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construction, erection, maintenance, alteration or renovation of buildings and other facilities and structures at the Penitentiary.

2. While the method of funding the things required to be done by this order is a matter to which the defendants and other responsible state officials must direct their attention, the Court does urge the defendants to seek whatever financial assistance might be available from the Law Enforcement Assistance Administration of the United States Department of Justice, which agency was established by the Congress "... to encourage States ... to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices." 42 U.S.C. § 3750. It might well be that members of the Louisiana Congressional delegation, if called upon, could assist in this endeavor.

3. This Court hereby retains jurisdiction over this matter for the purpose of receiving the reports called for herein and for the purpose of issuing such additional orders as it may from time to time deem necessary and proper.

4. IT IS FURTHER ORDERED that a copy of this order be served in accordance with law upon the defendants, Governor Edwin Edwards, Department of Corrections Director Mrs. Elayn Hunt, and Warden C. Murray Henderson, and upon William Guste, the Attorney General for the State of Louisiana, and that this suit be dismissed as to all other named defendants.
Baton Rouge, Louisiana, June 10, 1975.

E. GORDON WEST,
U.S. District Judge.

APPENDIX A

U.S. District Court, Middle District of Louisiana

(Civil Action No. 71-98)

HAYES WILLIAMS, LEE D. STEVENSON, ARTHUR MITCHELL, JR., AND
LAZARUS D. JOSEPH, JR.

v.

JOHN J. McKEITHEN, GOVERNOR OF THE STATE OF LOUISIANA; LOUIS M. SOWERS,
DIRECTOR OF THE LOUISIANA DEPARTMENT OF INSTITUTIONS; C. MURRAY HENDERSON,
WARDEN OF LOUISIANA STATE PENITENTIARY AT ANGOLA, ET AL.

SPECIAL MASTER'S REPORT

This suit involves the alleged unconstitutional conditions and practices in the maintenance, operation and administration of the Louisiana State Penitentiary at Angola, Louisiana. The United States Magistrate was appointed Special Master in this matter on November 26, 1973. Now, after carefully considering the pleadings, depositions, stipulations of counsel, and the jurisprudence and after having made personal judicial inspections of the Louisiana State Penitentiary, I submit the following findings of fact, conclusions of law and recommendations:

FINDINGS OF FACT AND CONCLUSIONS OF LAW—HISTORY OF THE CASE

This suit was originally filed by Hayes Williams, Lee D. Stevenson, Arthur Mitchell, Jr. and Lazarus D. Joseph, Jr., inmates at the Louisiana State Penitentiary at Angola, Louisiana, pursuant to 42 U.S.C. 1981 and 1983. Named as defendants in the original complaint were John J. McKeithen, former Governor of the State of Louisiana; Louis M. Sowers, the former Director of the Louisiana Department of Corrections; C. Murray Henderson, the Warden; and six other prison officials. The Governor, Director and Warden are hereinafter referred to as the "defendants." The plaintiffs alleged that the defendants were depriving them of their rights under the United States Constitution and Sections 1981 and 1983 of the Civil Rights Act. In addition to seeking monetary damages, the plaintiffs also sought declaratory and injunctive relief. Jurisdiction was invoked under 28 U.S.C. 1331 and 1343. Supplemental and amended complaints

unpublished

April 28,
1975

were filed by plaintiffs on August 11, 1971 and August 10, 1973. In general, the plaintiffs alleged that the defendants, by their methods of prison administration and practices, have deprived the inmates of rights, privileges and immunities secured to them by the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments, by 42 U.S.C. 1981 and 1983, and by certain state laws. The complaint also alleged that the Negro inmates have been segregated and discriminated against in violation of the Equal Protection Clause of the Fourteenth Amendment.

On May 21, 1973, the United States was granted leave to intervene in the suit pursuant to 42 U.S.C. 2000(h) (2). In the original complaint in intervention, the United States sought to enjoin racial discrimination in the operation of the Angola prison. On June 29, 1973, the United States District Court sua sponte ordered the United States to participate as amicus curiae on "those issues concerning the conditions of inmates confinement and treatment." Specifically the plaintiffs in this suit allege that at the time the suit was filed the defendants have confined them in disciplinary segregation under conditions which did not provide adequate food, bedding, light and necessary personal hygiene items; have failed to provide them proper medical care and treatment by professionally trained personnel using adequate equipment and supplies; have censored attorney-client mail; have not permitted them freely to practice their religion; have subjected them to unnecessary risk of harm at the hands of other inmates because of the inadequate security staff at the Angola prison; and have confined them under the conditions which do not meet minimum recognized standards of health, safety and sanitation.

