

THE HONORABLE FRANKLIN D. BURGESS
MAGISTRATE JUDGE J. KELLEY ARNOLD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SANDRA HERRERA, et al.,

Plaintiffs,

vs.

PIERCE COUNTY, et al.,

Defendants.

NO. C 95-5025-FDB

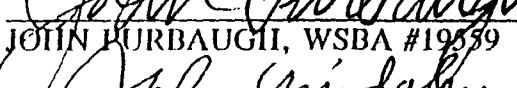
STIPULATED ORDER RE:
INTERIM FACILITY,
CLASSIFICATION, AND
SECURITY STAFFING

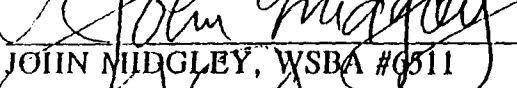
The parties stipulate that the following Interim Order should be entered in this case and that it shall be enforceable as an injunction, subject to the dispute resolution mechanism established by paragraph 7.1, below.

DATED this 8th day of January, 1996.

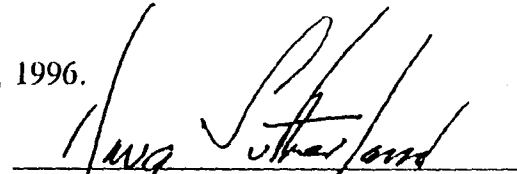

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ORDER

I. Introduction

1.1 The parties have conducted negotiations and agree that the entry of an agreed order is appropriate to address certain matters while further negotiations and litigation proceed.

II. Definitions

2.1 "Defendants" means the named defendants, their agents, subordinates, and employees.

2.2 "PCDCC" means the Pierce County Detention And Corrections Center operated by the defendants, which consists of the main facility at 910 Tacoma Avenue South in Tacoma, WA; the Armory Annex located at 1001 Yakima Avenue South in Tacoma, WA; and any other facility which may come into existence during the pendency of this action.

2.3 "Dedicated" means a correctional officer post that is staffed at all times, 24 hours per day, except in extreme emergencies. Dedicated posts are to be provided relief when the officer needs to leave the post to enter a housing unit, and for routine activities such as breaks, meals and use of the restroom, provided, that staff assigned to dedicated posts in the housing clusters of the main facility may be permitted to leave the staff station for brief periods of time. An officer assigned to a dedicated post will not under normal circumstances respond to a code blue, code red, or code white emergency as defined in PCDCC Operational Manual Of Policies And Procedures dated June 1, 1992 or any successor policy. An officer assigned to a dedicated post will leave that post without relief only upon a direct order of the ranking correctional supervisor on duty when that supervisor has determined that the undesirability of vacating the post is outweighed by the extreme nature of the emergency situation.

III. Interim Facility

3.1 The population of the interim facility to be constructed in the parking lot adjacent

1 to the County-City Building shall not exceed 500 inmates. Every inmate must be given a bed;
2 no inmates shall be assigned to floor mattresses in that facility, except that an inmate may be
3 assigned to a floor mattress for medical reasons upon written direction of licensed medical staff.

4 3.2 The interim facility shall be a direct supervision facility.

5 3.3 No prisoner shall be held in the interim facility who has not been classified as
6 appropriate for direct supervision in accordance with the fully tested and operational objective
7 classification system required by Section IV of this Order. Only inmates classified as minimum
8 or medium custody shall be housed in the interim facility. No prisoner shall be housed in the
9 interim facility whose custody level has been overridden from maximum to medium or
10 minimum. (See ¶ 4.3.A.(iv), *infra*). However, a prisoner whose custody level was initially
11 greater than medium or minimum custody may be placed in direct supervision if changed
12 circumstances place that prisoner within medium or minimum custody upon reclassification in
13 accordance with the objective classification system.
14

15 3.4 All prisoners held in the Interim facility shall be given the opportunity for outdoor
16 exercise for at least one hour at least three times per week.
17

18 3.5 Defendants shall provide adequate inmate meals, commissary, laundry, health care
19 and timely emergency medical response or referral, religious access, and visitation at any interim
20 facility. Inmates housed in the interim facility shall have access to library materials and to
21 educational and other programs that is substantially similar to access to such programs for
22 inmates housed in the main jail facility. Inmates who have serious medical or mental health
23 problems, or contagious diseases other than common colds or influenza, shall not be housed in
24 the interim facility.
25

26 3.6 Defendants shall meet all applicable health, safety, plumbing, energy, electrical
and fire codes, whether such codes are municipal, county or state. Exterior perimeter walls and

1 walkways shall be of such width and specifications as, in the judgment of City of Tacoma Fire
2 Department officials, will allow for safety in case of an emergency evacuation.

