Pls.' Exh. 32.

99. Between January 1, 2004 and November 18, 2004, there were 18 locking mechanism failures affecting one or more cells in Block 1. At least two of these failures affected groups of cells. One of these failures was not repaired for 89 days. Pls.' Exh. 32 at 1 (summary exhibit);

Pls.' Exh. 30 (Work Orders Tracking Report).

100. Between January and November 2004 in Block 1 North, ten (10%) percent of all the locks were out of service, some for as long as two months; in Block 2 North approximately fifteen (15%) percent of all the locks were out of service. T. 231-32, 5/6/05 (Pulitzer). *See* Pls.' Exh. 30.

101. Between January 1, 2004 and November 18, 2004, there were 39 locking mechanism failures affecting one or more cells in Block 2. At least thirteen of these failures affected groups of cells. One of these failures was not repaired for 80 days. Pls.' Exh. 32 at 1-2; Pls.' Exh. 30.

102. Between January 1, 2004 and November 18, 2004, there were 49 locking mechanism failures affecting one or more cells in Block 3. Eighteen of these failures affected groups of cells. One of these failures was not repaired for 79 days. An outside door that would not unlock was not repaired for ten days. Three locking mechanisms affecting groups of cells were not repaired for over a month. Pls.' Exh. 32 at 2-3; Pls.' Exh. 30.

103. Defendants' lock repair records for Block 7 are incomplete and contain too little information to evaluate. *Compare* Pls.' Exh. 30 at 15-17 (Block 7) *to* Pls.' Exh. 30 at 1-14 (Blocks 1-3). Moreover, Defendants' fire drill records for Block 7 contain notes indicating that two locking mechanism failures were discovered during fire drills, but there is no entry in Defendants' lock repair records indicating that any locking problem was reported on the date of the fire drills, or shortly following that date. *Compare* Pls.' Exh. 21A at 011, 021 *to* Pls.' Exh. 30 at 15-17. Accordingly, the preponderance of the evidence suggests that Block 7 experiences locking mechanism problems at a rate similar to that of the other cellblocks.

104. In the period January 1, 2004-February 23, 2004, there were 22 locking mechanism failures affecting one or more cell in Block 8. Four of these failures affected groups of cells, and one failure affected all cells. One of these failures was not repaired for 103 days. Pls.' Exhs. 32 at 4 (summary exhibit); Pls.' Exh. 29 (Block 8 Maintenance Service Requests).

105. The severe problems with the locking system are not new. A substantial number of the cell locking mechanisms did not work in 2002. Finding 1385 at 225, 2002 Findings.

106. Mr. Pulitzer testified that in his experience he has never seen a locking system as badly deteriorated as the system in Blocks 1-3 that was not replaced as a matter of course. T. 232, 5/6/05 (Pulitzer).

107. The level of lock repair problems, particularly at the Egeler Facility, is shocking; the locking system has outlived its usefulness. T. 231-32, 5/6/05 (Pulitzer).

D. FIRE DRILLS AND SIGNAGE

108. Fire drills are important to familiarize both staff and prisoners with the process of evacuation in a threatening situation. T. 229-30, 5/6/05 (Pulitzer).

109. Only mock drills are conducted at night when there are the fewest number of staff. T. 229, 5/6/05 (Pulitzer).

110. MDOC reports do not identify which fire drills involve actual prisoner evacuation. T. 28-29, 5/5/05 (Fushi).

111. It is not possible to tell from the fire drill reports how many prisoners were in the housing unit. Prisoners might have been out of their cells at the time. T. 206, 5/5/05 (Carson).

112. There is no way to tell from the fire drill reports how many prisoners are in the Quarantine cells at the time of the drill. T. 28-29, 5/5/05 (Fushi).

113. Necessary qualitative operational information is not contained in the evacuation reports other than a fire drill happened in a particular block. T. 229, 5/6/05 (Pulitzer).

114. Since no drills are being done at night, the validity of the times shown in the reports in comparison to the time an actual evacuation would take is very questionable. T. 230-31, 5/6/05 (Pulitzer).

115. There are conflicting interpretations of what the evacuation times recorded in the fire drills refer to, which make such times suspect. T. 228-29, 5/6/05 (Pulitzer).

116. In the Egeler Facility, given the turnover rate, the fact that a fire drill is done quarterly on each shift, and that 1000 prisoners are coming into the facility per month, it is likely that many prisoners will never have participated in a fire drill. T. 229-30, 5/6/05 (Pulitzer).

1. BLOCK 1

117. During a routine fire drill, the prisoners in Block 1 South Quarantine area are not released from the block. T. 110, 5/5/05 (Denman).

118. Fire drills in Block 1 have taken up to 16 minutes to complete. Pls.' Exh. 21A at 033 (evacuation drills reports).

119. Diagrams for evacuation routes in Blocks 1 and 2 of the Egeler Facility indicate that prisoners are to travel the entire length of their gallery to exit. *See* Pls.' Exh. 27 at 002, 003.

120. As of March 18, 2005, the posted evacuation signs in Block 1 were upside down, so that it was difficult to determine where the reader was. Pls.' Exh. 3B at 4, 6; T. 250, 5/6/05 (Ferguson).

121. In addition, the evacuation drawing posted on the south side of Block 1 indicated that prisoners were to evacuate in the opposite direction from the direction indicated in the

evacuation sign posted on the north side, which was confusing. Pls.' Exh. 3B at 9.

122. Fire drills in Block 1 use only one exit, although in an actual fire staff and prisoners would be expected to use an additional exit. Pls.' Exh. 3B at 6-7.

2. BLOCK 2

123. Fire drills in Block 2 have taken up to 15 minutes to complete. Pls.' Exh. 21A at 002.

124. The posting evacuation notices in Block 2 were confusing because the two notices posted on either side of the cellblock conflicted and sent prisoners along different evacuation routes. Pls.' Exh. 3B at 10; T. 250, 5/6/05 (Ferguson).

3. BLOCK 3

125. Fire drills in Block 3 have taken up to 20 minutes to complete. Pls.' Exh. 21A at 025.

126. Staff outside Block 3 who are expected to respond in a fire drill do not always hear or respond to fire drills. Pls.' Exh. 21A at 007, 019.

4. BLOCK 7

127. Fire drills in Block 7 have taken up to 19 minutes to complete. Pls.' Exh. 21A at 035.

128. Although there are three exits in Block 7, fire drills never practice using two of the exits that might need to be used in the event of an actual fire. Pls.' Exh. 3B at 15; T. 253, 5/6/05 (Ferguson).

129. The posted evacuation notice in Block 7 was confusing. Eugene Fushi, Defendants' Regional Fire Inspector for the Jackson area, could not determine what route the notice directed prisoners to use. Pls.' Exh. 3B at 4, 15-16; T. 253, 5/6/05 (Ferguson); T. 11-12, 5/5/05 (Fushi).

130. Block 7 had a posted evacuation plan that was upside down. MDOC staff

acknowledged that the notice needed to be corrected but stated that these notices were not very important. T. 252-53, 5/6/05 (Ferguson).

5. BLOCK 8

131. Fire drills in Block 8 have taken up to 20 minutes to complete. Pls.' Exh. 21B at unnumbered page 3.

132. Thomas Meeker, a Corrections Officer in Block 8, testified that fire drills are generally conducted by releasing prisoners on Base first. T. 77, 5/5/05 (Meeker). Assistant Resident Unit Manager Ronald Embry confirmed that in fire drills prisoners on Base are usually evacuated first. T. 98-99, 5/5/05 (Embry).

133. In contrast, policy provides that, after the area immediately at risk from fire is evacuated, fire evacuation should start at the top of the cellblock and start down. Pls.' Exh. 10 at 7 (OP-SMT-04.03.120 (2/28/00)); Pls.' Exh. 14 at 10 (OP-SMI/RGC-04.03.120 (8/16/00)); T. 36-37, 5/5/05 (Fushi); Pls.' Exh. 3B at 11; T. 255, 5/6/05 (Ferguson).

134. Officer Meeker also testified that the fire drills do not involve practice on responding to fire drills in different locations within the cellblocks. T. 77, 5/5/05 (Meeker).

135. Ronald Embry, an Assistant Resident Unit Supervisor in Block 8, confirmed that Defendants did not vary the fire scenarios that are practiced in fire drills. T. 81-82, 87, 5/5/05 (Embry).

136. Fire drills should not be routinely conducted in the same way. Because the location of a fire cannot be predicted, staff should practice alternative fire scenarios. T. 18, 5/5/05 (Fushi). The best way to prepare for a real fire is to conduct fire drills in the way staff would be expected to perform in a real fire. T. 99-100, 5/5/05 (Embry).

137. Prisoner aides are expected to evacuate disabled prisoners. T. 99-100, 5/5/05 (Embry).

138. Cell doors are not open in Block 8 during count or at night. Notwithstanding that fact, fire drills are conducted only when the cell doors are open. T. 92-94, 5/5/05 (Embry).

139. In Block 8, most of the time there are four officers and three supervisors involved in a fire drill. T. 99, 5/5/05 (Embry). In contrast, if a fire occurred at night time in Blocks 1-3 or Block 8, only two officers would be in the cellblock. Pls.' Exh. 46 at 1-2 (Defs.' Discovery Resp., 12/1/04 at 1-2).

140. Because of the deficiencies in Defendants' fire drill procedures, the evacuation times reflected in Defendants' fire drill reports are likely to be less than the time of evacuation in an actual fire. (Factual conclusion).

E. OPERATIONAL POLICIES

141. Staffing policies applicable to Blocks 1-3 and 8 assign only two correctional officers to the entire cellblock during the night shift. Pls.' Exh. 46 at 1-2 (Defs.' Resp. to Pls.' Interrogs., 12/01/04, No. 1.)

142. Staff have no practice in attempting an actual evacuation of a block with only two officers. Indeed, staff testified that fire drills in Block 8 involving actual evacuation typically involved four officers and three supervisors. T. 99, 5/5/05 (Embry).

143. Policy requires that, in an evacuation at Egeler, one staff member is to open the cells and the other is to walk the galleries to see if prisoners have evacuated. Pls.' Exh. 12 at 7 (OP-SMN-04.03.120 (10/31/01)). Two officers, however, are required just to open the cells. T. 225, 5/6/05 (Pulitzer).

144. There is no SCBA (self-contained breathing) equipment in the Block 8 housing unit.

This equipment allows rescue of persons trapped in as a result of fire and smoke. *See* Pls.' Exh. 47 (Defs.' Resp. to Interrogatories, No. 6); Pls.' Exh. 10 at 5, para. 23 (PD-04.03.120 (10/13/97)).

145. There are a total of four staff who could assist the two officers on the 10-6 shift in Block 7. *See* Pls.' Exh. 24 at 001, Pls.' Exh. 47 (Defs.' Resp. to Interrogatories, No. 8).

146. The greatest concern with Defendants' fire drills is that, by policy, only mock drills are conducted at night, when there are the fewest number of staff. T. 229, 5/6/05 (Pulitzer).

147. Mock drills are inadequate to prepare for a real fire emergency, particularly in light of the limited staffing on the night shift. T. 221, 5/6/05 (Pulitzer).

148. By policy, disabled prisoners on Base in Block 7 are assisted in an actual evacuation only after the majority of the other prisoners have actually evacuated from the block. Policy does not address assistance to disabled prisoners who are not on Base. *See* Pls.' Exh. 14 at 10, para. 6 (OP-SMI/RGC-04.03.120 (8/16/00)).

149. Policy requires that the Prisoner Guidebook is to include training in the event of a fire. The Guidebook contains one paragraph of instructions which is limited to informing prisoners to learn the posted evacuation routes, listen to instructions, and crawl under the smoke to an exit. *See* Pls.' Exh. 9 at 1, para. 6 (PD-04.03.120 (10/13/97)), Pls.' Exh. 22 at 6 (Emergency Fire Guidelines for Prisoners).

150. Good practice requires that the regional fire administrator or inspector makes the decision regarding when fire drills occur. The fact that the Resident Unit Manager makes these decisions calls into the question the validity of the drills. T. 234, 5/6/05 (Pulitzer).

F. STAFF PERFORMANCE

151. Parnall Operating Procedure requires that in an evacuation cells are to be unlocked

from the top of the block down. *See* Pls.' Exh. 10 at 7 (OP-SMT-04.03.12 (2/28/00). This policy is routinely ignored. In fact, Defendants presented staff testimony that this policy is not followed. T. 77, 5/5//05 (Meeker); T. 98-99, 5/5//05 (Embry).

152. The Operating Procedures at Egeler require that the cells occupied by disabled prisoners be specially identified with a blue card, as follows:

> Handicapped prisoners are located within Housing Units, 1, 2, and 3, C-Unit and Duane Waters Hospital (DWH). The handicapped prisoners are identified by a blue card at the master count board in the housing unit and also by a 1"x1" blue card with an "H" stamped on it attached to the name tag on individual cells.

Pls.' Exh. 12 at 2 ("Fire Control and Emergency Evacuation," OP-SMN-04.03.120 (10/31/01)).

153. None of the cells for the disabled on the North Side of Block 1 has a blue tag as required by policy. T. 250, 5/6/05 (Ferguson).

154. In Block 2, a number of frail prisoners were in cells that did not have blue tags. These included at least two crutch users, one prisoner using a cane, and one prisoner who was blind. T. 250, 5/6/05 (Ferguson).

155. The duties of the officers during the emergencies, such as dealing with a fire, could prevent them from assisting prisoners with disabilities who might need assistance because of visual or physical handicaps, or because that prisoner had become disoriented. Such delays would add risk for people with compromised respiratory systems. T. 255, 5/6/05 (Ferguson).

156. Using prisoner aides to assist in evacuating prisoners with mobility problems is unacceptable. Prisoner helpers cannot be relied upon in a fire situation, because the aides will be fending for themselves. Good practice and the Department's policy require that in a fire situation staff assistance must be available. T. 226-27, 5/6/05 (Pulitzer); *see also* Pls.' Exh. 12 at 7 (OP-SMN-04.03.12 (2/28/00)).

VI. FIRE CODE COMPLIANCE

A. BUILDING AND FIRE PREVENTION CODES

157. Defendants' mechanical engineering expert David Sproul accepted the findings of Rosser Fabrap, the architecture and engineering firm retained by the State of Michigan, that:

> . . . all of the cell blocks at Egeler violate the "means of egress" requirement of the [Building Officials Code Administrators] ("BOCA") Code; the stairs that would be used for evacuating the cell blocks in Egeler are inadequate in size, enclosure, location, and discharge; and the five-story mezzanine design in the Egeler cell blocks violates the atrium requirement in the BOCA Code.

Findings 1296, 1298 at 242, 2002 Findings.

158. The BOCA Code would not permit a five-tiered cellblock such as those at Egeler or Parnall. Finding 1393 at 256, 2002 Findings.

159. The BOCA Code permits a ceiling height up to 23 feet as long as one of the exits does not require prisoners to descend stairs for more than 23 feet. The BOCA ceiling height requirement serves to reduce the number of people at risk. The intent of the ceiling height requirement is to assure compartmentalization, reducing the population at risk from a fire in a particular unit and assuring that prisoners can move horizontally to the next unit in the event of fire, rather than being required to negotiate distances in excess of what is permitted by the Code. Finding 1399 at 257, 2002 Findings.