In order to fully develop the record in this case, extensive pre-trial discovery was conducted by the parties. Inspections were made of the prison by the Court and by various experts. Numerous pre-trial conferences were also held to narrow the issues presented in this case.

This matter was tried before the United States Magistrate on December 3, and 4, 1973. Thereafter, an additional hearing was held before the Magistrate on December 14, 1973, in connection with a motion for emergency relief sought by the United States. On December 17, 1973, the United States Magistrate submitted his report to the Court on the Government's motion for emergency relief. The interim report of the Magistrate recommended that Dorm 3 of Camp II be closed and that the defendants remove the sewage that had accumulated under the dining hall and kitchen. Certificates of compliance as to those matters have been filed by the defendants in the record. The other requests for emergency relief were in the process of being corrected prior to the hearing or were specifically reserved for later consideration.

Upon completion of the emergency hearing, the Magistrate ordered a transcript of the record to be prepared and further ordered the parties to submit proposed findings of fact, conclusions of law and recommendations. Numerous post-trial conferences were then held by the Magistrate in an attempt to resolve the issues presented herein by a consent judgment. Such efforts, though time consuming, have proved futile. The Magistrate, being of the opinion that further delays in this matter are unwarranted, submits the following report.

PRELIMINARY STATEMENT

It has been and is the policy of the Middle District of Louisiana to give the officials in charge of the Louisiana State Penitentiary great latitude in running the prison. As a result, the Court has been reluctant to interfere with the internal operation and administration of the prison except in extreme cases such as that now before the Court.

The record in this case is voluminous. Every effort was made to allow the parties to fully develop the facts necessary to properly present the matter to the Court for decision. The spirit of cooperation exhibited by the attorneys in the case, prison officials, and in some instances, the inmates, is commendable. As a result of the cooperation between counsel and the authorities in charge of the prison, some of the conditions complained of at the time the suit was filed

were eliminated during the pendency of the suit. However, many of the conditions complained of, some very serious in nature, still remain to be corrected. No one disputes the fact that there are many conditions at Angola that must be eliminated to protect the lives and safety of the inmates incarcerated there and the civilian personnel who work at Angola. The question is not whether the conditions exist, but when and in what manner are these conditions to be eliminated. The time has simply come to stop talking about and criticizing the conditions that exist at the Angola prison. Immediate action must and shall be taken to correct any constitutional infirmities found at the Angola prison. Many excuses have been made in the past in connection with the cause of or the failure to eliminate those conditions which endanger the lives and safety of both the inmates and civilian personnel at the prison—lack of funds, lack of support from state government and from the public, the remoteness of the location of the prison, and lack of a sufficient number of trained personnel.

It was and is Louisiana's decision to operate a state prison for men, and Louisiana has chosen to locate that facility at Angola, Louisiana. However, having made the decision to operate a state prison at Angola, Louisiana, the State of Louisiana must do so without depriving inmates of the rights guaranteed to them by the federal constitution and state law.

During the course of the post-trial conferences, the Magistrate was advised of recent decisions made to appoint a committee to study the decentralization of Angola. A committee has also been named to study the medical facilities and capabilities of the prison. Fifty new correctional officer positions have recently been created and funded, and those positions have been filled by the Warden. Despite these positive steps taken by the defendants, this Court does not feel any useful purpose would be gained in delaying the implementation of this order until a later date. Numerous post-trial conferences have failed to yield any binding agreement from the parties that would result in a consent decree. None is anticipated.

Therefore, it is this Court's decision to go forward with this suit. Many of the facts have been stipulated to by the parties. These stipulated facts are set forth in the appendix of this report. The findings of fact that follow are made by the Magistrate after considering the evidence and stipulations of counsel and having made judicial inspections at the Louisiana State Penitentiary.

FINDINGS OF FACT

In general

1. The Louisiana State Penitentiary is located at Angola, Louisiana, in the Parish of West Feliciana. There is little doubt the prison is located in a very remote section of the State. The prison facility is spread out in all directions on the vast acreage within the prison compound. In addition to the administration building, the prison also consists of Camps A, F, H and I. These camps have dormitories as well as cells. Kitchen facilities are also located in each camp. Most of the camps have recently been remodeled. In addition to the camps, there are also located on the prison grounds the Reception Center and Admitting Unit, which also houses death row and maximum security prisoners. The New Prison consists of dormitories and cell blocks, in addition to educational, recreational and eating facilities. Also located on the prison grounds is the Angola General Hospital.