3 3.7 The indoor temperature in the interim facility shall not be lower than 65 degrees
4 fahrenheit, nor higher than 85 degrees fahrenheit, provided, that the interior temperature may
5 be permitted to rise above 85 degrees for no more than 44 hours per year and provided further
6 that Pierce County will use a high capacity ventilation system, capable of eight building air
7 exchanges per hour, to assure that the interior temperature shall be no more than 85 degrees
8 after 9:00 p.m. at any time.
9

10 3.8 The interim facility, which has been designed only as a temporary facility, shall be
11 temporary and shall be removed within a reasonable time following the opening of a new
12 permanent jail facility. Pierce County contemplates that a permanent facility will be funded and
13 a site will be selected with finality by November 1, 1998 and that construction will be completed
14 by November 1, 2000. In the event that funding and site selection has not occurred by
15 November 1, 1998, or in the event that construction has not been completed by November 1,
16 2000, the timetable for the orderly closure of the interim jail facility by July 1, 2001, and the
17 development of alternatives to incarceration will be subject to the dispute resolution procedures
18 approved in this case or for judicial resolution if the parties are unable to reach an accord.
19

20 IV. Classification

21 4.1 Pierce County will develop and implement a classification system, which includes
22 preliminary classification and reclassification, for all detention and corrections facilities, prior
23 to opening the interim facility, in accordance with this Order.
24

25 4.2 Preliminary Classification System

26 A. Inmates Transferred From Prisons

Defendants shall ask the Washington State Department of Corrections ("DOC") facilities,

1 the Federal Bureau of Prisons ("BOP"), and the State Department of Corrections of any other
2 state transferring a prisoner to the PCDCC to provide the PCDCC with information regarding
3 whether individuals transferred to the PCDCC from prison have a history of violent institutional
4 behavior. Defendants shall consider the information received in determining where such an
5 inmate is to be housed in the PCDCC.

6 Defendants shall institute and follow a written policy to ensure that any inmate transferred
7 to the PCDCC from a federal or state prison shall not be housed with the general population of
8 the PCDCC until classification staff has made a determination that housing such an inmate with
9 the general population is appropriate.
10

11 B. Pre-Classification Identification of Inmates with Records of Violent, Assaultive or
12 Ongoing Aggressive Behavior in the PCDCC.

13 Defendants shall implement a procedure to identify and integrate within the automated
14 records system information on inmates with documented violent, assaultive, or ongoing
15 aggressive behavior in the PCDCC. As part of implementation of this procedure, Defendants
16 shall develop a "Disciplinary History Risk Code" to identify inmates with documented histories
17 of such behavior. Designated PCDCC classification staff shall review all serious infraction
18 hearings to identify those inmates whose violent, assaultive, or ongoing aggressive behavior in
19 the PCDCC warrants the assignment of a positive Disciplinary History Risk Code. In addition,
20 PCDCC staff members who hear disciplinary infraction cases of lesser severity shall forward
21 to the designated classification staff reports on those inmates whom they believe should be
22 reviewed for consideration for the Disciplinary History Risk Code. Defendants shall ensure that
23 the Disciplinary History Risk Code is entered into the PCDCC information management system.
24
25

26 Effective June 15, 1996, booking officers shall be trained and instructed to review the
Jail Information Management System (JIMS) computer records of all individuals at the time of

1 booking. The booking officers shall identify those inmates who have been incarcerated in the
2 PCDCC during the twelve months prior to booking who have been housed in 3 South for
3 purposes of discipline or administrative segregation or in a crisis cell. Those individuals
4 identified by booking officers as meeting these criteria shall be referred to the classification unit
5 at the earliest possible time. Pending classification by a classification officer, such inmates shall
6 be placed in segregation or in a maximum security housing area.