B. LIFE SAFETY CODE AND ITS EQUIVALENCY

160. Defendants must combine consideration of the needs of the population, adequacy of staffing, operating procedures for evacuation that are understood, and applicable fire codes. The totality of these factors must go into the planning and design of the *Hadix* facilities. T. 221, 5/6/05 (Pulitzer).

161. Defendants stated in their State Prison of Southern Michigan Egress Report dated

December 12, 2003, that:

> Section 15-3.1.3 of the [Life Safety Code] allows multi-tiered open cell blocks to be considered a single story building if the cell block is provided with a smoke control system *and* the entire cell block is provided with fire protection.

(Emphasis added). Pls.' Exh. 50 at 7 (Defs.' Plan).

162. Blocks 1-3 and 7-8 do not have a smoke control system as such a system is defined by the applicable codes. Findings 1404-05 at 258, 2002 Findings.

163. The distance a prisoner must travel in 1-3 Blocks and 7-8 Blocks to exit the block exceeds the maximum travel distance of 150 feet permitted by the Life Safety Code. Finding 1391 at 256, 2002 Findings.

VII. ACTUAL FIRE EXPERIENCE IN THE CELL BLOCKS

164. In the history of the *Hadix* facilities, multiple fires have been fairly common. T. 227, 5/6/05 (Pulitzer).

165. The history of serious riot conditions in other prisons must also be taken into consideration in developing a fire safety system. For example, in the Attica riot, the New Mexico penitentiary riots, and the Camp Hill riots in Harrisburg, Pennsylvania, there was an effort on the part of prisoners working together to set simultaneous fires. T. 227-28, 5/6/05 (Pulitzer).

166. Department policy recognizes that prisoners may be in control during a fire and that fire suppression forces may need to retreat for security reasons. *See* Pls.' Exh. 14 at 5, para. 15 (OP-SMI/RGC-04.03.120 (8/16/00)).

167. A prisoner on First Gallery of Block 8 ignited a few papers and a sheet in a trash can, then placed his mattress over the fire. There was so much smoke produced by this fire that a prisoner in a cell on the other side of the atrium from the fire could not see the cell directly

across from him. Finding 1416 at 260, 2002 Findings.

168. A Carolina jail experienced a catastrophic fire with loss of life. Like the *Hadix* facilities, that jail had manual locks on the cells and was configured in a linear fashion, although it also differed from the *Hadix* facilities in lacking sprinklers or a tier design. T. 234-35, 5/6/05 (Pulitzer).

169. Since December 2004, the Parnall and Egeler facilities have experienced two fires resulting in a total of four injuries to prisoners or staff. One of the injured prisoners was recorded to have a level of carbon monoxide in his blood high enough to be associated with some fatalities. *See* §§ VII.A. and VII.B, *infra.*

A. DECEMBER 2004 FIRE IN BLOCK 1

170. On December 13, 2004 Prisoner No. 228931 set a fire in his cell (14-B-1) in the Quarantine Area on the south side of Block 1, also referred to as the detention area or the Special Housing Unit. Pls.' Exh. 33A-1 (Fire Incident Report), Pls.' Exh. 33A-3 at 2 (Major Misconduct Report). This cell had a solid front. T. 34-35, 5/5/05 (Fushi); 33A-8 (videotaped staff report regarding this fire).

171. This fire was set by a prisoner who disabled the sprinkler in his cell. Pls.' Exh. 33A-8 at 54:47 (videotaped staff report).

172. At the time this fire started, there were about six prisoners on the Base Level of Block 1 South. T. 330, 5/6/05 (Hughes).

173. There was an extremely large amount of black smoke coming out of Cell 14-B-1. Pls.' Exh. 33A-2 at 14 (Critical Incident Participant Report).

174. Prisoner 185558 was in Cell 18-B-1, two doors down from this fire. Pls.' Exh. 33A-6 at 8 (emergency room intake history). Cell 18-B-1 has a solid front door with a food slot in the

middle. T. 327-28, 5/6/05 (Hughes). The smoke came into his cell through the crack of the door; there were no vents in his cell. T. 329, 5/6/05 (Hughes).

175. The prisoner who set the fire was moved several cells down, from Cell 14 to Cell 3, but not evacuated. Pls.' Exh. 33A-2 at 1 (Critical Incident Report). *See also* Pls.' Exh. 33A-2 at 6 (Critical Incident Participant Report); Pls.' Exh. 33A-8 (videotape of events after the cell extraction).

176. The Base Level on the south side was not released by the officer evacuating the other prisoners in Block 1. In the officer's report, he notes that when the block alarm sounded, he released the breaker bars to allow the evacuation of prisoners from first through fourth galleries. There is no reference to releasing the prisoners on Base ("I broke first thru forth [sic] galleries to get prisoners out of the building"). Pls.' Exh. 33A-2 at 10 (Critical Incident Participant Report), *see also* T. 332-33, 5/6/05 (Hughes).

177. At trial, Defendants did not contest the fact that the Quarantine cells on the Base Level of Block 1 South were not evacuated with the rest of the block as a result of this fire. *See* T. 35, 5/5/05 (Fushi).

178. It is notable that the housing area not evacuated in this fire is the same area that staff never practice evacuating in fire drills. T. 110, 5/5/05 (Denman).

179. As a result of this fire, one staff member was transported first to Duane Waters Hospital Emergency, and then to the civilian hospital within twenty minutes of the fire. Pls.' Exh. 33A-2 at 2, 8 (Critical Incident Report); Pls.' Exh. 33A-5 (Waters Hospital Emergency Room Log).

180. Two prisoners in the immediate area of the fire (228931 and 185558) were taken to Duane Waters Hospital for medical treatment several hours later, after the prisoners who had been evacuated returned. T. 327-28, 332-33, 5/6/05 (Hughes); Pls.' Exh. 33A-5 (Waters

Hospital Emergency Room Log).

181. Prisoner 228931 (Cell 18-B-1) was taken from Block 1 at 19:30 (7:30 p.m.) and Prisoner 185558 (Cell 18-B-1) at 19:40 (7:40 p.m.). Pls.' Exh. 33A-4 at 2 (Housing Unit Log). The prisoners were logged into the Emergency Room at 19:51 and 19:50, respectively, for smoke inhalation. Pls.' Exh. 33A-5 (Waters Hospital Emergency Room Log).

182. Prisoner 185558 was diagnosed as having exogenous bronchospasms, secondary to smoke inhalation and was provided an inhaler. Pls.' Exh. 33A-6 at 5 (12/14/04 entry); T. 334, 5/6/05 (Hughes).

183. Prisoner 185518 was tested for carboxyhemoglobin level approximately two hours after the fire. At that time, his tested level was 3.8, a level associated with some fatalities from carbon monoxide inhalation. Pls.' Exh. 1C at 8-13 (NFPA Fire Protection Handbook, Ch. 8, §2); Pls.' Exh. 33A-6 at 110.

184. Since the time of the fire Prisoner 185518 has used an inhaler, prescribed because his physical examination noted wheezes in his lungs. Pls.' Exh. 33A-6 at 005-06 (medical records); Pls.' Exh. 3B at 119-20.

185. Defendants' critical incident reports regarding this fire are not reliable. Although Defendants claim to have evacuated Block 1 within seven minutes, in fact the Quarantine cells were not evacuated for approximately two hours, if at all. Moreover, the Defendants' Fire Incident Report indicates that the Control Center was notified before the fire began. *Compare* Pls.' Exh. 33A-1, 33A-2, 33A-3 at 001-002 *to* Pls.' Exh. 33B; T. 35, 5/5/05 (Fushi).

186. The characteristics of the smoke and how it behaved in this Block 1 fire (T. 327-29, 5/6/05 (Hughes)), undermines Defendants' proffered testimony that the solid doors in Quarantine provide substantial protection from smoke in the event of a fire. T. 27-28, 5/5/05

(Fushi).

B. MARCH 2005 FIRE IN BLOCK 10

187. On March 23, 2005 a fire started on in the catwalk of Block 10 on First Gallery behind cells 68-70, one story up from the main floor. Pls.' Exh. 33B-1 (Fire Incident Report); T. 341, 5/6/05 (Davidson).

188. The time of the fire was reported as 00:50 (12:50 a.m.). Pls.' Exh. 33B-1 (Fire Incident Report).

189. The fire, caused by a cigarette, ignited a seven foot long piece of cardboard lying on the catwalk. Pls.' Exh. 33B-1 (Fire Incident Report); T. 341, 5/6/05 (Davidson).

190. The catwalk on First Gallery consists of an open grate. In contrast, the catwalk on Second Gallery above First Gallery has a solid concrete floor. T. 341, 5/6/05 (Davidson).

191. One prisoner hit the fire with a broom, causing flames to shoot up three to four feet. When others saw the flames, they started shouting. It was early morning, about 12:45 a.m., and all the lights were out. Another prisoner threw his coffee on the fire. T. 342, 5/6/05 (Davidson).

192. The smoke was intense. After it reached the ceiling, the smoke descended on the tiers and thickened. T. 342-43, 5/6/05 (Davidson).

193. At least eight minutes elapsed before any staff responded. T. 343, 5/6/05 (Davidson).

194. The building was not evacuated. T. 343, 5/6/05 (Davidson); Pls.' Exh. 33B-1.

195. Reports indicate that the fire was extinguished at 00:52 (12:52 a.m.). Pls.' Exh. 33B-1.

196. At 1:18 a.m., Prisoner 194520 in Cell 63-B-10, one level below the fire, was taken to Duane Waters Hospital for difficulty breathing due to the smoke from this fire. Pls.' Exh. 33B-2 (Housing Unit Log); Pls.' Exh. 33B-1 (Fire Incident Report); Pls.' Exh. 33B-4 at 3

(Emergency Department Report, intake history).

197. Prisoner 194520 was enrolled in the Cardiac/HTN Chronic Care Clinic and was a known asthmatic. Pls.' Exh. 33B-3 (summarizing his health care data from Pls.' Exh. 40); Pls.' Exh. 33B-4 at 3 (Emergency Department Report).

198. Prisoner 194520 was diagnosed as having (1) an acute asthmatic attack secondary to smoke inhalation (resolved), and (2) smoke inhalation. He was given Albuterol and Atrovent nebulizer treatments, after which his wheezes resolved and his breathing improved. Pls.' Exh. 33B-4 at 4 (Emergency Department Report).

C. BLOCK 8 FIRE

199. Assistant Resident Unit Supervisor Ronald Embry testified that it took either fifteen or 18 minutes to evacuate Block 8 during a fire in Block 8. T. 90-91, 5/5/05 (Embry).

VIII. POTENTIAL CONDITIONS IN EVENT OF FIRE

A. BASIC CHARACTERISTICS AND DEVELOPMENT OF THE MODEL

200. Professor Frederick B. Mowrer was retained by Defendants to develop a model of the conditions that would prevail in the *Hadix* cellblocks in the event of a fire. T. 143-44, 149-50, 5/5/05 (Mowrer).

201. Fire models are developed in light of the principles that fuel has a given potential for producing energy in a fire, but that fires can vary in the rate that fuel is consumed, and this variance in the rate of fuel consumption determines the length of time that the fire will burn. T. 145, 5/5/05 (Mowrer).

202. Another principle of fire model-building is that the arrangement of the fuel will affect the rate that fuel will be consumed in a fire. In a given arrangement, the transfer of heat may be insufficient to sustain combustion, while a different presentation of the fuel would burn

readily. T. 145-46, 5/5//05 (Mowrer).

203. Another known characteristic of fires is that, as smoke rises in an enclosed space, the smoke entrains fresh air, with the result that the volume of smoke increases but the smoke itself becomes less concentrated. When the smoke plume reaches the top of an enclosed space, the smoke begins to bank down and become more concentrated. T. 167-68, 5/5/05 (Mowrer).

204. Prof. Mowrer used two approaches to fire model building. One was zone modeling and one was computational fluid dynamics ("CFD"). A zone model assumes that the temperature of the smoke produced by the fire will be uniform, while a CFD model allows a calculation of the temperature in different parts of the smoke plume. T. 147-48, 5/5/05 (Mowrer).

205. Prof. Mowrer used a zone model to predict conditions in Blocks 1-3 in the event of a fire and CFD models of a fire in some small groups of cells. T. 148-49, 5/5//05 (Mowrer).

206. Prof. Mowrer did not produce a zone model of a fire in Block 7 or 8 (Defs.' Exh. 1 at 21), but it was his opinion that conditions during a fire in the Egeler and Parnall cellblocks would be about the same once the smoke descended to the level of the fire. T. 184, 5/5/05 (Mowrer).

207. Prior to inspecting the *Hadix* facilities, Prof. Mowrer developed a report, but following his inspection, he had to modify that report because he found that certain conditions were not what he had assumed. T. 151-52, 5/5/05 (Mowrer).

208. For example, prior to his inspection, Prof. Mowrer assumed that, in the event of a fire, smoke from the fire would rise through the ceiling up into the attic where it would then bank down. After he actually saw the attic, he changed his models to assume that smoke from a fire would bank down at the ceiling and would not penetrate the attic. T. 152, 5/5/05 (Mowrer).

209. In addition, when Prof. Mowrer saw the cellblocks, he observed that there was more

property available as fuel than he had assumed when he relied on the information given him. T. 155, 5/5/05 (Mowrer).

B. LIMITATIONS AND INCORRECT ASSUMPTIONS IN THE MODEL

210. A significant limitation of the zone model is that the model assumes that smoke density is uniform throughout, just as it assumes that smoke temperature will be uniform throughout. This limitation is inherent in the zone model. In reality, the smoke closer to the source of the fire will have higher concentrations of soot, heat and other combustion by-products. T. 289, 291-92, 301-02, 5/6/05 (DiMascio).

211. This limitation of the model is particularly important in Blocks 1-3. These Blocks contain tiers of cells arranged in the center of each block, in large part dividing the block in two. If there were a fire on one side of the cellblock, the smoke would be denser on the side of the fire. T. 291-93, 5/6/05 (DiMascio).

212. As a result, conditions on that side of the cellblock will involve higher concentrations of soot, carbon monoxide, heat, and visibility than if the cellblock were configured like Blocks 7 and 8, with an open atrium in the center. Prisoners on the side of the cellblock where the fire started would be exposed to higher concentrations of combustion by-products than predicted by the Mowrer zone model. T. 291-293, 5/6/05 (DiMascio); *see* schematic drawings illustrating cellblock divisions in Pls.' Exh. 50.

213. The injury to Prisoner 194520, who was confined one tier below a fire in Block 10, also illustrates the imprecision of the zone model used by Prof. Mowrer, which assumes that a prisoner below the level of the fire would not be affected by smoke. *Compare* Defs.' Exh. 1 at 15-16, 19 (smoke descends only to the layer of the fire) *with* Proposed Findings in § VII.B, *supra*.

214. Another serious problem with the inherent inability of a zone model to predict differences in smoke densities is illustrated by the smoke plume from a cell fire on a lower tier. The smoke plume would engulf a growing number of cells on each tier as it ascended. T. 302-03, 5/6/05 (DiMascio).

215. In reality, the smoke within this plume would remain substantially denser than the smoke within the rest of the cellblock. This denser area of smoke would extend from the level of the fire to the ceiling. T. 302-03, 5/6/05 (DiMascio).