2. At the time the suit was filed there were over 3,000 inmates housed at the Angola prison facility. Since the trial of this case the population has increased to approximately 4,000 inmates. Some 71 percent of the inmates are black. Only male prisoners are incarcerated at the prison.

3. Agriculture is an important industry at the prison although other trades have also been established.

4. The Louisiana State Penitentiary is one of the prison facilities operated by the Louisiana Department of Corrections. The Director of the Department of Corrections is appointed by the Governor. Elayn Hunt serves as the present Director of the Louisiana Department of Corrections having been appointed by

Governor Edwin Edwards. The Board of Corrections, consisting of seven members appointed by the Governor, has the statutory authority to determine the policy of the Department of Corrections.

5. After conviction, a person is committed to the custody of the Department of Corrections, which then designates the prison the inmate shall be committed to.

6. C. Murray Henderson, the Warden of the Louisiana State Penitentiary, is charged with responsibility for the general management, supervision and control of inmates confined to the penitentiary.

Security

7. One of the most serious and deplorable conditions that exist at Angola is the lack of adequate security provided to inmates from physical attacks and abuses by other inmates. The number of stabbings and deaths reported at the prison since 1971 is alarming. At the time of the trial there had been over 270 stabbings and 20 deaths by stabbings in less than three years. The number of stabbings and deaths has increased since this case was tried.

8. In addition, there have been numerous forceable rapes committed by inmates on other inmates. For various reasons, the exact number of forceable rapes or other physical abuses will never be known.

9. There are many causes for the physical attacks and abuses that occur at Angola. Inmates are housed in terribly overcrowded dormitories. The prison does not have enough cells to house those inmates who present danger to other inmates.

10. There is a critical shortage of correctional officers at the prison. Because of the insufficient number of correctional guards, the inmates cannot be properly supervised and weapons cannot be detected and confiscated. Inmates have easy access to machinery and other equipment to manufacture weapons and to objects and materials to use as weapons because of the lack of proper supervision.

11. Furthermore, the security officers simply do not have proper equipment to ensure that inmates will not be attacked by other inmates.

12. Fights involving homosexuals and gambling debts also lead to attacks on inmates. This problem has grown to serious proportions and will continue to become more serious unless curtailed by prison officials.

13. The use of inmates as guards has been discontinued at the Angola prison. No inmates have been used as guards since July 15, 1973. The practice of providing inmates with custodial authority over other inmates caused many stabbings and other injuries, including the death of inmates.

Medical care and facilities

14. The defendants have failed to provide the inmates with proper medical care and treatment by professionally qualified and trained medical personnel using adequate medical facilities, equipment and supplies.

15. The medical staff at the prison has been and continues to be understaffed. Untrained inmates have been used to fill positions that should have been filled by professionally trained personnel.

16. At the time of the trial, there were four full time physicians at the prison. At the present time, four physicians remain on the staff. The prison has at least one dentist and has only recently hired a pharmacist. The remoteness of the prison facility and salary schedules are the principal causes of the lack of an adequate medical staff.

17. The physicians have an inadequate staff of trained supporting medical personnel to assist them in providing proper medical care to the inmates.

18. Although there is a hospital located on the prison grounds, it lacks many items of equipment needed to perform surgery and treat emergencies. As a result, inmates have to be sent to charity hospitals located in Baton Rouge and New Orleans for surgery and other major illnesses. There is a critical shortage of beds available at the charity hospitals for treatment of inmates.

19. There are no facilities available at the prison to properly house and treat psychiatric patients. These patients are incarcerated in a so called psychiatric unit which consists of nothing more than overcrowded cells. Because of the lack of proper facilities and supervising staff, these psychiatric patients do not

receive adequate medical care, exercise, and other treatment that would ordinarily be prescribed for a psychiatric patient.

20. At the time of the suit, there were very serious deficiencies in the operation of the pharmacy and very little, if any, control in the dispersing of drugs. Substantial progress has been made to correct these deficiencies.

21. There was only one vehicle available for use as an ambulance, and it was improperly equipped. Because of the number of inmates incarcerated at the prison and the remoteness of the location from major medical facilities, one ambulance is not sufficient to provide adequate transportation for sick or injured inmates to the prison hospital or to hospitals outside the prison.

