

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE



Jaan Laaman, et al.

v.

Raymond A. Helgemoe, Warden
New Hampshire State Prison,
et al.

Civil Action No. 75-258

CONSENT DECREE

Upon joint motion of the plaintiffs and defendants, it is hereby ordered, adjudged and decreed:

1. On July 1, 1977, this Court issued an Opinion and Order enjoining the defendants from failing to implement the terms and conditions set forth in said Order. Judgment was entered on the Opinion and Order on July 5, 1977.
2. Pursuant to Orders issued on July 8, 1977 and August 1, 1977, the Court appointed United States Magistrate William H. Barry, Jr. to serve as Master for a determination of several factual issues relative to defendants' seizure of inmates' personal property during the August, 1975 lockup. The July 8 and August 1 Orders were not appealed by either party, have never been stayed, and are not superceded by this Consent Decree.
3. On July 29, 1977 defendants appealed the July 1, 1977 Opinion and Order to the United States Court of Appeals for the First Circuit. On August 12, 1977, plaintiffs cross appealed primarily from certain of the Court's rulings of law in its Opinion and Order of December 30, 1976, on defendants' Amended Motion for Summary Judgment.
4. On October 17, 1977, in response to defendants' motion, the Court issued a Stay Order Pending Appeal which stayed parts of the said July 1, 1977 Order.
5. The parties have now agreed to the entry of this Consent Decree, the terms and conditions of which are set forth herein. Upon approval of the Court of the Consent Decree, the plaintiffs and defendants agree to withdraw their respective appeals.

6. This Consent Decree modifies the Court's Order and Judgment of July 1, 1977 and July 5, 1977, respectively. From the date this Consent Decree is approved by the Court, it shall supercede¹ the said Order and Judgment of July 1, 1977 and July 5, 1977 and the Stay Order Pending Appeal issued on October 17, 1977. Plaintiffs, and the class they represent, do not waive their rights to seek redress for any violations of the aforementioned Orders which may have occurred when the said Orders were in effect.

7. Defendants, the Warden of the New Hampshire State Prison, members of the Board of Trustees of the New Hampshire State Prison, their agents, employees, successors in office and any others acting in concert with them, agree to be bound by and are hereby enjoined from failing to implement fully and within the time prescribed each of the requirements set forth in this Consent Decree.

8. This Consent Decree shall be applicable to members of the class comprised of all inmates who are or will be incarcerated as duly convicted felons at New Hampshire State Prison and ~~are or will be in the custody of the Warden or any other person or agency who in the future may receive custody of any such inmates in lieu of the Warden including but not limited to, inmates on work release, in quarantine, punitive segregation, protective custody, trusty status, and any category of inmates delineated in Appendix B, which is the prison's Classification Manual and which is incorporated in this decree, infra.~~

9. In entering into this Consent Decree plaintiffs and defendants have acknowledged that it is not their intention to provide an extraordinary avenue of access to the courts to bring minute details of the New Hampshire State Prison's day-to-day operations to the courts' constant attention. The parties acknowledge that the size of the prison staff alone and the nature of its operations may lead to minor and isolated instances of

¹ Three complete sections of the July 1, 1977 Order have not been modified; namely, Section X "Protection from Violence," Section XV "Mail," and Section XVI "Harassment." However, these sections are reproduced fully infra for the sake of convenience.

noncompliance with provisions of this Consent Decree which may be speedily resolved if brought to the attention of the administration. Accordingly, the parties acknowledge that a spirit of reasonableness and cooperation should govern resolution of grievances arising under this Consent Decree. The named Plaintiffs and their counsel agree to consult, where possible, with the Office of the Attorney General or the administration of the New Hampshire State Prison when a report of noncompliance comes to their attention, to allow the institution to either remedy the problem to the Plaintiffs' satisfaction or to indicate disagreement with the report, prior to instigating litigation.

DEFINITIONS

1. "Plaintiffs" and "Defendants"--refer to the parties named as plaintiffs and defendants in the caption hereof.
2. "New Hampshire State Prison" (hereinafter sometimes referred to as the prison)--refers to New Hampshire State Prison located on 281 North Main Street, Concord, New Hampshire, including the Minimum Security Unit, and all other facilities operated by the defendants, including but not limited to the Halfway House and Farm located in Concord and any future facilities to include the proposed Halfway House in Manchester, New Hampshire.
3. "Inmates"--refers to all members of the plaintiffs' class as set forth in Paragraph 8, *supra*. As of July 1, 1978, the total inmate count was 266 which consisted of 227 inmates in the main facility, 28 inmates in the minimum security unit and 11 inmates in the Halfway House at Shea Farm.
4. "General Population"--refers to those persons except those in quarantine and protective custody, who are housed in the main cell block of the prison who are classified Medium or Minimum B-1 Custody pursuant to the Classification System set forth in Appendix B, which is the prison's Classification Manual, which is incorporated herein *infra*, and who are not in any disciplinary status or administrative segregation.