216. Within this plume, tenability conditions would decrease far faster than predicted by the zone model. *Compare* T. 302-03, 5/6/05 (DiMascio) *to* Defs.' Exh. 1 at 17 (Figure 18).

217. Accordingly, visibility would fall below tenability limits on segments of multiple tiers significantly before the times predicted by the zone model. (Factual conclusion.)

218. Although Defendants' policy provides that the area in the vicinity of a fire is to be evacuated first (Pls.' Exh. 10 at 5, para. 19 (OP-SMT-04.03.120 (2/28/00)); Pls.' Exh. 12 at 4, para. 1 (OP-SMN-04.03.120 (10/31/01)), Defendants' policy cannot address the problems caused by a potential fire's smoke plume because that policy is limited to cells in the vicinity of the fire; the policy does not and cannot provide for cell releases on segments of multiple tiers first. (Factual conclusion).

219. Notwithstanding the changes that Prof. Mowrer made in his assumptions regarding the amount of property available to prisoners, Prof. Mowrer's model did not consider all the property that is available to a prisoner in either Egeler or Block 8. Among the additional items of available property are shaving cream, gel, shower cap, glue, facial tissues, shoe polish, domino games, photo albums, playing cards, and many other items. *See* Pls.' Exh. 8 (PD-04.02.130 (11/15/04)).

220. In addition to the combustibles that Prof. Mowrer assumed would be available to a prisoner in Egeler, such prisoners are also permitted a foot locker of legal materials as well as supplies related to health conditions and products from the store. *Compare* Defs.' Exh. 1, Attachment D *to* T. 288-89, 5/6/05 (DiMascio); s*ee also* Pls.' Exh. 6, Section E (PD-03.04.105 (3/18/02)) and Pls.' Exh.19, Section M (PD-04.07.112 (11/15/2004)).

221. More personal property also exists in Block 8 cells than assumed by Prof. Mowrer. T. 289, 5/6/05 (DiMascio); s*ee also* Pls.' Exh. 19, Attachment C (several page list of additional permitted personal property) (PD-04.07.112 (11/15/2004)).

222. The Mowrer report analyzed temperature, soot production, carbon monoxide but did not analyze carbon dioxide or hydrogen chloride or the alkalines from the burning of wool, all of which are either asphyxiants or irritants. T. 308, 5/6/05 (DiMascio).

223. Prof. Mowrer considered the smoke compounds resulting from a fire separately. These components, however, have a synergistic effect on the occupant and should be analyzed together. T. 308-09, 5/6/05 (DiMascio).

224. Of the materials in the property list used by Prof. Mowrer for his assumptions, about twenty (20%) percent are plastic, including a plastic television. Soot production rates when plastics are burned can be four to ten times that of normal cellulosics. T. 304, 5/6/05 (DiMascio).

225. Prof. Mowrer agreed that the yield factor for soot from some plastics is higher than the yield factor he had assumed. If the fuel load consumed in an actual fire had a higher yield factor than the fuel assumed by Prof. Mowrer, the higher smoke yields would produce even lower visibility. T. 182, 5/5/05 (Mowrer).

226. If plastic materials are taken into account, the visibility predicted under the Mowrer

zone model drops dramatically. For example, Prof**.** Mowrer's Model predicts that a fire on Fourth Gallery in Egeler would result in visibility falling to 16-17 meters in 108 seconds. If the plastic fuels available in the cells are taken into account, the visibility on Fourth Gallery predicted by the model falls to eight meters in 108 seconds. T. 304-05, 5/6/05 (DiMascio).

C. IMPLICATIONS OF THE MODELS

227. Tenability limits are measurements of the conditions that are tolerable for human life. T. 183, 5/5/05 (Mowrer).

228. According to the NFPA Fire Protection Handbook, which is one of the authorities that Prof. Mowrer relied on in developing his zone models, *see* Defs.' Exh. 1 at 1, one of the major hazards presented in a fire is impaired vision, which hinders escape from the fire. Pls.' Exh. 1C at 8-13, 8-23. There is a standardized formula for determining the extent to which a fire obscures visibility. *Id.* at 8-23. The Handbook states the following:

> People's response to obscuration of vision and its detrimental effects on movement speed and wayfinding efficiency is highly variable. Visibility requirements for escape depend to a large extent on the size of the enclosure and the occupants' familiarity with escape routes. Suggested tenability limits for optical density have ranged from 0.5/m (2 m-visibility), for occupants of small rooms who are familiar with escape routes, down to about 0.065/m (15-m visibility) for large enclosures in which occupants are unfamiliar with their surroundings.

Id.

229. According to Prof. Mowrer's zone model, smoke from a Base fire in Blocks 1-3 will fill the upper tiers down to the ceiling of the first tier in approximately eleven minutes. Defs.' Exh. 1 at 15, 23 (Mowrer Report). Assuming Prof. Mowrer's model, it would also take about eleven minutes for smoke to fill Block 8. T. 294 (DiMascio).

230. The model predicts that during the first approximately two minutes, average visibility within the smoke layer will have fallen to less than six meters. Within approximately ten

minutes, average visibility will have fallen to two meters. Defs.' Exh. 1 at 17 (Figure 18). Moreover, visibility within the first tier will fall below fifteen meters sometime between five and ten minutes after the fire begins. Defs.' Exh. 1 at 23.

231. Accordingly, even if one applies the less demanding visibility standard noted by the NFPA Fire Protection Handbook, in approximately ten minutes from the beginning of the fire, average visibility within the smoke layer will be reduced to a level below that required for escape from the fire. In fact, conditions in the cellblocks more closely resemble the conditions for which visibility of 15 meters is necessary, but Prof. Mowrer's model predicts that visibility will fall below that level in the smoke layer in less than a minute. *See* Defs.' Exh. 1 at 17 (Figure 18); Pls.' Exh. 1C at 8-23.

232. In the event of a fire on the top tier in Blocks 1-3, Prof. Mowrer's model indicates that the top tier will fill with smoke within 108 seconds. Although it could have been done, Prof. Mowrer made no calculations regarding the visibility or the concentration of toxic substances in the smoke layer in such a fire after the first 108 seconds. Defs.' Exh. 1 at 19; T. 184-85, 5/5/05 (Mowrer).

233. If Prof. Mowrer had modeled conditions within a top tier fire after the first 108 seconds, the model would have shown a deterioration in tenability conditions. Oxygen depletion would also occur most rapidly in a top tier fire. T. 186-87, 5/5/05 (Mowrer).

234. The time until visibility levels fall below tenability limits predicted by the model will in fact be substantially below the times predicted in Prof. Mowrer's model if a correction is made for his failure to include calculations based on the amount of plastic available as fuels in the cells. As noted, although Prof. Mowrer predicted that visibility would fall to 16 or 17 meters in the event of a Fourth Gallery fire, Mr. DiMascio calculated that if one corrected the zone

model solely for the availability of fuel in the form of plastics, visibility on the fourth tier would decrease to eight meters in the first 108 seconds. *Compare* T. 304-05, 5/6/05 (DiMascio) *to* Defs.' Exh. 1 at 19.

235. Prof. Mowrer's model, even without necessary corrections that would decrease the time until non-tenable conditions, predicts that visibility would fall below minimally tenable limits in a period of time less than the evacuation times recorded by Defendants during fire drills. Prof. Mowrer's model predicts that visibility in a Base fire in Block 1, 2, or 3 will fall below minimally tenable levels in approximately ten minutes, but evacuation times in practice drills are generally more than ten minutes, and range up to 15-20 minutes. Defs.' Exh. 1 at 17 (Figure 18); Pls.' Exh. 1C at 8-23; Pls.' Exh. 21A at 002, 025, 033.

236. In Blocks 1-3, temperatures in cells directly above a cell containing a fire could reach close to 175° F. T. 177, 5/5/05 (Mowrer). One could assume injury would occur to a person exposed to a temperature of 175° F. T. 297, 5/6/05 (DiMascio).

237. The temperature at the floor level in the cells directly above a fire in Block 8 is predicted to reach 130-140° F. It is normally not recommended that fire fighters enter buildings without protective gear when the temperature exceeds 130° F. T. 297, 5/6/05 (DiMascio).

238. Flashover is the stage in a fire in an enclosed space that occurs when the temperature reaches approximately 600° C, or about 1100° F. At the point that flashover occurs, the remaining fuels in the enclosed space ignite almost instantly. T. 165-66, 5/5/05 (Mowrer).

239. Prof. Mowrer prepared a FDS model of what would happen within the cell where a fire originates in Blocks 1-3. The model predicts "thermal conditions within the cell representative of flashover conditions," so that flashover would be imminent. Defs.' Exh. 1 at 10, 22.

240. If the fuel available in a Block 8 cell were arranged in the most dangerous way, flashover in such a cell would also become a possibility. T. 180, 5/5/05 (Mowrer).

241. If there were two fires in a single cell, visibility would be one-half that predicted by the Mowrer model because the amount of smoke has a linear relationship to visibility. T. 299, 5/6/05 (DiMascio).

242. If two fires were set in separate cells in the same cellblock, the amount of smoke produced would be double the amount produced by a single fire. T. 180-81, 5/5/05 (Mowrer). There would be a higher heat release rate, more soot production, and the smoke layer would drop faster because the heat release rates are higher. T. 290-91, 5/6/05 (DiMascio).

243. If there were two fires in a single cell, using the same total amount of combustible materials as in the Mowrer model, the total smoke from the fire would be produced in approximately half the time. T. 291, 5/6/05 (DiMascio).

244. If the extra footlocker of property available in Parnall is considered in the Mowrer model, the predicted length of a fire until exhaustion of fuel increases by 27 minutes. T. 299, 5/6/05 (DiMascio).

IX. DEGREE OF RISK FROM CURRENT CONDITIONS

A. DESCRIPTION OF THE CONDITION

1. PRISONERS WITH HEALTH OR SIMILAR IMPEDIMENTS TO EVACUATION

245. The *Hadix* population includes disproportionate numbers of persons with mobility problems, breathing problems, strength and endurance problems, and problems following directions, including disproportionate numbers of persons with visual problems, hearing problems or behavioral issues. T. 256, 5/6/05 (Ferguson).

246. In medical terms, the categories of persons likely to be at high risk include orthopedic problems, neurological problems, cardiac problems, pulmonary problems, diabetes, persons with HIV, the mentally ill, and persons with communicative disorders. Pls.' Exh. 3B at 25-26.

247. Someone with multiple sclerosis, a neurological disorder, would be unable to exit easily in a crowd. Someone with a seizure disorder exposed to smoke would be more prone to experience a seizure. Pls.' Exh. 3B at 26.

248. Someone with an orthopedic disorder affecting walking would be slower and could impede the exiting of others or get pushed down while others exited. Pls.' Exh. 3B at 26.

249. Persons with pulmonary disorders are at particularly high risk in the event of an evacuation because even minor exposure to smoke has the potential to tip them into more serious respiratory distress, resulting in a physical collapse, a cardiac event, or loss of consciousness. Pls.' Exh. 3B at 26.

250. The largest or second-largest category of persons at high risk includes those with cardiac disorders. These persons are at risk of a heart attack during an evacuation. Pls.' Exh. 3B at 27.

251. Persons with vision problems are at heightened risk, particularly in a fire during the night-time hours. The presence of smoke would exacerbate their vision problems, making it more likely that the person would be unable to tell where he was going and therefore more likely to panic. Pls.' Exh. 3B at 27.

252. The persons who would have problems evacuating in an emergency include people with mobility problems and seizures who were put on upper levels, and people who are not independent on exiting. T. 256-57, 5/6/05 (Ferguson).

253. In light of the fact that staff in the *Hadix* facilities rely primarily on staff's ability to

give oral instructions to prisoners during actual evacuations, persons with hearing problems or difficulty understanding English would experience greater problems during evacuation. In addition, such persons are more likely to feel generally isolated, and as a result have more of a tendency to experience confusion and panic. Pls.' Exh. 3B at 27-28.

254. Persons suffering from mental illness are also more prone to panic and less likely to exit safely. Patients taking medications such as tricyclic anti-depressants also have a greater physiologic response to smoke inhalation. Pls.' Exh. 3B at 28, 94-95.

255. Prisoners in the *Hadix* facility who need medications or accommodations such as hearing aid equipment, inhalers, or anti-seizure medications frequently do not have their needs met. Prisoners in need of such items would be further hindered in exiting in the event of a fire. T. 256-57, 5/6/05 (Ferguson); Pls.' Exh. 4B; *see also* Findings 872 at 159, 895-900 at 166-67, 912-916 at 169, 920 and 924 at 170, 943 at 174, 944 at 174, 995 at 184, 996-1009 at 184-85, 2002 Findings.

256. Smoke density affects healthy people differently from the way it affects unhealthy people. T. 306-07, 5/6/05 (DiMascio).

257. If incapacitation from smoke and hot gases would normally occur in a healthy person at around thirty (30%) percent of the lethal dose, it could be down as low as four to five (4-5%) percent of that figure for the sub-population of people with health problems. T. 307, 5/6/05 (DiMascio).

258. Prisoners who are coming in as new arrivals are in very unfamiliar surroundings. This lack of familiarity would pose a serious risk in the event of a fire evacuation. T. 233, 5/6/05 (Pulitzer).

259. When prisoners would be released from the top down in an emergency, traffic jams or

chaotic conditions could develop, particularly if people were noisy getting out. In certain instances, weaker or functionally-limited persons could be injured or could become a barrier for others. T. 255, 5/6/05 (Ferguson).

2. CONDITIONS DURING AN EVACUATION

260. In Egeler during an evacuation, two custody officers, one on each end, would have to climb the five levels to the top gallery. The officers would first be required to open the breaker bar boxes with a key. The boxes would be difficult to find in a smoky environment. After a breaker box was opened, the officer would begin to release the breaker bars. T. 225, 5/6/05 (Pulitzer).

261. Because the cells in the Egeler Facility are arranged back-to-back, after a custody officer opened the cells on Fourth Gallery on one side, the officer would be required to cross over to the other side and open the breaker box there with a key, use the bar again to open the next group of cells, then go down the stairs and begin the process again on the next level. This process would continue until the officers reached Base and had opened all the cells. T. 225, 5/6/05 (Pulitzer).

262. Fire safety dictates that people should not have to exit a building down smoke-filled stairs. T. 314, 5/6/05 (DiMascio). Defendants' expert agreed that if stairs are to be used for egress, they must be enclosed in a smoke-free compartment. T. 142, 5/5/05 (Smith).

263. While an atrium does serve as a reservoir for smoke, in order to accomplish evacuation, the smoke must be kept above the area used for egress. A smoke-removal system is necessary to keep smoke above the level of the evacuation route. T. 313-14, 5/6/05 (DiMascio).

3. HAZARDS IN NON-HOUSING AREAS

264. There were several hundred gallons of hazardous materials stored in 55 gallon drums

on the first floor of the metal furniture factory. This quantity exceeds the quantity permitted pursuant to the Life Safety Code section relied upon by Mr. Fushi, Defendants' Regional Fire Inspector. Both storage and dispensing of chemicals were occurring in the metal furniture factory. T. 310-11, 5/6/05 (DiMascio).

265. There were well over 120 gallons of Xylene, a very flammable chemical, stored in the factory during an inspection Mr. DiMascio's inspection; two 55 gallons drums were in use to dispense Xylene. Xylene was being poured from the 55 gallon drums into five gallon pails that were then used to soak spray gun parts. There was also ordinary electrical equipment in the area where the Xylene was dispensed. These conditions are unsafe and violate a specific provision of the Life Safety Code. T. 312, 5/6/05 (DiMascio).