Electrical and fire safety

22. The record is replete with evidence of violations of state fire and safety regulations in every area of the penitentiary. Although the Director of the Department of Corrections advised the Governor on September 11, 1973, of the violations and the estimated cost required to eliminate the violations, no funds have been provided to correct the violations, nor have all of the violations been eliminated. Inmates are housed and civilian personnel work in many of the areas where the violations exist.

23. It is a well established fact that the State Fire Marshal applies a separate standard applicable only to the Angola prison in determining whether or not a facility should be condemned until the violations have been corrected.

24. There is also evidence of many electrical hazards in all areas of the prison. Many of these electrical hazards remain.

25. There are many areas in the prison where fire extinguishers are not available or which are not in proper operating condition. In addition, there was no plan in existence for the evacuation, care and treatment of inmates and civilian personnel in the event of a fire, explosion or other natural disaster which might occur at the prison.

26. Many of the fire and electrical hazards constitute an immediate threat to the life and safety of inmates incarcerated at the prison and civilian personnel working there.

Maintenance, repair, and construction

27. The defendants have not been able to provide an adequate maintenance and repair program at the prison because of lack of funds and lack of trained personnel. In addition, R.S. 3:2211(a) requires that all repair, maintenance and construction jobs that exceed \$2,500.00 must be placed out for public bid. As a result, the prison authorities are unable to use available inmate labor to maintain and repair existing facilities or build new facilities. Thus, prison officials are unable to obtain proper funding and also cannot use inmate labor to perform the tasks required for major repairs, maintenance and construction jobs.

Food and sanitation

28. At the time this suit was filed, there was evidence of many violations of state health regulations. Raw sewage had not only accumulated under the main kitchen at the prison, but was also pumped directly into the Mississippi River. The sewage has since been removed from the kitchen area. Furthermore, completion of the new sewer system was in its final stages of completion at the time of trial.

29. The raw sewage accumulation over a period of some 20 years created a serious rodent problem. As a result, the rodent eradication program was insufficient to eliminate the rodents at the prison.

30. Food was not always prepared, served and stored in a proper manner and in accordance with regulations and acceptable standards.

Racial segregation and discrimination

31. Prior to the institution of this suit, it had been the policy of the Louisiana State Penitentiary at Angola, Louisiana, to maintain a prison segregated by race. However, during the pendency of this suit, prison officials, with voluntary inmate participation, assistance and cooperation, integrated the prison facilities, activities and civilian personnel. Thus, on December 3, 1973, the defendants stipulated and agreed to integrate the Angola prison by June 1, 1974. This integration has been accomplished by prison officials.

Religious freedoms

32. The record further reveals that at the time the suit was filed, certain inmates were discriminated against because of their religious beliefs and practices. Some religious magazines were denied the inmates. This policy has now been changed. The defendants have now agreed to allow inmates to practice their religion so long as the religion practiced does not present a threat to the security, discipline and good order of the prison.

Censorship of mail

33. This is another area where prison officials have attempted during the pendency of this suit to correct deficiencies in the policies followed by the prison officials prior to the institution of this suit. It was the practice of the prison authorities to open and censor all inmates' mail, including mail to and from attorneys. Two of the stated purposes of opening the mail were to inspect the mail for contraband and to maintain security at the prison. This Court recognizes the very serious problem the prison officials have in trying to maintain security and to stop the input of drugs, weapons and other contraband into the prison. According to the evidence produced at the trial, the policy of censoring all mail has recently been revised in accordance with the recent decisions rendered by the United States Supreme Court. As a result of judicial inspections made at the prison and post-trial conferences held, the Court is also aware of efforts of the prison officials to continually update the mail regulations at the prison. The current regulations pertaining to the censorship of mail at the prison will be filed in the record in accordance with the order to be issued by the Court.

Conditions of punitive or administrative confinement and procedural due process

34. As a result of the decision rendered in *Ralph v. Dees*, — F. Supp. — (M.D. La. 1974), the Court refused to allow any evidence to be presented regarding the issue of punitive or administrative confinement and Procedural Due Process. In the *Ralph* case, this Court held that the rules and regulations now being used at Angola in disciplinary actions and lockdown procedures "meet or exceed the minimum constitutional requirements set forth by the United States Supreme Court and required by the Due Process Clause of the Constitution." The procedures adopted in the *Ralph* case are still being followed by the prison officials, and have proven to be workable. Therefore, this issue has been rendered moot.

CONCLUSIONS OF LAW

1. This suit was filed pursuant to 42 U.S.C. 1983. The Court has jurisdiction under 28 U.S.C. 1331(a) and 28 U.S.C. 1343(3) and (4). The Court also has pendent jurisdiction over those issues of state law that arise from the same operative facts. *Gates v. Collier*, 349 F. Supp. 881 (N.D. Miss. 1972) aff. 501 F.2d 1291 (5 Cir. 1974).