7 The Disciplinary History Risk Code shall be read by a corrections officer during the
8 intake (booking) process for each incoming inmate. When a positive notation is read in the
9 inmate's Disciplinary History Risk Code, the corrections officer shall contact designated
10 classification staff for review and selection of an appropriate initial housing assignment for that
11 inmate.
12

13 C. Booking Information

14 Defendants shall insure that appropriate staff ask, and record the answers to, all questions
15 on the PCDCC booking form regarding medical issues, mental health issues, and possible suicide
16 risk. The staff person filling out the booking form shall inform classification staff of any answer
17 to a question, or of any observed behavior, that raises reasonable questions about whether an
18 inmate should be specially housed pending completion of the full classification process. The
19 classification staff to whom such information is referred shall make an informed judgment
20 regarding the need for such special housing.
21

22 Defendants shall design and implement a training program for all staff who fill out
23 booking forms. This training program shall provide training regarding the objective
24 classification system (which shall be adequate for the purpose but need not be as complete as the
25 training classification staff receives), and establish criteria for referral of cases to classification
26 staff based on booking information. No later than 6 months after the effective date of this

Order, defendants shall not permit any PCDCC staff member who has not had such training to book inmates.

4.3 Classification

A. Objective Classification System

(i) By April 15, 1996, Defendants, shall in consultation with a classification expert designated by mutual agreement of defendants and plaintiffs ("agreed expert" hereinafter), design and implement an objective classification system. Such an objective classification system shall follow the basic guidelines set forth in ¶ 4.3.A (ii) and ¶ 4.3.A (iii), below. The classification system shall be reduced to writing in the form of a policy and procedure manual. The classification system shall be fully automated.

(ii) Defendants, in consultation with the agreed expert, retain discretion in deciding how the objective classification system is to be designed, operated, and modified as needed. Notwithstanding this discretion, however, defendants must include and retain at least the following in the classification system:

a. Initial screening of every inmate within 6 hours of booking based on an appropriate form to identify those inmates requiring immediate medical, mental health, protective custody or other special housing;

b. Initial custody or classification assessment of every inmate within 48 hours of booking based on an appropriate form. The form shall use, at a minimum, the following criteria for initial custody: severity of current charge or offense; history of violence; escape history; number and type of prior felony convictions; age; and other factors related to the inmate's level of stability such as employment, length of residence and educational level;

c. Custody or classification reassessment of every inmate based on an appropriate form within 30 days of initial assessment, and at least every 90 days thereafter. This form must use the same information contained on the initial classification form and add items that reflect the inmate's behavior since being incarcerated; and

d. The use of an inmate needs assessment form or its equivalent at every initial assessment and reassessment of every inmate.

1 (iii) Based on the initial and reclassification forms and other policies adopted by
2 PCDCC, all inmates shall be classified into one of the following categories or their equivalents:

- 3 a. Maximum custody
4 b. Medium custody
5 c. Minimum custody
6 d. Administrative segregation
7 e. Protective custody
8 f. Medical
9 g. Mental Health
10 h. Disciplinary segregation

11 Defendants shall develop a facility housing plan that classifies all living units in all facilities
12 according to the above categories a-h. This shall not preclude defendants from accommodating
13 different classifications of inmates in the same housing unit, so long as the classifications are
14 mutually compatible.

15 (iv) The initial classification and reclassification forms shall allow for both mandatory
16 and discretionary overrides to the scoring systems.

17 (v) Defendants shall create and staff a classification unit. Classification staff shall be
18 given the authority to transfer any inmate to the most suitable housing location in the PCDCC
19 consistent with the inmate's classification level.

20 (vi) Defendants shall develop and implement a staff training curriculum regarding
21 classification. All PCDCC staff shall be trained regarding the classification system required by
22 this Order (which shall be adequate for the purpose but need not be as complete as the training
23 classification staff receives) before the system is implemented. All PCDCC staff hired after
24 implementation of the classification system shall be trained regarding the system as part of that
25 staff's initial training regimen.

26 (vii) Defendants shall, in consultation with the agreed expert, conduct a pilot test of the
proposed classification system on or before May 15, 1996. The pilot test shall include an

1 application of the proposed classification forms to a sample of the current inmate population.
2 The results of the pilot test shall be submitted to the agreed expert and plaintiffs' counsel for
3 comment and consultation before defendants proceed to fully implement the proposed
4 classification system. The implementation date for the system shall be on or before June 15,
5 1996. However, in the event that the automated system cannot be implemented by that date, the
6 defendants shall be permitted to implement a manual classification procedure and system,
7 provided however that such manual system is otherwise in compliance with the objective
8 classification system set forth herein.
9