266. In the laundry, one of the exits from the upper floor discharges to the first floor rather than out of the building. T. 312-13, 5/6/05 (DiMascio).

B. ASSESSMENT OF THE SERIOUSNESS OF THE RISK

267. Ms. Ferguson and Dr. Walden reviewed Defendants' data reported in Defendants' Monthly Report of Prisoners Disabilities and Accommodations (HC-251), the Service Area Clinic Reports (HC-261), and the location reports for prisoners at both the Egeler (Pls.' Exh. 39) and Parnall Facilities (Pls.' Exh. 40). T. 258-59, 5/6/05 (Ferguson); Pls.' Exh. 3B at 20-21.

268. The HC-251 is commonly called the accommodation report. It lists the prisoner's name, number, diagnoses based on a functional assessment, and the listing of the special accommodations provided to each prisoner. Each of the individually-based assessments and treatment decisions are entered into the a database reflecting the medical determinations made at various points in the process. These data are generated in a monthly report, the HC-251. T. 259, 5/6/05 (Ferguson).

269. Associated with each disability description in the HC-251 is a code for "Level of Functioning." The codes are: I (independent), A (needs assistance), and D (dependent). Pls.' Exh. 17 at 1 (Documentation Guidelines for Special Needs Identification Screening).

270. The HC-251 lists only chronic or permanent accommodations. For conditions that last six months or less, medical details are used instead. T. 260, 5/6/05 (Ferguson).

271. Every prisoner in a facility is listed on the HC-251, whether or not they have a disability or accommodation. T. 260, 5/6/05 (Ferguson).

272. In contrast, not every prisoner is listed on the HC-261, the Chronic Care Clinic report, which is limited to prisoners enrolled in one of the seven Chronic Care Clinics. T. 260-61, 5/6/05 (Ferguson).

273. Each clinic list contains the names and numbers of the prisoners assigned to that Chronic Care Clinic and the most significant three diagnoses for which they were seen in the most recent visit, so that review of the HC-261 provides a sense of the reasons for enrollment in the Chronic Care Clinic. T. 260-261, 5/6/05 (Ferguson).

274. Despite the limited information available and the fact that many prisoners in Egeler at any given time have not received a full health review, Dr. Walden identified 38 prisoners who were likely to be at heightened risk in a fire but not housed on Base. Pls.' Exh. 3B at 47-64; *see also* Pls.' Exhs. 37, 39.[1]

275. The prisoners identified included eight housed on Fourth Gallery and nine on Third Gallery of one of the Egeler cellblocks. Pls.' Exh. 3B at 47-64; *see also* Pls.' Exhs. 37, 39.

[1]For the Court's convenience, Plaintiffs include as Appendix A a table based on Plaintiffs' Exh. 37 that lists only the prisoners referred to in this Proposed Finding and Proposed Findings 275 and 276.

276. The 38 Egeler prisoners identified by Dr. Walden included a patient who had been noted by Defendants to have a level of functioning requiring assistance by virtue of his HIV infection. All of the other Egeler prisoners identified by Dr. Walden had been diagnosed by Defendants with either respiratory or cardiac disease, or both. In the majority of cases, these prisoners carried additional diagnoses that Dr. Walden also considered in making his determinations. Among the prisoners identified were prisoners with a visual or hearing impairment, or both. (160657, 192354 (both), 197427 (visual impairment with level of functioning classified as requiring assistance)). Dr Walden also identified prisoners with restrictions on their ability to stand (217074, housed on Fourth Gallery), or medical orders that had not been followed to house the prisoner on Base (248988, housed on Third Gallery; 278398, 391369, and 525249 housed on Fourth Gallery; *see also* 309953, medical order for no heights but housed on Second Gallery). Prisoner 251306, although not on Dr. Walden's list, was housed on the Fourth Gallery despite having cardiac and circulatory problems that Defendants classified as a level of functioning needing assistance. Pls.' Exh. 3B at 52-54, 58, 60-61, 63-64; *see also* Pls.' Exhs. 37, 39.

277. Ms. Ferguson, in consultation with Dr. Walden, developed five categories of conditions that could lead to difficulties during a fire evacuation. These categories are as follows: difficulty with mobility; breathing; strength and endurance; following directions, such as impairments of vision or hearing; or behavioral issues. T. 261, 5/6/05 (Ferguson).

278. The categories Ms. Ferguson developed are consistent with the criteria for enrollment in the Disabilities Chronic Care Clinic. In order to be enrolled in that clinic, a prisoner must have at least one of the following diagnoses, functional impairments or structural problems:

•Paraplegia, limb amputations, wheelchair-dependent for mobility,

history of skin grafts or flap to buttocks or other pressure areas;

- Individuals requiring assistance with daily living due to body control problems;

- Individuals who require mobility devices for activities of daily living;

- Loss of visual or auditory function which affects activities of daily living;

- History of resolved/cured pressure ulcers;

- Diagnosed neuromuscular disease such as Multiple Sclerosis, Parkinson's, which results in a functional deficiency;

- Paralysis of any extremity;

- Any physical or body area impairment that substantially limits one or more of the major life activities;

- Unresolved or fluctuating accommodation needs;

- Patients whose physical functional disability limits participation in services, programs and/or activities; or

- Brain injury.

Pls.' Exh. 34B at 2 (Chronic Care Clinic Guidelines, Disability Chronic Care Clinic Criteria, Section III.C).

279. Ms. Ferguson also considered Defendants' training material for preparation of the HC-251 and related forms. Those materials include a definition of respiratory disease in Code 10: "Respiratory disease, if maximum breath capacity is less than 55 percent of predicted or there is shortness of breath after climbing one flight of stairs or walking 100 yards due to tuberculosis, emphysema, pneumoconiosis, asbestosis, bronchiectasis, chronic bronchitis and sinusitis." Pls.' Exh. 17 at unnumbered page 7.

280. In addition, Ms. Ferguson considered Defendants' criteria for determining that a

prisoner is at high risk for heat-related injury. The entire set of criteria is as follows: enrollment in the Cardiovascular or Pulmonary Chronic Care Clinic; over 65 years of age; undergoing renal dialysis; pregnant; or confined to a wheelchair. Defs.' Exh. 35 at 2 (OP-03.04.100-E (5/21/01)) (May 2002 hearing record).

281. Based on Ms. Ferguson's functional categories as informed by the enrollment criteria for the Disabilities and Respiratory Chronic Care Clinics and the heat risk criteria, Ms. Ferguson identified 258 data entries indicating prisoners who would have difficulty with mobility, breathing, strength and endurance, or following directions out of the Egeler population of 1445 prisoners. Pls.' Exh. 37 (Egeler Health Care Data Table); T. 261, 262-63, 5/6/05 (Ferguson); Pls.' Exh. 39C at 57 (total prisoners on count).

282. At least 34 of the 258 prisoners identified at Egeler have respiratory conditions that impair their walking 100 yards or one flight of stairs. Twenty-two of these were placed on First Gallery (second floor) or above. Pls.' Exh. 37 at 1.

283. At least nine of the 258 prisoners identified at Egeler have visual or hearing impairments that may interfere with their hearing directions or visually following directions. Defendants have coded these nine as "LOF A" (level of functioning: needs assistance); three of these were placed on First Gallery or above. Pls.' Exh. 37 at 1. Of note, this calculation was based on incomplete data, because many prisoners in Egeler had not completed the intake screening. T. 264, 5/6/05 (Ferguson); Pls.' Exh. 37.

284. Ninety-eight of the 258 prisoners identified at Egeler were on Base and would have difficulty exiting for the very reasons they have been placed on Base. Pls.' Exh. 37 at 1. Many such prisoners have significant impairments and will probably be released last of all in the event of a fire. Pls.' Exh. 3B at 67-68, 78.

285. Ms. Ferguson identified 60 prisoners at Egeler at risk for heat-related illness. T. 264, 5/6/05 (Ferguson); Pls.' Exh. 37 at 1.

286. Ms. Ferguson identified 17 prisoners at Egeler as placement mistakes. For these, the HC-251, prepared by medical staff, notes prisoners in need of ground floor housing (Base) who were not housed on Base, which is evident from the prisoners' location. T. 264, 5/6/05 (Ferguson); Pls.' Exh. 37 at 1.

287. Ms. Ferguson identified 16 prisoners at Egeler with asthma or chronic airway obstruction who are not listed on the HC-251 with respiratory disease, and who were placed on First Gallery or above. Pls.' Exh. 37 at 1.

288. Of the prisoners at Egeler, twenty (20%) percent, or 292, are enrolled in chronic care clinics, as follows:

Egeler Chronic Care Clinic ("CCC") Enrollment Data 04/05/05

Cardiac/HTN Clinic	66
Diabetic Clinic	2
Disability Clinic	42
Endocrine Disorder Clinic	28
Gastrointestinal Clinic	37
Generic Clinic	0
Hep C Clinic	20
Infectious Disease Clinic	15
Neurologic Disorder Clinic	14
Pulmonary Clinic	68
All CCCs	292

T. 264, 5/6/05 (Ferguson); Pls.' Exh. 37 at 29.

289. Fifty prisoners identified at Egeler had respiratory conditions that could put them at risk in a fire. That is about the same percentage as shown in national studies. T. 264-65, 5/6/05 (Ferguson).

290. Fourteen prisoners identified at Egeler are listed as having seizure disorders, about

double the national rate. T. 265, 5/6/05 (Ferguson).

291. After eliminating duplicates resulting from prisoners who had more than one problem in exiting, Ms. Ferguson identified 199 prisoners, or fourteen (14%) percent of the population at Egeler, who are at significantly elevated risk of harm in a fire or emergency evacuation in comparison to the norm. T. 265, 5/6/05 (Ferguson).

292. Of the 199 prisoners, 144 would need extra time to travel across the gallery, down the steps, and out the doors. T. 268, 5/6/05 (Ferguson).

293. In Block 8, Dr. Walden identified 58 prisoners who were likely to be at heightened risk of a fire but were not housed on Base. Pls.' Exh. 3B at 68-80; *see also* Pls.' Exhs. 38, 40.[2]

294. The prisoners identified included ten housed on Fourth Gallery and fifteen housed on Third Gallery. Pls.' Exh. 3B at 68-80; *see also* Pls.' Exhs. 38, 40.

295. The great majority of the 58 prisoners identified by Dr. Walden had been diagnosed with either respiratory or cardiac disease, or both. In the majority of cases, these prisoners carried additional diagnoses. Among the prisoners identified were 124266, with lumbar disc displacement and pelvic displacement, noted by Defendants to have an orthopedic deformity classified as requiring assistance; 135363, also with an orthopedic deformity classified as requiring assistance, in addition to diabetes, respiratory disease, limitations on lifting, and HIV infection; 147207, with cardiac disease classified as requiring assistance among other diagnoses; 157121, with cardiac and respiratory disease, noted to require permanent air conditioning among his unusual accommodations; 164755, with both visual and hearing

[2] For the Court's convenience, Plaintiffs include as Appendix B a table based on Plaintiffs' Exh. 38 that lists only the prisoners referred to in this Proposed Finding and Proposed Findings 294 and 295.

impairments classified as requiring assistance; 166484, with cardiac disease classified as rendering him disabled, yet is housed on Second Gallery; 166760, with both cardiac disease and chronic airway obstruction (emphysema), as well as a visual impairment classified as requiring assistance; 265113, with glaucoma and a hearing impairment classified as requiring assistance, who is noted as having communication difficulties, yet is housed on Fourth Gallery; 303611, with cardiac disease classified as requiring assistance as well as diabetes and obesity; 368151, with acquired traumatic brain injury and visual impairment classified as requiring assistance but is housed on Third Gallery; 466500, with an orthopedic deformity, cardiac disease, and respiratory disease, as well as a visual impairment classified as requiring assistance yet is housed on Fourth Gallery. Prisoner 516312, identified by Dr. Walden, would be attempting to descend stairs with the help of crutches or a cane. In addition, Prisoner 198776 has a seizure disorder classified as requiring assistance. Pursuant to Defendants' health care policy, he should have a medical order for Base housing but apparently does not. He is housed on Fourth Gallery. Further, Prisoners 127748 (Third Gallery), 135363 and 271651 (Third Gallery), 316603 and 423321 (Fourth Gallery), 466500 (Fourth Gallery), and 516312 (First Gallery) have medical orders for Base housing but are not housed on Base. Pls.' Exh. 3B at 69, 71-74,77, 80.

296. Ms. Ferguson applied the same analytic methods she used in Egeler to Block 8 of the Parnall Facility (Pls.' Exh. 40). Her findings are summarized in a table of 174 data entries identifying prisoners who would have difficulty in with mobility, breathing, strength and endurance, or following directions. Pls.' Exh. 38 (Block 8 Health Care Data Table); T. 265, 5/6/05 (Ferguson).

297. There were 351 prisoners in Block 8 as of 2002; for all of Parnall, Blocks 8, 9, and 10,

there were 1023 prisoners. Pls.' Exh. 38 at 24.

298. At least 30 of the 174 prisoners identified in Block 8 have respiratory conditions that impair their walking 100 yards or one flight of stairs, based on Defendants' health care criteria. Twenty-two of these prisoners were placed on First Gallery (the second floor) or above. Pls.' Exh. 38 at 1; T. 266, 5/6/05 (Ferguson).

299. At least 26 of the 174 prisoners identified in Block 8 have visual or hearing impairments that may interfere with their hearing directions or visually following directions. Defendants coded these 26 prisoners "LOF: A" (needs assistance). Twenty of these prisoners were placed on First Gallery or above. Pls.' Exh. 38 at 1; T. 266, 5/6/05 (Ferguson).

300. Fifty-five of the 174 prisoners identified in Block 8 were on Base. They will have difficulty exiting for the very reasons they have been placed on Base. Pls.' Exh. 38 at 1.

301. 112 of the 174 prisoners identified in Block 8 are listed as at risk for heat-related illness. Pls.' Exh. 38 at 1.

302. Ten of the 174 prisoners identified in Block 8 have asthma or chronic airway obstruction, but are not listed on the HC-251 with respiratory disease, and were placed on First Gallery or above. Pls.' Exh. 38 at 1.

303. Seven of the 174 prisoners identified in Block 8 are noted as "placement mistakes" in the Table "comments" column. Staff had identified these prisoners in the HC-251 as in need of ground floor housing (Base), but they were housed at some other level by custody staff. Pls.' Exh. 38 at 1; T. 266, 5/6/05 (Ferguson).

304. Sixty-five (65%) percent, nearly two-thirds of the total Parnall population, are enrolled in chronic care clinics and nearly half of them are either in the Cardiac or Pulmonary Chronic Care Clinic. T. 266, 5/6/05 (Ferguson); Pls.' Exh. 38 at 24.

305. There are 663 prisoners at Parnall who are enrolled in a chronic care clinic, as follows:

Parnall Chronic Care Clinic Enrollment Data 04/05/05	
Cardiac/HTN Clinic	222
Diabetic Clinic	1
Disability Clinic	49
Endocrine Disorder Clinic	112
Gastrointestinal Clinic	59
Generic Clinic	9
Hep C Clinic	65
Infectious Disease Clinic	33
Neurologic Disorder Clinic	28
Pulmonary Clinic	88
All CCCs	663

Pls.' Exh. 38 at 24; Pls.' Exh. 40B (clinic enrollment numbers follow each clinic report).