2. A statutory three judge court convened pursuant to 28 U.S.C. 2281 is not required herein. A single judge district court has proper jurisdiction to dispose of all of the issues pending before the Court. *Wolff v. McDonnell*, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d — (1974); *Gates v. Collier*, supra.; *Newman v. State of Alabama*, 503 F.2d 1320 (5 Cir. 1974); *Sands v. Wainwright*, 401 F.2d 417 (5 Cir. 1973), cert. denied *Guajardo v. Estelle*, — U.S. —, 94 S.Ct. 2403, 40 L.Ed.2d 771 (1974); *Leonard v. Mississippi State Probation and Parole Board*, — F.2d — (5 Cir. 1975); *Finney v. Arkansas Board of Corrections* — F.2d — (8 Cir. 1974).

3. While this suit is not a Rule 23 class action suit, the very nature of the rights plaintiffs seek to vindicate requires that the decree and order run to the benefit not only of the plaintiffs, but also for all persons similarly situated. *Bailey v. Patterson*, 323 F.2d 201 (5 Cir. 1963), cert. denied, 376 U.S. 910; *Cruz v. Beto*, 405 U.S. 319, 92 S.Ct. 1079, 31 L.Ed.2d 263 (1972).

4. Governor Edwin Edwards and Elwyn Hunt have been properly substituted as defendants in their official capacities as Governor of the State of Louisiana and Director of the Louisiana Department of Corrections, respectively. Rule 25 (d). Federal Rules of Civil Procedure; *Gates v. Collier*, supra.

5. This Court has in the past given the officials in charge of the Louisiana State Penitentiary at Angola, Louisiana, great latitude in running the prison and has

been reluctant to interfere with the internal operation and administration of the prison except in extreme cases. *Sinclair v. Henderson*, 331 F.Supp. 1123, (E.D. La. 1971) aff. 435 F.2d 125 (5 Cir. 1970)

6. Lawful imprisonment necessarily makes unavailable many rights and privileges of the ordinary citizen. *Price v. Johnston*, 334 U.S. 266, 68 S.Ct. 1049, 92 L.Ed. 1356 (1948); *Wolff v. McDonnell*, supra. However, it is well settled that prisoners do not lose all their constitutional rights when they pass through the jailhouse door. *Wolff v. McDonnell*, supra.; *Gates v. Collier*, supra.; *Newman v. Alabama*, supra.; *Courtney v. Bishop*, 409 F.2d 1185 (8 Cir. 1969). As the United States Supreme Court recently noted in the *Wolff* case: "There is no iron curtain drawn between the Constitution and the prisons of this country." 94 S.Ct. at 2974. And, when a "prison regulation or practice offends a fundamental constitutional guarantee, federal courts will discharge their duty to protect constitutional rights." *Procunier v. Martinez*, 416 U.S. 396, 405, 94 S.Ct. 1800, 40 L.Ed.2d 224 (1974); see also: *Johnson v. Avery*, 393 U.S. 483, 89 S.Ct. 747, 21 L.Ed.2d 718 (1969).

7. After carefully reviewing the voluminous record made in this case, and after making a number of personal judicial inspections of the Louisiana State Penitentiary at Angola, Louisiana, I must conclude that the Louisiana State Penitentiary at Angola, Louisiana, in certain material respects, has been and continues to be, maintained, operated, and administered contrary to Louisiana law and in a manner violative of the rights secured by the United States Constitution.

8. The prohibition against cruel and unusual punishment contained in the Eighth Amendment is applicable to the State of Louisiana through the Due Process Clause of the Fourteenth Amendment. *Robinson v. California*, 370 U.S. 660, 82 S.Ct. 1417, 8 L.Ed.2d 758 (1962); *Gates v. Collier*, supra.; *Newman v. Alabama*, supra. Furthermore, it is well settled that the Eighth Amendment does not have a fixed and settled test for determining the limits thereof. *Gates v. Collier*, supra.; *Jackson v. Bishop*, 404 F.2d 571 (8 Cir. 1968). Thus, the United States Supreme Court has stated that the Eighth "Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." *Trop v. Dulles*, 356 U.S. 86, 101, 78 S.Ct. 590, 2 L.Ed.2d 630 (1958). Nor is the prohibition of the Eighth Amendment limited to specific acts directed at selected individuals. Therefore, the adequacy of conditions of confinement of prisons, such as security and protection of inmates, medical treatment and facilities, physical facilities and food and sanitary conditions is "clearly subject to Eighth Amendment scrutiny." *Gates v. Collier*, supra, 501 F.2d at 1302. See also: *Newman v. Alabama*, supra.; *Campbell v. Beto*, 460 F.2d 765 (5 Cir. 1972); *Norak v. Beto*, 453 F.2d 661 (5 Cir. 1971), rehearing denied en banc, 456 F.2d 1303 (5 Cir. 1972); *Holt v. Sarver*, 309 F.Supp. 362 (E.D. Ark. 1970), aff. 442 F.2d 304 (8 Cir. 1971); *Finney v. Arkansas Board of Corrections*, supra.