880

TABLE OF CONTENTS

	<u>Page</u>
I. Sanitation	6
II. Physical Facilities	7
III. Segregation and Isolation	8
IV. Food Service	10
V. Fire Hazard	11
VI. Staff	13
VII. Medical Care	14
VIII. Mental Health Care	20
IX. Classification	23
X. Protection From Violence	25
XI. Work Opportunities	25
XII. Vocational Training	26
XIII. Services and Programs	30
XIV. Visitation	34
XV. Mail	36
XVI. Harassment	36
XVII. Miscellaneous	36

I. Sanitation

1. The housing, industrial, work, recreational and administrative areas of the prison shall be maintained in a manner which comports with the standards set out in the American Public Health Association's Standards for Health Services in Correctional Institutions (c. 1976) (APHA STANDARDS). Sanitation in the food service and storage areas of the prison shall be maintained in a manner which comports with the New Hampshire Sanitary Food Code. Sanitation in the medical areas of the prison shall be maintained in a manner which comports with licensing standards to be promulgated by the New Hampshire Department of Public Health. All areas of the prison shall be inspected at least once every six months by appropriate subdivisions of the New Hampshire Department of Public Health. Defendants shall comply with all orders, requirements and recommendations of the New Hampshire Department of Public Health. As to APHA or Sanitary Food Code hazards or violations which do not require substantial changes in the capital or operating budgets or substantial staff reorganization to remedy, defendants shall correct them immediately. As to violations or hazards which require substantial changes in the capital or operating budgets or substantial staff reorganization to remedy, defendants shall be required to correct them within a reasonable time to the satisfaction of the New Hampshire Department of Public Health.

2. Defendants shall provide each inmate with access to adequate amounts of cleaning supplies to keep his cell clean including, but not limited to, toilet brushes, brooms, cleansers and disinfectant.

II. Physical Facilities

1. The following physical facilities shall not be utilized to confine inmates for any purpose: the "hospital" or "death" cell; the padded mental health cell; and the punitive isolation or "solitary confinement" cells. These cells are all located in the West Wing.

2. The "treatment" cells in the West Wing may be used for housing purposes for special category inmates so long as the doors to the cells are left open at all times and provided the inmate affected gives his consent. Should the defendants desire a different use for such cells or desire to change the conditions of the use, or should they desire to use the padded mental health cell, they have and expressly reserve the right to petition the Court for modification. If defendants so petition, plaintiffs have and expressly reserve the right to object and/or seek modification of the use and conditions of administrative segregation/medical which status is set forth in the Classification Plan.

III. Segregation and Isolation

1. Plaintiffs expressly recognize that isolation is not now imposed at the New Hampshire State Prison. However, should isolation be subsequently employed at any time in the future, all terms and conditions in this section relating to punitive segregation will apply to isolation. Confinement in punitive segregation shall be imposed only after the requirements of due process as set forth in Wolff v. McDonnell, 418 U.S. 539 (1974) are observed. Procedures that defendants shall follow in imposing administrative segregation/pending investigation are contained in the Classification Manual and incorporated herein, infra.

2. Each cell utilized for segregation shall be equipped with a toilet which can be flushed from the inside, a sink with hot and cold running water, ventilation and lighting which meet APHA Standards, clean linen and a blanket, and a bed and a mattress off the floor.

3. Each inmate confined in administrative or punitive segregation shall be:

- a. Permitted to bathe every day;
- b. Provided three wholesome and nutritious meals per day, served with eating and drinking utensils;
- c. Supplied all necessary toilet articles and linens, including but not limited to razors, soap, and shampoo;
- d. Allowed at least thirty (30) minutes exercise per day in punitive segregation and sixty (60) minutes per day in administrative segregation. An inmate in administrative segregation will be provided with outside exercise a minimum of five days per week consistent with concerns for institutional security and custody grade. Provided, however, that defendants will be under no obligation to provide such inmates with outside exercise until outside exercise yards funded in the 1978 capital budget are

built. It is the policy of the defendants to provide inmates in punitive segregation with an opportunity for an actual half hour of out-of-cell time for exercise and inmates in administrative segregation with an actual hour of out-of-doors exercise time.

- e. Afforded adequate medical and mental health care, and provided a daily visit or examination by a qualified medical or mental health care professional between the hours of 9:00 a.m. and 7:00 p.m.

4. No inmate shall be kept in punitive segregation for more than fifteen (15) consecutive days unless found guilty of a subsequent disciplinary violation while in punitive segregation.