306. Forty of the 174 prisoners identified in Block 8 have respiratory conditions that would put them at risk, more than double the percentage in national studies. Pls.' Exh. 38 at 1; T. 266, 5/6/05 (Ferguson).

307. Eleven of the 174 prisoners identified in Block 8 had seizure disorders that put them at greater risk. That figure is five times the national rate. T. 266-67, 5/6/05 (Ferguson). Pls.' Exh. 38 at 1.

308. After eliminating duplicates resulting from prisoners who had more than one problem in exiting, Ms. Ferguson identified 160 prisoners in Block 8 as having conditions that could lead to difficulties in exiting are at significant risk of harm in fire or emergency evacuation. That figure is forty-six (46%) percent of the prisoners in Block 8. T. 267, 5/6/05 (Ferguson); Pls.' Exh. 38. 309. Of those 160 prisoners in Block 8, 103 would require extra time to travel along the galleries, down the steps and out the doors. T. 268, 5/6/05 (Ferguson).

310. In Block 8, prisoners who are identified as being at risk of heat-related illness are asked to sign written waivers in order to maintain their housing assignments. Pls.' Exh. 36. A

typical waiver reads as follows:

> You have been identified as being at risk of heat related illness. As such, an effort will be made to house you on the Base or First Gallery. If necessary, you may be moved to another housing unit to accommodate a low cell placement.
>
> If you believe it is not necessary for you to be placed on a lower gallery and would like to remain in your currently assigned cell, you may sign in the indicated position below.
>
> I choose to remain in my currently assigned cell.

See Pls.' Exh. 36A-1 (individually signed waivers).

311. Ms. Ferguson performed a comparison of the prisoners in Block 8 who signed such cell placement waivers in the year 2004 (Pls.' Exh. 36A-1) to their health data reported in the HC-251s (Pls.' Exh. 36A-2) and HC-261s (Pls.' Exhs. 36A-3, 36A-4). The results are shown in a table of 36 prisoners. Pls.' Exh. 36A (Analysis of Cell Waivers in 8 Block); T. 267, 5/6/05 (Ferguson).

312. Thirty-six cell placement waivers were signed by Block 8 prisoners in the months from May to September, 2004. Pls.' Exh. 36A at 1.

313. Each of the 36 prisoners who signed cell placement waivers in 2004 was still at the Parnall Facility as of November 2, 2004. Pls.' Exh. 36A at 1.

314. Six of the 36 prisoners who signed cell placement waivers in 2004 have respiratory conditions that impair their walking 100 yards or one flight of stairs. Pls.' Exh. 36A at 1.

315. Seven of the 36 prisoners who signed cell placement waivers in 2004 have visual or hearing impairments that may interfere with their hearing directions or visually following directions. All seven are coded "A" (needs assistance). Pls.' Exh. 36A at 1.

316. Nine of the 36 prisoners who signed cell placement waivers in 2004 are listed as at risk

for heat-related illness and have no description of a disability on the HC-251, but are enrolled in a clinic on the HC-261. Of these, six are in the Cardiac Chronic Care Clinic. Pls.' Exh. 36A at 1.

317. Ms. Ferguson performed a similar analysis for 42 prisoners who were asked to sign cell placement waivers in Block 8 in April 2005. This analysis was combined with the corresponding analysis for 2004 to provide a comprehensive table. Pls.' Exh. 36B (Analysis of Cell Waivers in 8 Block, Combined 2004 and 2005); T. 267, 5/6/05 (Ferguson).

318. Of the prisoners in Block 8 who signed cell placement waivers in 2004 or 2005, 55 were in Block 8 in April 2005. Seven prisoners from Exhibit 36A are not listed on the HC-251 for April 2005. One prisoner from Exhibit 36A (175733) moved to a cell on First Gallery. One prisoner (224533) is listed on Fourth Gallery in April 2005 report, but no signed waiver was provided by Defendants. Pls.' Exh. 36B at 1; Defs.' Exh. 28.

319. Of those prisoners in Block 8 in April 2005 who signed waivers, seven have respiratory conditions that impair their walking 100 yards or one flight of stairs. Pls.' Exh. 36B at 1.

320. Of those prisoners in Block 8 in April 2005 who signed waivers, nine have visual or hearing impairments that may interfere with their hearing directions or visually following directions. These nine prisoners are coded "A" (needs assistance). Pls.' Exh. 36B at 1.

321. Fourteen prisoners in the combined group who signed cell placement waivers in 2004 and 2005 are listed as at risk for heat-related illness and have no description of disability on the HC-251. Six of these are enrolled in the Cardiac Chronic Care Clinic, and three are not listed in any chronic care clinic. Pls.' Exh. 36B at 1.

322. In view of the risks to these prisoners and others in a fire or an emergency evacuation, these prisoners should not be asked to sign a waiver of this medical accommodation. T. 268,

5/6/05 (Ferguson); Pls.' Exh. 36.

323. Exiting down five stories utilizing open stairways is not safe, particularly in a fire under smokey conditions with floors possibly wet and slippery from sprinklers. Finding 1290 at 240, 2002 Findings.

324. Given that, in Parnall sixty (60%) percent of the population have serious health problems, there are a number of prisoners who will take their time going down stairs. The stairs would be the only means of evacuation. Because stairs will be the only means to reach an exit, a panic would ensue in the event of a serious fire. This is a potentially life-threatening situation. T. 232-33, 5/6/05 (Pulitzer).

325. If there were a fire, a cell door that would not open would pose a life-threatening situation to the prisoner in the cell, particularly for a prisoner with health problems. T. 232, 5/6/05 (Pulitzer).

326. An advantage of constructing a smoke compartment is that it would address the natural resistance to releasing prisoners from a prison block during an emergency. If there is an exit to an adjacent smoke compartment, the option to evacuate is more likely to be used. T. 321-22, 5/6/05 (DiMascio).

X. CONCLUSIONS

A. EGELER HEALTH

327. A substantial number of prisoners in Blocks 1-3 would be at significantly heightened risk of harm in the event of smoke inhalation. Pls.' Exh. 3B at 42.

328. At the Egeler Facility, the percentage of prisoners with mobility issues is approximately one and one-half to twice as high as the percentage of persons in the general population with comparable mobility problems. T. 268-69, 5/6/05 (Ferguson).

329. The Egeler prisoners are at particular risk, especially those in Quarantine who are not let out, those with mobility limitations, and those with breathing problems on upper levels. T. 269-71, 5/6/05 (Ferguson).

330. Based on the evacuation times experienced in Defendants' drills, a significant number of prisoners in Blocks 1-3 are at substantial risk of serious harm in the event of a fire. Pls.' Exh. 3B at 42-43, 85; Pls.' Exh. 21A at 002, 025, 033.

331. Prisoners with health problems sometimes take more time to transfer to their destination facility following the reception process, resulting in a concentration of such prisoners in Block 7. T. 218, 5/6/05 (Pulitzer); Pls.' Exh. 7B (reception processing information).

332. The extended length of the galleries in Block 7, the narrow and slippery galleries, and the poor lighting combine with the increased number of prisoners with health problems to place prisoners in Block 7 at heightened risk in the event of a fire. Pls.' Exh. 3B at 81-82.

333. A substantial number of prisoners in Block 7 would be at significantly heightened risk of harm in the event of a fire. The percentage of persons at heightened risk in the event of a fire is much greater than the percentage in the general population who would be at heightened risk. Pls.' Exh. 3B at 82-83.

334. Based on the evacuation time experienced in Defendants' drills, a significant number of prisoners in Block 7 are at substantial risk of serious harm in the event of a fire. Pls.' Exh. 3B at 85; Pls.' Exh. 21A at 035.

B. BLOCK 8 HEALTH

335. There are many more people with functional limitations in Block 8 than in the general adult working-age population. T. 269, 5/6/05 (Ferguson); Pls.' Exhs. 36, 37, 38. In Block 8,

the percentage of the population at risk in the event of fire because of mobility problems rises to four to five times the national prevalence rate. T. 268-69, 5/6/05 (Ferguson).

336. Overall, there are substantial numbers of prisoners in Block 8 who are at significantly heightened risk of harm in the event of a fire. The percentage of prisoners at heightened risk in Block 8 is much higher than the percentage in the general population. Pls.' Exh. 3B at 83.

337. The cell waiver policy is unsafe. Medical orders for housing should be followed. Pls.' Exh. 3B at 84.

338. Based on the evacuation times experienced in Defendants' drills, a significant number of prisoners in Block 8 are at substantial risk of serious harm. Pls.' Exh. 3B at 85; Pls.' Exh. 21B at unnumbered page 3.

C. GENERAL HEALTH

339. Large numbers of the prisoners in the *Hadix* facilities do not have the capability to descend stairs and travel 250 feet or more to an exit in an orderly fashion before conditions become intolerable. T. 268, 5/6/05 (Ferguson) (144 in Egeler would need more time to evacuate); T. 268, 5/6/05 (Ferguson) (160 in Block 8 would need more time to evacuate).

340. Large numbers of the prisoners with special medical conditions in the *Hadix* facilities are at increased risk from smoke and fire, particularly those with chronic cardiac disease and pulmonary disease. Finding 1431 at 262, 2002 Findings.

341. In order to ensure fire safety, it is necessary to consider the capabilities of the occupants within a facility if they do not fall within the norms of a general population. Finding 1430 at 26, 2002 Findings.

D. IMPLICATIONS OF THE FIRE MODELS

342. Prof. Mowrer's zone model predicts that smoke density from a fire on Base will reach

untenable visibility levels within ten minutes. Within approximately ten minutes, average visibility will have fallen to two meters. Defs.' Exh. 1 at 17 (Figure 18) (Dr. Mowrer's Fire Model). This is about half of the time in which Defendants' fire drills demonstrate that the faculties may take for evacuation. *See* Pls.' Exh. 21A at 002, 025, 033 (evacuation times in practice drills generally more than ten minutes, and range up to 15-20 minutes); T. 90-91, 5/5/05 (Embry) (18 minutes to evacuate Block 8 during fire).

343. Moreover, because Prof. Mowrer's zone model cannot show the expected much higher density within the smoke plume of a fire, in fact a fire on Base would be expected to result in segments of multiple tiers reaching untenable visibility levels much earlier than the ten minutes predicted by the zone model. Proposed Finding 231, *supra*; T. 302-03, 5/6/05 (DiMascio); Pls.' Exh. 1C at 8-23.

344. In addition, Prof. Mowrer's model predicts that temperatures in the cell above the tier where the fire starts would reach approximately 175° F., a temperature high enough to cause injury. T. 296, 5/6/05 (DiMascio).

345. Moreover, Prof. Mowrer's model underestimates the degree of risk to *Hadix* prisoners. There is substantially more property available to fuel a fire than assumed in Prof. Mowrer's model. T. 288-89, 5/6/05 (DiMascio); Pls.' Exh. 19, Attachment C (several page list of additional permitted personal property) (PD-04.07.112 (11/15/2004)); Pls.' Exh. 6, Section E.1 (PD-04.07.112 (3/18/02)).

346. If the correct amounts of fuel had been used in the model, then the model would have shown more smoke being produced. T. 180, 5/5/05 (Mowrer); T. 290, 5/6/05 (DiMascio).

347. A substantial amount of the personal property is non-cellulosic and would produce

much more soot, with less visibility, than Prof. Mowrer's model. T. 304-05, 5/6/05 (DiMascio); T. 182-83, 5/5/05 (Mowrer).

348. Prof. Mowrer's zone model is also intrinsically unable to describe the variations in smoke density within the smoke plume from a fire. T. 291-02, 5/6/05 (DiMascio). The concentration of smoke on the side of cellblock where the fire occurs will be much higher than the concentration of smoke on the other side. T. 293, 5/6/05 (DiMascio). The smoke in the plume from a fire in the vicinity of the fire will also be more concentrated than the zone model can predict. T. 302, 5/6/05 (DiMascio).

E. INTERACTIONS OF THE DEFICIENCIES AND CONDITIONS

349. Defendants' renovations to the housing units do not address concerns with a fire or emergency for those prisoners who would have difficulty with mobility, breathing, strength and endurance, and following directions. T. 270-71, 5/6/05 (Ferguson).

350. In light of the skeleton staff and lack of drills on the third shift, there is substantial reason to think that actual times during a fire emergency would be even longer than the times shown in fire drills in the event of an actual fire. T. 229, 5/6/05 (Pulitzer).

351. Under current conditions, neither formal policy (evacuating prisoners with medical conditions on Base last) nor current practice (evacuating such prisoners first) is safe. In the case of an actual fire, the practice of evacuating Base prisoners first would dangerously delay removing prisoners from the higher galleries where the smoke would be thickest. At the same time, prisoners on Base who be at heightened risk in the event of smoke inhalation, or who exit particularly slowly, cannot be safely maintained on Base without a smoke removal system. Proposed Findings 128-129, *supra*.

352. The practice of not removing prisoners from Quarantine cells during fire drills (T. 110, 5/5/05 (Denman)) is extremely dangerous.

353. The lack of any capability for remote release of the Quarantine cells or cells for the disabled (Proposed Finding 20, *supra*), is extremely dangerous.

354. Letting locking mechanisms go unrepaired for months, and allowing a door to the outside that would not unlock to remain unrepaired for ten days (T. 231-32, 5/6/05 (Pulitzer); Proposed Finding 98, *supra*), demonstrate a lack of minimal concern for life safety.

355. The failure of Defendants to address this long-known deficiency also demonstrates a lack of minimal concern for life safety. T. 231-32, 5/6/05 (Pulitzer).

356. The pervasive deficiencies of the route postings, the lack of knowledge of fire safety policy on the part of testifying staff, and the manifest deficiencies in staff performance during actual serious fires, also demonstrate a lack of minimal concern for life safety. (Factual conclusion.)

357. Given all the relevant factors, including the high risk population, the long distances that must be traveled to reach safety, the pinch points that do not allow two people to pass each other, the open stairs, the lack of a reliable unlocking system, the lack of a remote release system in Egeler, the deficient training and supervision of staff, the lack of a sufficient staff to accomplish cell release in the event of a fire at night, and the short period of time before conditions become intolerable in comparison to the length of time that evacuation can be expected to take, loss of life can be expected if a significant fire occurs in the *Hadix* facilities. (Factual conclusion.)

358. There is a very substantial, life-threatening risk to the prisoners in the event of a fire in

the *Hadix* facilities. T. 233, 238 5/6/05 (Pulitzer); *see also* T. 309, 5/6/05 (DiMascio) (there is an absolute probability that the population in Blocks 1-3, 7 and 8 would be put at substantial risk of inhalation of smoke that is serious, indeed, life threatening).

XI. REMEDIES

359. Reducing the current life threatening risk to less than substantial requires the creation of horizontal exits through the creation in each block of two smoke compartments, the electrification of the cell doors in the Egeler Facility with remote control capability from the control center, and introduction of an adequate smoke exhaust system in all five blocks. T. 323, 5/6/05 (DiMascio); T. 235, 5/6/05 (Pulitzer).

360. Reducing the risk also requires addressing the shocking rate of failures in the locking systems. The locking system has outlived its usefulness. T. 231-32, 5/6/05 (Pulitzer).