9. The Louisiana Legislature also has adopted certain laws pertaining to the prison facilities, conditions of confinement and treatment of inmates at the Louisiana State Penitentiary at Angola, Louisiana. Thus, the Louisiana Legislature has declared that all "jails, prisons, lockups and camps and all facilities, units, and rooms of such jails, prisons, lockups and camps where prisoners are detained or confined must meet standards of health and decency which shall be established by the State Department of Health." L.R.S. 15:751. The president of the Louisiana Department of Health is required under L.R.S. 15:751 to "periodically inspect all correctional institutions to determine if such institutions are in compliance with the established standards." Louisiana law also requires that state prison to be "of sufficient size and strength to hold and securely keep the prisoners contained therein." L.R.S. 15:752. And, the buildings of the prison "shall be fire-proof, screened, properly ventilated, sufficiently lighted, by day and night, adequately heated, and connected with water and sewer." L.R.S. 15:752. In addition, L.R.S. 15:753-756 provide for the construction of cells, painting, and cleaning regulations. R.S. 15:760 states that where "large numbers of prisoners are confined the proper authority in charge shall provide hospital quarters with necessary arrangements, conveniences, attendants, etc." The Louisiana Legislature has also declared that no "person shall be confined in jails, prisons, or lockups not built or maintained in accordance with the provisions" of L.R.S. 15:751-760 pre-

viously set forth above. L.R.S. 15:762. Whenever state prison authorities fail to comply with L.R.S. 15:751-760, the state Board of Health "shall institute" proper legal proceedings to enjoin, restrain, and prohibit "the authorities in charge of the state prison or camp from using the prison, lockup or camp for the purpose of confining prisoners" until the provisions of L.R.S. 15:751-760 "have been complied with." L.R.S. 15:763.

The Louisiana Legislature, in creating the Louisiana Department of Corrections in 1968, authorized the department to establish a diagnostic and treatment center, "which shall undertake medical, educational, psychiatric, and social studies of persons committed to facilities under the jurisdiction of the department and to provide for the training of such psychiatrists, neurologists, special educators, psychologists, nurses, technicians, social workers, occupational therapists, physicians, and other professional trainees whose services shall be utilized in the operation" of the center. L.R.S. 15:827. In addition, persons "committed to the institutional care of the department shall be treated in a humane manner." L.R.S. 15:828. The Louisiana Legislature has also authorized the Department of Corrections to "establish resources and programs for the treatment of mentally ill and mentally retarded inmates, either in a separate facility or as part of other institutions or facilities of the department." L.R.S. 15:830. Finally, under the provisions of L.R.S. 15:831, the "director of corrections shall establish and shall prescribe standards for health, medical, and dental services for each institution, including preventive, diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all types of patients."

10. The defendants have the obligation to ensure that inmates are not subjected to any punishment beyond that which is necessary for the orderly administration of the Angola prison. Thus, the defendants possess broad discretion in the area of conditions of confinement. However, the defendants in this case have willingly or unwillingly abused their discretion.

11. Therefore, it is my opinion that the confinement of inmates at the Louisiana State Penitentiary under conditions that threaten their physical health and safety because of the failure of the defendants to provide adequate protection against physical assaults and abuses by other inmates, by the placement of an excessive number of inmates in the dormitories without adequate classification or supervision, by the failure to hire a sufficient number of security officers to supervise the inmates, by the failure to provide adequate equipment to security personnel and a sufficient number of cells to lock up those inmates who present a clear danger to other inmates, by the failure to detect and remove weapons and other materials used by inmates to inflict or threaten injury or death to other inmates, and by the failure to remove electrical, fire, safety, and health hazards at the prison not only constitute a clear and direct violation of Louisiana's laws and regulations but also constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States Constitution. The Court recognizes that each of the above factors and conditions considered separately may not rise to constitutional dimensions. However, the "effect of the totality of the above factors and conditions is the infliction of punishment on inmates violative of the Eighth Amendment." *Gates v. Collier*, supra., 501 F.2d at 1309. See, also: *Hamilton v. Schiro*, 338 F.Supp. 1016 (E.D. La. 1970), order entered, *Hamilton v. Landrieu*, 351 F.Supp. 549 (E.D. La. 1972); *Holt v. Sarrar*, supra.; *Jones v. Wittenberg*, 323 F.Supp. 93 (N.D. Ohio 1971), aff. *Jones v. Metzger*, 456 F.2d 854 (6 Cir. 1972).