10 B. Movement of Inmates

11 Defendants shall implement forms and procedures to ensure that all decisions made by
12 correctional officers for the movement of inmates without the intervention of classification staff
13 shall be reviewed by a Sergeant on the same shift in which the movement is made to ensure that
14 movement of the inmate by the corrections officer is appropriate under the circumstances. All
15 such forms shall be referred to classification staff for review within one shift after the movement
16 has taken place.
17

18 C. Kite System

19 Defendants shall implement the following procedures to ensure that inmate kites are
20 received by the Classification Section of the PCDCC in a timely manner: Defendants shall
21 establish a classification kite form that shall be readily identifiable by inmates and staff. A
22 supply of these classification kites shall be made available on an ongoing basis in the PCDCC
23 housing areas. All filled-out classification kites shall be delivered directly to classification staff.
24 Defendants shall construct secure receptacles for kites to be installed outside housing areas.
25 Only jail staff shall be authorized to pick up kites. Classification staff shall review classification
26 kites within 24 hours of receipt, excluding weekends and legal holidays. However, response

1 need not be made until 48 hours after receipt unless there is an emergency or bona fide concern
2 for the health, safety or welfare of the inmate.

3 **4.4 Classification Staffing**

4 Defendants shall provide sufficient adequately trained classification and correctional staff
5 to fully implement all provisions of this Order regarding preclassification and classification.
6 Staffing shall be deemed inadequate if staff are unable to complete required classification tasks
7 within the time frames established either by this Order or by the classification system required
8 by this Order.
9

10 **4.5 Report to Counsel And Court**

11 The agreed expert shall review all procedures and staffing implemented by the defendants
12 pursuant to parts 4.2, 4.3, and 4.4 above and shall provide written reports to counsel and the
13 Court regarding the adequacy of the procedures and staffing that have been implemented. The
14 agreed expert shall include any recommendations for changes or modifications of the
15 classification system. The agreed expert shall make at least two such reports, one by June 1,
16 1996 and another by June 1, 1997.
17

18 **V. Security Staff**

19 **5.1.A. Dedicated Staff**

20 There shall be at all times be at least the following number and location of dedicated
21 security posts (as defined in paragraph 2.3 above) in the main facility and interim facility of the
22 PCDCC:
23

24 **Main Facility, Floor 3**

- 25 2 - Cluster Station For 3 - South Cluster (graveyard shift-1)
26 2 - Cluster Station For 3 - West Cluster (graveyard shift-1)
1 - Cluster Station For 3 - North Cluster
2 - Cluster Station For 3 - East Cluster (graveyard shift-1)

Main Facility, Floor 4

- 1 - Cluster Station For 4 - South Cluster
- 1 - Cluster Station For 4 - West Cluster
- 1 - Cluster Station For 4 - North Cluster
- 1 - Cluster Station For 4 - East Cluster

Main Facility, Floor 5

- 2 - Women's housing in 5 West cluster (graveyard shift-1)

Trusty Quarters

- 1 - In Trusty Quarters to observe actions

Central Control Room

- 1 - Full time staffed around the clock except for cases of extreme emergency as otherwise defined herein

Escorts

- 4 - Escort officers on each shift to be available for escort duty, and such other duties as to include relief of corrections officers who will be away from their dedicated duty post for more than brief periods as outlined herein.

Interim Facility

- 1 - Central Control Room
- 1 - In each housing area with 65 or fewer inmates
- 1 - In the Time Out (segregation) area and Trusty Quarters

5.1.B. Interim Facility - Roving Staff

The following posts in the interim facility are to be regularly filled, but the following posts are not "dedicated:"

- 4 - Roving officers dedicated to back-up, inmate movement, and relief inside the interim facility on day and swing shifts
- 3 - Roving officers dedicated to back-up, inmate movement, and relief inside the interim facility on night shift.

5.1.C. Additional Observation - Direct Supervision Areas

At least once every fifteen minutes there shall be visual observation of each officer who

1 is single staffing any direct supervision housing area, whether in the main facility or the interim
2 facility, by another officer. Such observation may be accomplished by the use of video
3 monitors.