361. These remedies would address the needs identified by Plaintiffs' medical and disabilities experts, who indicated that changes would have to include reduction in the travel distances and travel times, and greater consideration of the mobility, vision, and other problems that these prisoners have. Pls.' Exh. 3B at 80, 85; T. 271, 5/6/05 (Ferguson).

362. The horizontal wall in each block would divide the block in half. It would extend from the ceiling to the Base. A door in the middle of each gallery would allow everyone to exit horizontally at each level from the side involved with the fire to the smoke-free side. T. 236, 5/6/05 (Pulitzer).

363. The new horizontal wall with an exit door would make it unnecessary for prisoners to exit down unenclosed stairs. T. 232, 5/6/05 (Pulitzer); T. 322-23 (DiMascio).

364. If there were a fire in a stairway, which is a likely scenario, prisoners would still be

able to use the horizontal exit to reach the safe side without having to use the stairs. T. 236, 5/6/05 (Pulitzer). Prisoners would have to use stairs only after moving out of the area of danger through the door. They could conceivably remain in the smoke-free compartment and not have to be evacuated from the building. This arrangement would have the added benefit of not requiring an outside evacuation of the prisoner population, which is undesirable. T. 237, 5/6/05 (Pulitzer). Defendants' expert concurred that it is undesirable to evacuate prisoners. T. 139, 5/5/05 (Smith).

365. Although the construction of the horizontal wall and exit will increase the density of smoke in the area where the fire is located, all of the remedies must be considered in combination. The remote release system will remove prisoners from their cells quickly, so they can start evacuating without having to wait for a guard to release their locks manually. The smoke removal system should also maintain the level of the smoke above the area of egress. The cell release system in combination with the smoke evacuation system and the smoke barrier work together to protect prisoners. T. 322-23, 5/6/05 (DiMascio).

366. Defendants' Fire Safety and Egress Report dated 12/12/03 ("Defendants' Report") was prepared to address the deficiencies found by the Court in the 2002 Findings. Pls.' Exh. 50. Defendants' Report explained the benefits of the horizontal wall:

> . . . The construction of the horizontal exit reduces the number of building occupants in one smoke/fire compartment by one half, therefore also reducing the number of occupants who have to be removed from their cells by one half.
>
> It is our opinion that constructing a horizontal exit will reduce the time required for occupants to exit the smoke/fire compartment and greatly improve the safety of the occupants.

Pls.' Exh. 50 at 5, 17 (schematics).

367. Thomas Smith, Defendants' architectural expert, agreed that the horizontal wall and exit would improve life safety. T. 141, 5/5/05 (Smith).

368. Defendants' Report also addressed the deficiencies in smoke exhaust:

> The smoke control system will exhaust a minimum of 150,000 cubic feet per minute out of each smoke compartment . . . Installing the smoke control system will improve the safety of the occupants within the cell block by evacuating smoke out of the open tier cell block design. It will allow more time and greater visibility for occupants of the cell block to exit the smoke/fire compartment.

Pls.' Exh. 50 at 6.

369. The new proposed smoke control plan described in Defendants' Report would exhaust a minimum of 150,000 cubic feet per minute ("CFM"). This would greatly enhance the smoke exhaust capabilities that are there now which are fairly minimum. T. 239, 5/6/05 (Pulitzer). This was the capacity recommended by Mr. DiMascio in the 2002 hearing. Finding 1404 at 258, 2002 Findings.

370. Defendants' Report also described the benefits of addressing the lack of a remote unlocking mechanism in Blocks 1-3.

> The remote unlocking mechanism will allow the staff at the guard station within each of the three cell blocks to remotely unlock the cell doors. This will decrease the time required to unlock the cells. It is our opinion that modifying the existing unlocking mechanisms to remotely unlock the cells will decrease the time required to exit the cells and greatly increase the safety of the occupants.

Pls.' Exh. 50 at 6.

371. A remote cell release system should have a release from a central location on Base where officers could activate buttons that would open the cells. This was not done in Blocks 7 and 8. If that location became uninhabitable because of smoke, or the officers became disabled, the control center could remotely unlock the cells. T. 238-39, 5/6/05 (Pulitzer).

372. In light of the continued deterioration of the locking system since the 2002 hearing, the remedies addressed in Defendants' Report are not sufficient, and the locking system must be replaced in a comprehensive and reliable manner.

373. In summary, the plan for remediation set forth in Defendants' Report, with the addition of repair of the locking system, would correct the life safety deficiencies at the *Hadix* housing facilities. It would aid prisoners in exiting their cells as quickly as possible from the onset of hazardous conditions. It would provide a smoke barrier that would have the effect of dividing the exposed population in half and the additional advantage of requiring only horizontal travel to an area of safe refuge. The smoke exhaust system would evacuate smoke early (offsetting effects of the density of smoke resulting from reducing the volume of space within the compartment). T. 313, 5/6/05 (DiMascio). The plan set forth in Defendants' Report would also substantially address the fire safety needs of those prisoners with health problems. T. 238, 5/6/05 (Pulitzer).

374. To remedy the life safety risk created by an exit in the laundry that improperly terminates on the first floor rather than outside the building, Defendants should adequately mark the route from the stairway to an outside exit. T. 312-13, 5/6/05 (DiMascio).

375. To correct the fire safety hazards caused by the improper storage of flammable chemicals in the metal furniture factory, Defendants should either remove the chemicals from the inside location or construct a flammable liquid storage and handling room for storage and dispensing the liquids. T. 310, 5/6/05 (DiMascio).

XII. PROPOSED CONCLUSIONS OF LAW

A. GENERAL EIGHTH AMENDMENT STANDARDS

1. THE COMPONENTS OF AN EIGHTH AMENDMENT VIOLATION

1. Eighth Amendment challenges to prison conditions of confinement involve proof of two elements. First, the deprivation alleged must be, objectively, sufficiently serious. The second subjective component requires that the prisoner must prove that prison officials had a sufficiently culpable state of mind. *Farmer v. Brennan*, 511 U.S. 825, 834, 845 (1994).

2. THE OBJECTIVE COMPONENT OF THE EIGHTH AMENDMENT

2. Prison officials have an affirmative obligation under the Eighth Amendment to provide prisoners with the basic necessities of life, including reasonable safety. *Farmer v. Brennan*, 511 U.S. 825, 832 (1994); *DeShaney v. Winnebago County Dep't of Soc. Serv.*, 489 U.S. 189 (1989):

> The rationale for this principle is simple enough: when the State by the affirmative exercise of its power so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs, *e.g.*, food, clothing, shelter, medical care and reasonable safety, it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause.

Id. at 200.

3. Thus, deprivation of a basic necessity of life satisfies the objective component of the Eighth Amendment. When prison officials fail to meet the obligation to provide for a basic human need as a result of their "deliberate indifference," they violate the Eighth Amendment's ban on cruel and unusual punishments. *Wilson v. Seiter*, 501 U.S. 294, 303 (1991).

4. In determining what level of reasonable safety is required to avoid a violation of the objective component of the Eighth Amendment, the Court is guided not simply by the

scientific evidence, but also a determination that a particular risk is so grave that it violates contemporary standards of decency to expose anyone unwillingly to such a risk. *Helling v. McKinney*, 509 U.S. 25, 36 (1993), *quoted in Hadix v. Johnson*, 367 F.3d 513, 528 (6th Cir. 2004).

5. The Court concludes that it violates contemporary standards of decency to expose prisoners to housing in which, if a serious fire occurs, scientific evidence predicts that conditions will become untenable well before the staff can reliably evacuate the prisoners.

6. The Court's consideration in this regard is informed by the determination of the Sixth Circuit Court of Appeals that the Eighth Amendment's objective component is violated by forcing a prisoner with a serious medical need for a smoke-free environment to share his or her cell with a prisoner who smokes. *Talal v. White*, 403 F.3d 423, 426 (6th Cir. 2005); *Hunt v. Reynolds*,974 F.2d 734, 736 (6th Cir. 1992). The Court is persuaded that requiring prisoners to bear the risk of death from fire in an unsafe cellblock is at least equally inconsistent with contemporary standards of decency as is exposing prisoners with a serious medical need for a smoke-free environment to passive environmental smoke.

3. THE SUBJECTIVE COMPONENT OF AN EIGHTH AMENDMENT VIOLATION

7. Plaintiffs needs not show that prison officials acted or failed to act believing that harm would actually befall prisoners; it is enough to show deliberate indifference that officials acted or failed to act despite knowledge of a substantial risk of serious harm. *Farmer*, 511 U.S. at 842.

8. In cases like this one concerned with prison officials' future conduct with regard to prison conditions, "[i]f those conditions are found to be objectively unconstitutional, then that finding

[also satisfies] the subjective prong [of deliberate indifference] because the same information that would lead to the court's conclusion is available to prison officials." *Hadix v. Johnson*, 367 F.3d at 526; *see also Farmer* at 846 n.9 ("If, for example, the evidence before a district court establishes that an inmate faces an objectively intolerable risk of serious injury, the defendants could not plausibly persist in claiming lack of awareness, any more than prison officials who state during the litigation that they will not take reasonable measures to abate an intolerable risk of which they are aware could claim to be subjectively blameless for purposes of the Eighth Amendment, and in deciding whether an inmate has established a continuing constitutional violation a district court may take such developments into account.").

B. APPLICATION OF EIGHTH AMENDMENT STANDARDS TO FIRE SAFETY ISSUE

9. In determining whether prison conditions constitute cruel and unusual punishment, courts "must examine the effect upon inmates of the condition of the physical plant[,]" including heat and ventilation. *Rhodes v. Chapman*, 452 U.S. 337, 364 (1981) (Brennan, Blackmun and Stevens, JJ., concurring).

10. Moreover, "a remedy for unsafe conditions need not await a tragic event." *Helling v. McKinney*, 509 U.S. 25, 33 (1993). Prison authorities may not "ignore a condition of confinement that is sure or very likely to cause serious illness and needless suffering the next week or month or year" merely because no harm has yet occurred. *Id.*

11. "Prisoners have the right not to be subjected to the unreasonable threat of injury or death by fire and need not wait until actual casualties occur in order to obtain relief from such conditions." *Hoptowit v. Spellman*, 753 F.2d 779, 784 (9th Cir. 1985); *see also Gates v. Collier*, 501 F.2d 1291, 1300, 1303 (5th Cir. 1974) (prisoners are entitled to relief under the

Eighth Amendment from a threat to their personal safety posed by a lack of adequate firefighting equipment), *cited with approval, Helling v. McKinney*, 509 U.S. 25, 34 (1993); *Toussaint v. McCarthy*, 597 F. Supp.1388, 1398 (N.D. Cal. 1984) (fire hazards combined with lack of preparedness violate Eighth Amendment by creating "a substantial risk that a major fire will break out" and cause prisoner deaths), *aff'd in pertinent part,* 801 F.2d 1080 (9th Cir. 1986).

12. A case with many similarities to the instant one is *Tillery v. Owens,* 719 F. Supp. 1256 (W.D. Pa. 1989), *aff'd on other grounds,* 907 F.2d 418 (3d. Cir. 1990),[3] in which the district court held that the lack of fire safety in the cellblocks at the State Correctional Institution at Pittsburgh ("SCIP") violated the Eighth Amendment. At issue in that case were "cavernous,"[4] five-tiered cellblocks. *Id.* at 1260, 1262. The tiers rose 50-60 feet; one cellblock contained 640 cells and the other 500. *Id.* at 1262. While the cellblocks had some features worse than the *Hadix* facilities, including a lack of sprinklers and smoke detectors,[5] they shared many fire safety deficiencies with the current *Hadix* facilities. These shared features include the lack of a meaningful smoke control system, the lack of a master unlocking system, the lack of fire

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[3] Although the defendants' challenge on appeal was limited to the portion of the district court order involving overcrowding, the court of appeals specifically relied on the district court's conclusion, among other things, that fire safety in the prison fell below constitutional norms in its affirmance of the order against overcrowding. Indeed, the court of appeals reasoned that "[w]e finding nothing in the Supreme Court's relevant jurisprudence that suggests that conditions as deplorable as those of [this prison] may not be held to fall below constitutional standards merely because there has not been an epidemic of typhoid fever, an outbreak of AIDS, a deadly fire, or a prison riot." *Tillery,* 907 F.2d at 427-48.

[4] *Id.* at 1260.

[5] It is not clear how real any distinction between fire detection in *Tillery* and this case is. While the *Hadix* cellblocks may have fire detection equipment, that fire equipment seems to play no practical role in the detection of fires within the cellblocks. *See* Pls.' Proposed Findings 87.

compartmentalization, and long distances to exits. *Id.* at 1277-78.

13. The district court in *Tillery* found that the conditions indicated that the prison did not provide "a reasonably safe place of confinement" and that the fire safety violations shocked the court's conscience. *Id.* at 1279-80. Among the remedies that the district court indicated would suffice to cure the constitutional violation were effective smoke exhaust systems, an electronic master cell locking system, fire separation between the blocks and between floors of the blocks, and increased staff coverage. *Id.* at 1280.

14. *Tillery* is also similar to *Cody v. Hillard,* 599 F. Supp.1025 (D.S.D.1984), *aff'd in part, rev'd in part on other grounds,* 830 F.2d 912 (8th Cir. 1987). *Cody* also involved multi-tiered cellblocks. *See id.* at 1029 (in discussing heating system, referring to the cellblocks' top tiers and bottom tiers). Among the fire safety violations found by the court were insufficient night staff to respond to an emergency fire, no remote automatic unlocking devices, no compartmentalization of the cellblocks, a ventilation system inadequate to remove smoke in the event of a fire, and a failure to enclose the stairs to be used in the event of an emergency evacuation. Also like conditions in *Tillery,* fire safety conditions in *Cody* were also in some respects worse than the conditions in this case. The cellblocks in *Cody* also lacked sprinklers and smoke detectors, for example. *Id.*

15. *Laaman v. Helgemoe,* 437 F. Supp. 269 (D.N.H. 1977), involved a prison containing a cellblock of four-tier back-to-back cells. While this cellblock was sprinklered, all the cells required individual unlocking, and there were additional fire safety deficiencies, such as a lack of emergency exits and fire equipment, and a structure partially constructed of wood. *Id.* at 281. The court found that the combination of these conditions, including the lack of a master locking system, presented "a clear and present danger of serious loss of life." *Id.* at 323.

16. The Sixth Circuit, in remanding this case to the Court, cited with apparent approval a number of additional cases in which courts had found Eighth Amendment violations because of a lack of fire safety. These cases included *Women Prisoners of the District of Columbia v. District of Columbia,* 877 F. Supp. 634 (D.D.C. 1994). An annex to the prison was partially of wooden construction and had a high combustible load without necessary compartmentalization or sprinklers. The fire alarm system in the annex was also inadequate. At the same time, the court noted as a factor reducing the level of danger that the Annex was a one-story structure. *Id.* at 653, 671. The court found that the fire safety violations at the annex violated the Eighth Amendment. *Id.* at 669-70.

17. The second case cited by the Sixth Circuit was *Carty v. Farrelly*, 957 F. Supp. 727 (D.V.I. 1997). In that case, the court found that the combination of inoperable cell locking devices, manual alarm systems, smoke dampers, and heat detectors violated the Eighth Amendment. *Id.* at 737. Accordingly, some of the factors at issue in *Carty*, including the inoperable locking devices

and the lack of a meaningful smoke removal system, resemble the *Hadix* facilities, while others do not.