12. It is my further opinion that the failure of the defendants to provide the inmates at the Angola prison with proper medical care and treatment by professionally qualified and trained personnel using adequate medical facilities, equipment and supplies constitutes cruel and unusual punishment in violation of the Eighth Amendment and a denial of due process in violation of the Fourteenth Amendment to the United States Constitution. *Newman v. Alabama*, supra.; *Gates v. Collier*, supra.; *Campbell v. Beto*, supra.; *Holt v. Sarrar*, supra.; *Coppinger v. Townsend*, 398 F.2d 392 (10 Cir. 1968); *Inmates of Suffolk County Jail v. Eisenstadt*, 494 F.2d 1196 (1 Cir. 1974).

13. Furthermore, the Court specifically finds that the confinement of inmates who are in need of psychiatric care and treatment under conditions such as those this Court has found to exist in the so called psychiatric unit of the Louisiana

State Penitentiary constitutes cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution.

14. The segregation of inmates by race, unrelated to prison security and discipline, violates the Equal Protection Clause of the Fourteenth Amendment.

Washington, 390 U.S. 333, 88 S.Ct. 994, 19 L.Ed.2d 1212 (1968); *Cruz v. Beto*, supra. The Equal Protection Clause also prohibits racial discrimination in the administration of the Angola prison. *Gates v. Collier*, supra.; *Owens v. Brierly*, 452 F.2d 460 (3 Cir. 1971); *Holt v. Sarver*, supra. Since the institution of this suit, the defendants have integrated the prison facilities at Angola.

15. In *Ralph v. Dees*, — F.Supp. — (Civil Action No. 71-94, M. D. La. 1974) the Court found that the rules and regulations adopted and used by the defendants at the Louisiana State Penitentiary at Angola in connection with disciplinary proceedings and lockdown met or exceeded the requirements set forth by the United States Supreme Court in *Wolff v. McDonnell*, supra. See, also: *Humble v. Hunt*, — F.2d — (5 Cir. 1975). Therefore, this issue has been rendered moot.

16. An inmate shall be allowed to practice the religion of his choice as long as the religious precepts or practices do not present a threat to the security, discipline and good order of the institution. *Cooper v. Pati*, 378 U.S. 546 84 S.Ct. 1733, 12 L.Ed.2d 1030 (1964); *Cruz v. Beto*, supra.

17. In general, the rules and regulations pertaining to the censorship of mail used by the Louisiana State Penitentiary are in accord with the practices approved by the United States Supreme Court in *Wolff v. McDonnell*, supra., and *Procunier v. Martinez*, 416 U.S. 396, 94 S.Ct. 1800, 40 L.Ed.2d 224 (1974). An incoming letter from any attorney or judge shall only be opened by prison officials in the presence of the inmate to whom the letter is addressed. *Wolff v. McDonnell*, supra.; *Procunier v. Martinez*, supra.

18. The defendants have discontinued the use of inmate guards at the Louisiana State Penitentiary. The former practice of using inmate guards at the Angola prison constituted a clear violation of the Eighth Amendment to the United States Constitution. *Gates v. Collier*, supra.; *Finney v. Arkansas Board of Corrections*, supra.

19. The Court recognizes that Mrs. Hunt and Warden Henderson have attempted in good faith to eliminate certain of the conditions the Court has found to be unconstitutional but have been prevented from doing so because of the lack or shortage of funds. However, shortage of funds is no defense to an action involving unconstitutional conditions and practices, nor is it a justification for continuing to deny the constitutional rights of inmates. Thus, in *Gates v. Collier*, supra., at 1319, the Court stated:

"Where state institutions have been operating under unconstitutional conditions and practices, the defenses of fund shortage and the inability of the district court to order appropriations by the state legislature, have been rejected by the federal courts. In *Holt v. Sarver*, 309 F. Supp. 362 (E.D. Ark. 1970), aff'd, 442 F.2d 304 (8 Cir. 1971), an installment of the Arkansas prison litigation, the district court stated: 'Let there be no mistake in the matter the obligation of the Respondents to eliminate existing unconstitutionality does not depend upon what the Legislature may do or upon what the Governor may do or indeed upon what Respondents may actually be able to accomplish. If Arkansas is going to operate a Penitentiary System, it is going to have to be a system that is countenanced by the Constitution of the United States.' 309 F. Supp. at 185 (Emphasis supplied).