4 5.1.D. Additional Staff - Essential Functions

5 Defendants shall provide sufficient additional security staffing in all facilities to provide
6 for other essential functions, including visitation, medical transport, court transport, commissary,
7 security for non-residential areas (e.g., kitchen, laundry, commissary, etc.).
8

9 5.2 Other than for brief periods of absence, there must always be one officer in the
10 cluster station of every cluster in the main facility. If the officer assigned to a cluster station
11 leaves the cluster station for other than a brief period, the officer assigned to assist all clusters
12 on that floor shall occupy that cluster control area. If more than one officer is needed to enter
13 a living area, additional officers must be called before the cluster station is abandoned, unless
14 a life-threatening emergency requires immediate action by more than one officer.
15

16 There must always be one officer in each housing unit of the interim facility; provided
17 however that the Time Out "segregation" unit and the trustee quarters may be supervised by a
18 single officer.

19 There must always be at least one officer in the central control area of the main jail
20 facility. There must always be at least one officer in the central control area of the interim
21 facility.
22

23 5.3 Other than on graveyard shifts, in the 3 East, 3 South, 3 West, and 5 West housing
24 areas, only one of the two dedicated post officers should enter an individual living area while
25 the other retains observation of the other living areas. If more than one officer is needed to
26 enter a living area, additional officers must be called before the cluster station is abandoned,
unless a life-threatening emergency requires immediate action by more than one officer.

1 5.4 Pierce County believes that the staffing levels called for by this order adequately
2 meet the minimum constitutional standards for safety and security for jail inmates. Plaintiffs
3 may, however, after a period of experience with the staffing levels provided for by this order,
4 re-raise the issue of whether these staffing levels provide constitutionally adequate security
5 staffing. In order to allow plaintiffs and their experts to review staffing levels in light of
6 experience, Pierce County agrees to provide to counsel for the plaintiff class all records
7 including, but not limited to, classification records, logbooks, inmates' disciplinary records, and
8 such other records as will allow plaintiffs' counsel and experts to review levels of safety and
9 security under the staffing levels prescribed by this order. Plaintiffs may re-raise the issue of
10 constitutionally adequate security staffing levels once, no sooner than one year after the opening
11 of the interim facility. The issue of security staffing levels will be considered re-raised upon
12 delivery of a letter from plaintiffs' counsel to the Pierce County Prosecuting Attorney stating
13 plaintiffs' intention to re-raise the issue. If plaintiffs re-raise the security staffing issue, the
14 parties will meet and confer in good faith to try to resolve the issue. If such conference does
15 not resolve the issue, plaintiffs may petition the court for a ruling on the constitutional adequacy
16 of security staffing in any PCDCC facility, and for appropriate further relief.
17
18

19 VI. Interim Facility - Health Care

20 6.1 Defendants will assure that at least one health care person of at least licensed
21 practical nurse level is on site at the interim facility of the PCDCC sixteen hours per day every
22 day of the year to respond to medical needs and emergencies occurring in the interim facility
23 of the PCDCC, provided that medical staff at the main jail facility is available to respond to
24 medical emergencies at the interim facility in a prompt and timely manner at any time that
25 adequate and licensed medical coverage is not present at the interim facility.
26

6.2 Pierce County believes that the health care staffing levels called for in the

1 the interim facility. However, this Order does not finally resolve or compromise any of
2 plaintiffs' other claims or any defense to those claims in this case, and does not constitute an
3 admission regarding liability by any party.

4 8.2 Notwithstanding any provision of state or local law to the contrary, defendants
5 shall have the duty and authority to effect this order.

6 **IX. Effective Date; Expiration**

7 9.1 Except as otherwise specifically set out above, all provisions of this Interim Order
8 shall be effective immediately upon entry by the Court.
9

10 9.2 This Order shall remain in effect until further Order of the Court.

11 SO ORDERED this _____ day of _____, 1996.

12
13 UNITED STATES DISTRICT JUDGE

14 Recommended for entry this _____ day of _____, 1996.

15
16 UNITED STATES MAGISTRATE JUDGE
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STAFFING LEVEL FOR PCDCC FACILITIES:

- (1) Physician
- (.5) Psychiatrists
- (.5) Dentist
- (3) Pharmacists
- (9) Registered Nurses
- (7) Licensed Practical Nurses
- (2) Medical Administrative Assistants
- (5) Office Assistants (four medical, one in mental health)
- (3) Physician Assistants
- (1) Mental Health Coordinator
- (2) Mental Health Resource Manager
- (5) Mental Health Evaluation Specialist I's

EXHIBIT "A"

Herrera v. Pierce Co.



JC-WA-001-002