18. A third case cited by the Sixth Circuit was *Toussaint v. McCarthy,* 597 F. Supp. 1388 (N.D. Cal. 1984). This case involved five-tier cellblocks. *Id.* at 1393. While the two prisons at issue in *Toussaint* lacked sprinklers and had electrical hazards not shared by *Hadix* facilities, the *Hadix* facilities also share deficiencies with those condemned in *Toussaint,* including a lack of functional smoke removal systems and long travel distances to exits. One of the prisons in *Toussaint*, like Block 8, lacked on-site SCBA equipment for fire rescue. *Id.* at 1398 & n.16. Two prisoners had died in a fire when the cell door could not be opened because of the heat.

Id. at 1398. The court found that conditions violated the Eighth Amendment. *Id.* at 1410.

19. The next case cited, *Capps v. Atiyeh,* 559 F. Supp. 894 (D. Or. 1983), involving various cellblocks and an annex within a prison. The court found a fire safety violation in the Annex because it was not a solid concrete structure and it needed smoke detectors or an alarm system and another emergency exit. In finding a constitutional violation, the court relied on its conclusion that fire safety at the Annex was so deficient that, if a serious fire occurred, injury was inevitable. *Id.* at 914-15.

20. The next case cited, *Leeds v. Watson,* 630 F.2d 674 (9th Cir. 1980), involved a jail rather than a prison. A house had been converted into the jail. In the event of a fire, if an interior stairs were to be blocked by fire, the only way to evacuate detainees would have been for a correctional officer to run from a lower floor to an outside fire escape and unbolt and unlock it from outside.

After that, a locked door would have to have been opened to gain access to the cell area. The court of appeals noted that continued use of the area could easily lead to a great loss of life, and that an emergency housing area lacked a fire exit. The court of appeals held that the district court had erred in approving a plan for improvements that did not address these deficiencies. *Id.* at 675-76.

21. The next case, *Santana v. Collazo,* 714 F.2d 1172 (1st Cir. 1983), involved a juvenile facility. The court of appeals remanded because the district court had not adequately considered whether the constitution required that polyurethane mattresses be replaced, new fire extinguishers be purchased and an evacuation plan formulated. *Id.* at 1183.

22. The next case, *Masonoff v. Bissonette,* 899 F. Supp. 782 (D. Mass. 1995), involved a medium security prison. *Id.* at 787. The prison lacked a sprinkler system or an alternative to

manual unlocking of the cell doors. The court determined that a trial was necessary to determine the level of danger caused by these conditions in light of the defendants' claim that rigorous safety procedures had dissipated those dangers. *Id.* at 798-99.

23. The Sixth Circuit also cited two cases in which a court had rejected the claim of a constitutional violation. The first of these cases was *Ruiz v. Estelle*, 679 F.2d 1115 (5th Cir. 1982). *Ruiz* involved the entire Texas prison system. The district court had found a lack of fire safety exits; the court of appeals does not cite any other fire safety deficiencies in its discussion. The court of appeals concluded that these deficiencies did not amount to a violation of the Eighth Amendment, and cautioned that violation of professional fire safety standards did not demonstrate a constitutional violation. *Id.* at 1152-53.

24. The second unfavorable case cited by the court of appeals was *Miles v. Bell*, 621 F. Supp. 51 (D. Conn. 1985). This case involved a federal prison. The plaintiffs' principal claim regarding fire safety was that the institution was so understaffed that a swift response would not take place in the event of a fire; the plaintiffs also challenged the lack of a fire resistant door to a laundry room. The court accepted the conclusions of the defendants' fire safety expert that these conditions did not expose prisoners to an unreasonable risk of death. Again, the court noted that violation of professional fire safety code standards did not demonstrate a constitutional violation. *Id.* at 64-65.

25. In addition, the court of appeals in this case cited *French v. Owens*, 777 F.2d 1250 (7th Cir. 1985), a case involving the defendants' appeal from an order granting injunctive relief regarding a prison. The prisoners complained of improperly maintained electrical wiring, inadequate fire exits, and a lack of established procedures to respond to fires. The court of appeals held that the district court had failed to determine which of the conditions constituted

constitutional violations and which simply violated various administrative regulations or codes; only the constitutional violations needed to be remedied. *Id.* at 1257-58.

26. The cases cited above illustrate, as a group, several principles. The first is that a federal court appropriately finds an Eighth Amendment violation with regard to fire safety only when the Court concludes that the evidence demonstrates a significant and realistic threat of serious bodily injury resulting from the fire conditions. In the cases cited above in which a court appropriately found such a violation, the combined circumstances demonstrated that, in the event of a serious fire, the fire protection response available from the prison officials would be very likely to lead to injury or death.

27. An equally important principle from these cases is that violations of a fire safety code do not equate to a violation of the Eighth Amendment. *See* cases discussed *supra.* Accordingly, while the facilities at issue do not comply in all respects with aspects of various fire safety codes, the Court's decision does not rest on this issue.[6]

28. Many of the cases discussed above in which other courts found constitutional violations involved more obviously intrinsically dangerous conditions than do the facts of this case. On the other hand, the Court's determination is informed by two factors that did not play a role in any of the other cases.

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[6] It is equally the case that compliance with such codes and standards cannot by itself insulate a facility from a finding of a constitutional violation. *See, e.g., Gates v. Johnson,* 376 F.3d 323, 327 (5th Cir. 2004) (accreditation by American Correctional Association is not *per se* evidence of lack of an Eighth Amendment violation); *Wyatt v. Poundstone,* 985 F. Supp. 1356, 1429 (M.D. Ala. 1997) (stating that accreditation by Joint Commission on Correctional Health Care Organizations is not equivalent to, or substitute for, compliance with minimal constitutional standards); *Robbins v. Budke,* 739 F. Supp. 1479, 1481 (D.N.M. 1990) (same); *Boulies v. Ricketts,* 518 F. Supp. 687, 689 (D. Colo. 1981) (calling argument that accreditation by American Correctional Association entitled defendants to summary judgment "simply ludicrous").

29. The first factor unique to this case is the very high number of the prisoners at heightened risk in the event of a fire. These heightened risks derive from several different characteristics of the prison population in the *Hadix* facility, including the number of prisoners who would not be able to exit as rapidly as other prisoners because of mobility problems, those who would be significantly higher risk of a heart attack, seizure, or asthma attack; and those with communication problems that would interfere with following directions.

30. The second new factor in this case is that advances in technology make possible more accurate and refined models of the expected consequences of a fire in one of the cellblocks. In this case, the models proffered by Defendants demonstrate, in light of all the circumstances in this case, the highly probable consequence of a serious fire would be the inability to remove all the occupants of the cellblock before conditions became completely unsafe. In reaching this conclusion, the Court is considering the condition of the prisoners; the shocking lack of a reliable unlocking system; the inability of the current fire protection devices to remove smoke during the exiting process; the extremely long distances, pinch points, and unenclosed stairways that prisoners must traverse to exit; and the other evidence presented by the parties.

C. FINDING OF CONSTITUTIONAL VIOLATION AND REMEDY

31. Based on the foregoing considerations, the Court finds that there are current and ongoing constitutional violations with regard to fire safety. Prospective relief retaining Section III of the Consent Decree remains necessary to correct that violation. The remedy set forth below extends no further than necessary to correct the constitutional violations. This remedy is also narrowly drawn and appropriately part of the least intrusive means to correct the violation, particularly because it is the remedy that defendants previously submitted by Defendants as their remedial plan, with necessary additions.

32. In view of the history of hearings on this issue and of the fact that Defendants have previously been provided with the opportunity to develop an appropriate remedial plan, the Court adopts the remedial plan previously submitted by Defendants on December 30, 2002, with certain revisions as set forth below. *See* Defs.' Brief/Plan to Comply with the Court's Injunction Pertaining to Heat-Related Illness and Defs.' Br. Regarding Alternatives to Compartmentalization to Remedy Alleged Fire Safety Problems and Risks, Dec. 30, 2002, Attachment 1. The Court will accordingly issue an order containing the following provisions: Defendants shall construct walls with exit doors and a smoke exhaust system in Blocks 1-3 and 7-8, as described in their previous remedial plan. In addition, Defendants shall within 60 days submit a supplemental plan to reconstruct all the cell locking mechanisms in Blocks 1-3 and 7-8 to provide safe and reliable mechanisms for remote and manual unlocking of all cells. That supplemental plan shall also verify that Defendants have adequately and appropriately marked all fire exits in the laundry and that Defendants have either removed the chemicals improperly stored in the metal furniture factory, or that they have constructed a proper flammable storage and handling room for storage and dispensing of such chemicals.

Respectfully Submitted,

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Dated: July 5, 2005

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on July 5, 2005, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to F. Warren Benton and counsel for the Defendants, A. Peter Govorchin. A copy was also emailed to:

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APPENDIX A
Walden Egeler Table

No.	Name	Lock (Block-Gallery-Cell)	HC-251 Disabilities and Accommodations Report (04/05/05) Disability Description / Accommodation	HC-261 Service Area Clinic Reports (04/05/05)	Comments
131505	Hathorne	3-2-59	HIV infection, Respiratory disease, Digestive system disor / at risk of heat, no food serv	Infectious Disease Clinic 1. Asymptomatic HIV infection	
132337	Gardner	3-4-12	Cardiac and circulatory, Respiratory disease, Chronic hepatitis, / no outdr wk, heat relate	Pulmonary Clinic 1. Hepatitis C carrier	
143789	Keener	3-2-70	respiratory disease / heat risk	Pulmonary Clinic 1. Acute/unspec Hepatitis C w/o M 2. Tobacco abuse - continuous 3. Asthma w/o status asthma	
154695	Wilson	3-4-45	respiratory disease / heat risk	No clinic	
160657	Henry	2-2-66	HIV (LOF:A), visual impairment / no kitchen, health	Infectious Disease Clinic 1. Chronic Hepatitis C without me 2. Asymptomatic HIV infection	note.
178838	Lewis	3-1-47	orthopedic disorder/f , respiratory disorder , allergic, endocrine system / see CHJ-244	Pulmonary Clinic 1. Asthma w/o status asthma 2. Health exam - group survey	
183348	Harrison	3-2-25	respiratory disorder (LOF:A) / heat risk	Pulmonary Clinic 1. Asthma w/o status asthma	note
188559	Cabre	1-1-60	No description / no accommodation	Pulmonary Clinic 1. Chr airway obstruct NEC 2. Unilat inguinal hernia	
192131	Miller	3-B-27	mental or physiological, cardiac and circulatory, cluster migraine headaches, / ground floor, bottom bunk, therapeutic diet, no heights, no driving/da	Cardiac Clinic 1. chronic ischemic heart disease NOS 2. HTN NOS 3. esophageal reflux	
192354	Warfield	3-3-35	hearing impairment, respiratory disease, visual impairment, / heat risk	Pulmonary Clinic 1. asthma w/o status asthma 2. iron def anemia NOS 3. chronic renal failure	
195752	Lopez	2-4-20	respiratory disease / no accommodation	Pulmonary Clinic asthma w/o status asthma	

197427	Chatman	3-1-56	mental or physiological, cardiac and circulatory, respiratory disease, visual impairment (LOF:A), chronic hepatitis / heat risk	Cardiac Clinic HTN NOS	note
205348	Bartlett	1-1-58	No description / No accommodation	Pulmonary Clinic asthma w/o status asthma	
215401	Flentall	1-1-30	respiratory disease / No accommodation	Hep C Clinic asthma w/o status asthma chronic Hep C w/o me health exam-group survey	
217074	Lemerand	1-4-43	mental or physiological, cardiac and circulatory, allergic, endocrine system, chronic hepatitis /water bottle, heat risk, no standing ≥ 30 minutes, no lifting	Cardiac Clinic 1. med exam nec-admin purp 2. HTN NOS	He may be a slow walker.
219256	Blakeley	7-1-82	respiratory disease / no accommodation	Pulmonary Clinic 1. asthma w/o status asthma 2. allergic rhinitis NOS	
230052	Bellefant	2-4-58	No description/no accommodation	Pulmonary Clinic 1. health exam-group survey 2. asthma w/o status asthma	
248988	Harris	1-3-25	physiological disorder, respiratory disease / ground floor	Pulmonary Clinic asthma w/o status asthma	Placement mistake
249274	Vasquez	1-1-68	respiratory disease / no accommodation	Pulmonary Clinic asthma w/o status asthma	
250991	Edwards	7-1-30	No description / no accommodation	Pulmonary Clinic med exam nec-admin purp asthma w/o status asthma	
252913	Burke	3-2-32	cardiac and circulatory, respiratory disease / bottom bunk, heat risk, no laundry or kitchen	Cardiac Clinic 1. med exam nec-admin purp 2. HTN NOS 3. asthma w/o status asthma	
258101	McCray	2-1-46	No description/ no accommodation	Pulmonary Clinic asthma w/o status asthma	
267669	Pettey	1-1-47	respiratory disease, chronic hepatitis / heat risk	Pulmonary Clinic 1. chronic Hep C w/o me 2. asthma w/o status asthma	
269530	Stokes	7-3-63	allergic, endocrine system / extra bedding	Pulmonary Clinic 1. med exam nec-admin purp 2. asthma w/o status asthma	
270826	Alvarez	7-1-48	No description / heat risk	Pulmonary Clinic asthma w/o status asthma	
278398	Olds	2-1-16	respiratory disease/ ground floor, therapeutic diet- 2400 cal	Gastrointestinal Clinic 1. esophageal reflux 2. HTN NOS 3. asthma w/o status asthma	Placement mistake

289846	Coward	7-3-66	respiratory disease / no accommodation	Pulmonary Clinic 1. med exam nec-admin purp 2. asthma w/o status asthma	
308026	Lyon	7-2-43	No description /no accommodation	Pulmonary Clinic 1. med exam nec-admin purp 2. asthma w/o status asthma	
309953	Williams	7-2-58	physiological disorder / bottom bunk, heat risk, no heights	Pulmonary Clinic 1. med exam nec-admin purp 2. asthma w/o status asthma 3. chronic airway obstruc nec	Note.
322420	Brown	3-3-42	No description /no accommodation	Pulmonary Clinic 1. asthma w/o status asthma 2. hyperlipidemia nec NOS	
351208	Brook	1-3-14	No description /arch support, heat risk	Pulmonary Clinic asthma w/o status asthma	
366552	Smith	3-3-68	cardiac and circulatory / heat risk	Cardiac Clinic esophagitis	
375145	Wayne	2-4-23	No description / heat risk	Pulmonary Clinic prophy measure nec	
391369	Spiewak	1-1-1	respiratory disease (LOF:A) / ground floor, no driving/da	Pulmonary Clinic asthma w/o status asthma	Placement mistake
394148	Walker	1-4-29	Cardiac and circulatory / heat risk	Cardiac Clinic health exam group survey	
497729	Ghee	7-3-9	No description /no accommodation	Pulmonary Clinic 1. med exam nec-admin purp 2. asthma w/o status asthma	
515650	Blackshire	7-3-46	No description /no accommodation	Pulmonary Clinic 1. med exam nec-admin purp 2. asthma w/o status asthma	
525249	Lofgren	2-4-41	No description / ground floor, bottom bunk	No Clinic	Placement mistake