"See *Watson v. City of Memphis*, 373 U.S. 526, 537, 83 S.Ct. 1314, 1321, 10 L.Ed.2d 529 (1963) ('... vindication of conceded constitutional rights cannot be made dependent upon any theory that it is less expensive to deny [them] than to afford them.'—desegregation of public parks); *Rozecki v. Gaughan*, 459 F. 2d 6, 8 (1st Cir. 1972) ('Humane considerations and constitutional requirements are not, in this day, to be measured or limited by dollar considerations.'—prison heating system); *Jackson v. Bishop*, 404 F. 2d 571, 580 (8th Cir. 1968) ('Humane considerations and constitutional requirements are not, in this day, to be measured or limited by dollar considerations . . .'—rehabilitative devices); *Hamilton v. Love*, 328 F. Supp. 1182, 1194 (E.D. Ark. 1971) ('Inadequate resources can never be an adequate justification for the state's depriving any person of his

constitutional rights.—pre-trial detention unit). On the contrary, appellants cite no cases in support of their contention that the relief fashioned by the trial court cannot be granted."

The order to be issued by this Court does not order the Louisiana Legislature to appropriate money for prison reform. However, it does require that if the State of Louisiana chooses to run a prison, it must do so without depriving inmates of rights guaranteed to them by federal constitution.

20. In accordance with Rule 53 of the Federal Rules of Civil Procedure, the parties shall have 10 days after being noticed of the filing of the Special Masters' Report to make written objections to the report. Application to the United States District Court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in Rule 6(d) of the Federal Rules of (Civil) Procedure. The United States District Court after hearing may adopt the report, may modify it, may reject it in whole or in part, may receive further evidence, or may recommit the Special Master's Report with instructions.

Baton Rouge, Louisiana, this 28th day of April, 1975.

FRANK J. POLOZOLA,
U.S. Magistrate, Acting as Special Master.

UNITED STATES DEPARTMENT OF JUSTICE,
Washington, D.C., May 18, 1977.

Hon. ROBERT W. KASTENMEIER.

Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN KASTENMEIER: During my testimony on April 29, 1977, I was asked to provide the Subcommittee with a statement of the Department's views concerning the provision of H.R. 5791 which would require a person confined in an institution to exhaust "such plain, speedy, and efficient State administrative remedy as is available" prior to bringing an action in federal court pursuant to section 1979 of the Revised Statutes (42 U.S.C. 1983). I was also asked whether the resources of the Civil Rights Division would be adequate to carry out the responsibilities of Attorney General "pattern or practice" authority if either H.R. 2439 or H.R. 5791 were enacted.

1. RESOURCES

For fiscal year 1977, the Civil Rights Division allocated 7.11 percent of its budget of \$10,560,000 to litigation of the kinds of cases contemplated by the two bills under consideration. Based upon appropriation requests for fiscal 1978, we will allocate 7.19 percent of a budget of \$11,500,000 to this purpose; this includes a request for five additional personnel authorizations.

As I emphasized in my testimony, we cannot solve all of the problems in institutions through litigation and do not intend to attempt to do so if a bill such as one of those under consideration by the Subcommittee is enacted. Our role in this area has been, and will be, to coordinate our efforts with those of other agencies, and with the states, to bring about constitutional conditions in institutions. To do this, we must be selective in the kinds of cases which we institute, as we have been in the other areas of substantive litigation over which the Attorney General has had "pattern or practice" authority such as housing and employment, so that we institute suits where we believe they will have the greatest impact. Based upon these considerations, we would not expect the portion of our budget allocated to this program to increase significantly if a statute is enacted giving "pattern or practice" authority to the Attorney General in the institutions area. We view enactment of one of the bills under consideration as giving congressional recognition to an effort of this nature.

There are two litigating units within the Civil Rights Division which have been responsible for the Department's participation in cases which would be covered by H.R. 2439 and H.R. 5791. The Public Accommodations and Facilities