APPENDIX B
Walden Block 8 Table

No.	Name	Lock (Cell-Gallery-Block)	HC-251 Disabilities and Accommodations Report (04/05/05) Disability Description / Accommodation	HC-261 Service Area Clinic Reports (04/05/05)	Comments
108558	Faber	30-2-08	Mental or physiologica, Allergic, Endocrine Sy / at risk of heat	Endo Clinic 1. Obs Comp Disorder 2. Hypothyroidsim NOS 3. Duodenal ulcer NOS	Signed Cell Waiver New cell, same gallery
124266	Venegar	60-1-08	Orthopedic deformity/F, LOF: A / at risk of heat	Cardiac / HTN Clinic 1. Hypertension NOS 2. Osteoarthros NOS-pelvis 3. Lumbar disc displacement	He may be a slow walker.
135363	Craig	06-1-08	Mental or Physiologica, Orthopedic deformity/F LOF:A / ground floor, bottom bunk, no heights	Cardiac / HTN Clinic 1. Obesity 2. Hyperlipidenia NEC / NOS	Placement mistake.
139718	Bell	68-3-08	Ortho deformity, LOF: A, HIV infection, respiratory disease allergic, endocrine sy LOF: A / Bottom bunk, therapeutic D, at risk of heat, no lifting mo 20 lbs, no food service	Infectious Disease Clinic 1. Diabetes Uncompl Adult 2. Acq Immunodefic Syndrome	Signed Cell Waiver Same cell He may be a slow walker.
147207	Pearson	15-2-08	Orthopedic deformity/F Cardiac and circulatory LOF: A / bottom bunk, TED hose	Hep C Clinic 1. Hypertension NOS 2. Hepatitis C carrier	He may be a slow walker.
147450	Lewis	13-2-08	Allergic, Endocrine sy / at risk of heat	Endocrine Clinic 1. Hypothyroidsim NOS 2. Hyperlipidemia NEC/NOS	Signed Cell Waiver Same cell
147687	Manier	21-4-08	Cardiac and circulatory, respiratory disease, alcoholism, drug addiction, chronic hepatitis / at risk of heat	Hep C Clinic 1. Esophageal reflux *11/02/04:* Hep C Clinic 1. Chronic hepatitis C w/o M 2. Chr airway obstruct NEC	Signed Cell Waiver Same cell
154475	Harris	31-3-08	HIV infection / no kitchen	Pulmonary Clinic 1. Health exam-group survey	
155414	May	31-1-08	No disability description / at risk of heat	Pulmonary Clinic 1. Asthma w/o status asthm 2. Hypertension NOS 3. Esophagitis	
157121	Avery	12-1-08	Cardiac and Circulatory, Respiratory Disease / Continuous AC (Obtain Perm), (Spacer inhal) (Tens Unit), at risk of heat (perm)	Pulmonary Clinic 1. Asthma w/o status asthm 2. Esophageal reflux 3. Obesity	

161281	Carroll	42-4-08	No disability description / at risk of heat	Cardiac / HTN Clinic 1. Hypertension NOS 2. Mixed Hyperlipidemia	Signed Cell Wavier Same cell
164755	Jones	48-1-08	Mental or physiologica, Hearing impairment, LOF: A, Cardiac and circulatory, Visual impairment, LOF: A, Digestive system disor, Alcoholism / hearing aid, glasses, at risk of heat (lo social con)	Cardiac / HTN Clinic 1. Hypertension NOS 2. Hyperlipidemia NEC/NOS 3. Tobacco abuse-continuous	His hearing and visual impairments needing assistance together suggest he may be at risk in an emergency exit even on the 1st Gallery.
165710	Keller	14-2-08	Chronic Hepatitis, Amputation of major/mi, Cardiac and circulatory, Visual impairment, LOF: A, Digestive system disor / at risk of heat	Cardiac / HTN Clinic 1. Hypertension NOS 2. Hyperlipidemia NEC/NOS 3. Tobacco abuse-continuous	The combination of visual impairment needing assistance and cardiac problems suggest he should not be on 2nd gallery.
166484	Edwards	46-2-08	Cardiac and circulatory, LOF: D / bottom bunk, special garment (sighose/arc) (tennis shoe)	Hep C Clinic 1. Hepatitis C carrier 2. Hypertension NOS	He may be a slow walker.
166760	Shaheed	74-1-08	Cardiac and circulatory, Respiratory disease, Visual impairment, LOF: A Alcoholism, Drug addiction /	Cardiac / HTN Clinic Chronic airway obstruction NEC	
170709	Pearson	24-4-08	Respiratory disease, Digestive system disor / at risk of heat, no grass work	Hep C Clinic 1. Asthma w/o status asthm 2.Chronic Hepatitis C without ME	Signed Cell Waiver Same cell
173533	Glenn	52-3-08	Physiological disorder / at risk of heat	Not listed in a medical clinic.	Signed Cell Waiver Same cell
174981	Barker	69-1-08	Mental or physiologica, orthopedic deformity/F / at risk of heat	Not listed in a medical clinic.	
175733	Rhodes	63-1-08	Cardiac and circulatory / at risk of heat	Cardiac / HTN Clinic 1. Hypertension NOS 2. Hyperlipidemia NEC/NOS	Signed Cell Waiver when at 48-2-08
176474	Hodge	33-3-08	Cardiac and circulatory / no accommodation noted	Cardiac / HTN Clinic 1. Hypertension NOS 2. Trans cereb ischemia NEC	

186063	Bradshaw	25-2-08	HIV Infection, Cardiac and Circulator, Visual impairment LOF: A / at risk of heat	Infectious Disease Clinic 1. Acq Immunodefic syndrome 2. Esphageal reflux 3. Hyperlipidemia NEC/NOS	Signed Cell Waiver. Same cell [moved down from 3rd gallery since Nov. 2004]
186089	Smith	58-2-08	Orthopedic deformity/F, Allergic, endocrine sy / bottom bunk, EPI Pen- CC	Pulmonary Clinic 1. Asthma w/o status asthm	
186179	Miller	52-1-08	Respiratory disease, Allergic, endocrine sy / therapeutic diet (1800 ada), at risk of heat	Endocrine Clinic 1. Health exam-group survey	
188735	Antes	47-1-08	No description / at risk of heat	Pulmonary Clinic 1. Chr airway obstruct NEC 2. Hyperlipidemia NEC/NOS	
190056	McMillan	01-4-08	No description / no accommodation	Pulmonary Clinic 1. Asthma w/o status asthma	
190981	Gipson	22-1-08	No description / at risk of heat	Pulmonary Clinic 1. Chr airway obstruct NEC	
195555	Morgan	16-2-08	Cardiac and circulatory, visual impairment LOF: A / at risk of heat	Cardiac / HTN Clinic 1. Hypertension NOS 2. Hyperlipidemia NEC/NOS	Signed Cell Waiver, Same cell
198776	Myers	74-4-08	Seizure disorder, LOF: A / bottom bunk, (gloves), no driving/da	Neurologic Clinic 1. Convulsions	Placement mistake, per HC policy.
205930	Delatorre	68-B-08	Orthopedic deformity/F, LOF: A Cardiac and circulatory, LOF: A Visual impairment, LOF: A / ground floor, handicap table, at risk of heat	Cardiac / HTN Clinic 1. Chr airway obstruct NEC	
213307	Deloach	15-B-08	Orthopedic deformity/F, Cardiac and circulatory, Respiratory disease Visual impairment / ground floor (Base lock), Bottom bunk, cane (wood), at risk of heat, no work assig	Disabilities Clinic 1. Hypertens renal dis NOS 2. Chr airway obstruct NEC 3. Osteoarthros NOS- L / Leg	
214219	Phillips	59-1-08	Mental or physiologica, Respiratory disease / at risk of heat	Pulmonary Clinic 1. Chr airway obstruct NEC 2. Tobacco abuse-unspec	

220791	Garcia	01-3-08	Respiratory disease, Visual impairment LOF: A, Digestive system disor / Prescription toes overla, at risk of heat	Gastrointestinal Clinic 1.Chr airway obstruct NEC 2. Stomach function dis NEC	Signed Cell Waiver when in 21-1-08. *Note:* Moved up to 3rd gallery from 1st since signing waiver
224629	Cervantes	67-3-08	Allergic, endocrine sy / at risk of heat	Cardiac / HTN Clinic 1. Diabetes uncompl adult 2. Hypertension nos 3. Pure hyperglyceridemia	
225945	Lewis	31-B-08	Orthopedic deformity/F, LOF: A Respiratory disease, LOF: A, Visual impairment, LOF: A / Continous el, bottom bunk, crutches (two), at risk of heat	Disabilities Clinic 1. Chr Hepatitis C without ME 2. Viral Hep B w/o men hep coma 3. Chr airway obstruct NEC	
226016	Latondras	53-B-08	Hearing impairment, Seizure disorder, Cardiac and circulatory /ground floor, hearing aid, at risk of heat, no work assig (med 00)	Disabilities Clinic 1. Hemiplegia NOS 2. Hypertension NOS 3. Tobacco abuse-unspec	
232019	Moore	47-3-08	HIV infection, Cardiac and circulatory / bottom bunk, handicap tabl, at risk of heat, no work assig	Infectious Disease Clinic 1. Acq Immunodefic Syndrome 2. Hodgkins dis NOS mult 3. Hyperlipidemia NEC/NOS	He may be a slow walker.
233455	Archambeau	52-B-08	Cardiac and circulatory, Allergic, endocrine sy, LOF: A / Special garme (TED hose), at risk of heat, no work assign (med 00)	Endocrine Clinic 1. Chronic ischemic hrt dis NOS 2. Venous thrombosis NEC	
236210	Contor	71-1-08	Orthopedic deformity/F, LOF: A, Respiratory disease / TENS unit, at risk of heat	Pulmonary Clinic 1. Asthma w/o status asthm 2. Esophageal reflux	He may be a slow walker.
238152	Blackmore	01-2-08	Respiratory disease / no accommodation	Pulmonary Clinic 1. Asthma w/o status asthm	
242056	Morrison	11-3-08	Orthopedic deformity/F / bottom bunk, other (6 sm feedin)	Pulmonary Clinic 1. Asthma w/o status asthm	
243109	Sparks	58-4-08	Cardiac and circulatory, Respiratory disease / at risk of heat	Pulmonary Clinic 1. Health exam-group survey 2. Asthma w/o status asthm 3. Tobacco abuse-unspec	
246230	Steinert	25-1-08	Hearing impairment, LOF: A, Cardiac and circulatory, Respiratory disease / bottom bunk, at risk of heat, no lifing mo (> 20#)	Pulmonary Clinic 1. Chr airway obstruct NEC 2. Hypertension NOS 3. Hyperlipidemia NEC/NOS	

247878	Miller	44-1-08	Cardiac and circulatory, digestive system disor / Ground floor or 1st, communication (read/write), at risk of heat, no work assig	G I Clinic Health exam-group survey	
248032	Kern	49-B-08	Cardiac and circulatory, LOF: A / ground floor, bottom bunk, cane (quad), glasses, at risk of heat	Disabilities Clinic 1. Hypertension NOS 2. Angina pectoris NEC/NOS 3. Hx-prostatic malignancy	
248654	Joyce	26-3-08	Orthopedic deformity /F LOF: A, allergic, endocrine sy / at risk of heat	Cardiac / HTN Clinic 1. Hypertension NOS 2. Hyperlipidemia NEC/NOS 3. Obesity	Signed Cell Waiver Same cell He may be a slow walker.
252063	Ferman	37-3-08	No description / at risk of heat	Pulmonary Clinic Chr airway obstruct nec	
253412	Montgomery	65-3-08	Mental or physiologica, Respiratory disease/ no accommodation description	Pulmonary Clinic 1. Asthma w/o status asthm	
260266	Paliwoda	03-3-08	Cardiac and circulatory, Allergic, endocrine sy / at risk of heat	Endocrine Clinic 1. Diabetes Uncompl adult 2. Lipoid metabol dis NOS	Signed Cell Waiver Same cell
261705	Cinnamon	47-2-08	No description / at risk of heat	Cardiac / HTN Clinic 1. Hypertension NOS 2. Seborrhea 3. Obesity	He may be a slow walker.
265113	Christol	50-4-08	Physiological disorder LOF: A, hearing impairment LOF: A / communication hearing, at risk of heat	Generic Clinic Prim open angle glaucoma	Signed Cell Waiver Same cell
271651	May	60-3-08	Cardiac and circulatory, Respiratory disease / ground floor	Cardiac / HTN Clinic 1. Hypertension NOS 2. Asthma w/o status asthm	Placement mistake.
291134	Worthington	16-1-08	Cardiac and circulatory, Respiratory disease / at risk of heat	Pulmonary Clinic 1. Chr airway obstruct NEC	
301245	Martin	40-4-08	Cardiac and circulatory / at risk of heat	Cardiac / HTN Clinic 1. Hyperlipidemia NEC/NOS 2. Hypertension NOS	Signed Cell Waiver Same cell
302833	Hall	09-2-08	Orthopedic deformity /F Cardiac and circulatory, Respiratory disease, Visual impairment LOF: A, Allergic endocrine sy, Alcoholism / glasses, at risk of heat	Not listed in a medical clinic	Signed Cell Waiver Same cell

303611	Francis	06-2-08	Cardiac and circulatory LOF: A, allergic endocrine sy / bottom bunk, at risk of heat	Endo Clinic 1. Diabetes Uncompl adult 2. Hypertension NOS 3. Obesity	Signed Cell Waiver Same cell
316603	Diciesare	70-1-08	No description / ground floor, bottom bunk, therapeutic diet (2400 ada hssn)	Pulmonary Clinic 1. chr airway obstruct NEC 2. Diabetes uncompl adult 3. Hypertension NOS	Placement mistake.
319374	Babik	12-2-08	Seizure disorder, cardiac and circulatory / (1-3 man room), at risk of heat.	Not listed in a medical clinic.	
368151	Gonzales	59-3-08	Visual impairment, LOF: A, Allergic, endocrine sy, Acquired traumatic brain, Alcoholism, Chronic Hepatitis / at risk of heat	Endocrine Clinic 1. Tobacco abuse-unspec	Traumatic brain injury and visual impairment may add to his problems in an emergency exit.
375913	Youngski	06-3-08	No description / Therapeutic Diet (3000 cal ad), at risk of heat	Endocrine Clinic 1. Diabetes uncompl juven	
407839	Collison	36-1-08	Cardiac and circulatory, Visual impairment, LOF: A / brace (leg), prescription (tennis shoe), other (insoles)	Cardiac / HTN Clinic 1. Hypertension NOS 2. Acq ankle-foot def NEC	He may be a slow walker.
423321	Shaffer	28-4-08	Respiratory disease, visual impairment LOF: A / ground floor, bottom bunk	Not listed in a medical clinic.	Placement mistake.
466500	Kerns	27-4-08	Orthopedic deformity/F, cardiac and circulatory, respiratory disease, visual impairment LOF: A / Ground floor, therapeutic diet, handicap table	Hep C Clinic Screening-pulmonary TB	Placement mistake.
484354	Grabinski	23-1-08	No description / no accommodation	Pulmonary Clinic 1. Health exam-group survey	
516312	Jennings	14-1-08	No description / Ground floor, crutches, cane (wooden)	Not listed in a medical clinic.	Placement mistake.