~~IV.~~ Food Service

1. Every inmate is entitled to three wholesome and nutritious meals per day served with proper eating and drinking utensils. Defendants will make reasonable efforts to ensure that food which is supposed to be served hot will be served hot and all food which is supposed to be served cold will be served cold. All inmates, regardless of their status, will be served the same quality of food in a quantity sufficient to meet their nutritional needs. Availability of special diets will not be dependent upon custodial or disciplinary status. Defendants shall implement a menu which will provide for a regular variety in dinner meals.

2. The food served to inmates shall be properly prepared and served under the direction of the chief steward. Defendants shall employ a dietitian a sufficient number of hours each week to plan menus, to assist in food purchasing, to assure that meals are wholesome and nutritious, to oversee sanitation, to assist in implementation of recommendations of the Department of Public Health, and to provide on-going training to staff and inmates in food handling and preparation.

3. Food shall be stored, prepared, and served in accordance with the New Hampshire Sanitary Food Code and other standards established by the New Hampshire Department of Public Health. Equipment shall be maintained in good working condition. All kitchen employees, including inmates, shall be trained in the handling and preparation of food by the dietitian and chief steward. Staff hired for food service shall be qualified by experience or training for their positions or in the alternative upon being employed shall be required to take courses in these areas from the University of New Hampshire or other appropriate institutions. All persons who assist in the preparation and serving of food shall have a medical examination prior to such job assignment to determine their suitability for such work.

4. Each inmate who requires a special diet as certified by a physician will be provided a diet to meet his need. Defendants will offer for religious purposes reasonable substitutes of approximate equivalent nutritional value for those food items which conflict with an inmate's recognized religious tenets. De-

V. Fire Hazard

1. Defendants shall maintain the New Hampshire State Prison in accordance with standards of the life and fire safety code used by the New Hampshire Department of Safety.

2. Defendants shall request the State Fire Marshal's Office and other appropriate subdivisions of the Department of Safety, if any, to inspect the entire facility in a comprehensive manner at least once every six months. Defendants shall comply with all orders and requirements and recommendations of the Fire Marshal. As to life or fire safety hazards or violations which do not require substantial increases in the Prison capital or operating budgets or substantial staff reorganization to remedy, the defendants shall be required to correct them immediately. As to life or fire safety hazards or violations which require substantial increases in the capital or operating budgets or substantial staff reorganization to remedy, the defendants shall be required to correct them within a reasonable period of time.

3. Plaintiffs acknowledge that the current New Hampshire State Prison Fire and Disaster Plan, which defendants filed with the Court on April 14, 1978, has been approved by the State Fire Marshal. Defendants agree that any proposed changes, modifications, or additions to this Plan or proposals for a new plan shall be submitted to and approved by the Fire Marshal. The defendants shall conduct fire drills involving the entire inmate population and staff as recommended by the Fire Marshal.

4. The defendants shall charge a staff member at New Hampshire State Prison with the responsibility of: (a) providing training to other staff in fire safety and prevention and fire fighting; and (b) regularly inspecting the facility to determine if life safety or fire hazards exist and whether or not previously cited hazards or violations have been corrected.

Plaintiffs acknowledge that defendants have already designated a person for this position. The responsibilities of this person shall not be in substitution of the role of the State Fire Marshal, but shall compliment and provide follow-up to the Fire Marshal's efforts to insure compliance with life and fire safety

standards of the Department of Safety. The person shall be responsible to the Deputy Warden and shall regularly report to the Deputy on his duties, such report to include a description of any life safety or fire hazards or violations at New Hampshire State Prison.

5. The defendants with all deliberate speed will have an institutional lock expert examine and evaluate the locking system currently in use for the cells in the main cell block to determine whether the locking system requires modifications and, if so, what modifications are necessary, including whether or not a master locking system is necessary. In doing such an evaluation, the defendants shall require the expert to take into account all relevant factors, to include factors relating to life and fire safety hazards and risks. Plaintiffs' counsel shall have access to the expert including the right to discuss the matter of the locking system with him/her when he/she is inspecting the prison. The defendants shall require the expert to submit his/her report to the court and plaintiffs' counsel. Plaintiffs reserve the right to object or challenge the report and call their own expert. Either party shall have the right to a hearing on this issue. The parties agree to leave the decision regarding modifications of the locking system, including the installation of a master locking system, to the Court.

VI. Staff

1. Qualified staff sufficient to maintain institutional order and to administer the services and programs mandated by this Consent Decree shall be employed by defendants.
2. By July 1, 1978, defendants shall provide appropriate and effective pre-service and in-service training programs for all staff members, such training to comport with American Correction Association (ACA) Standards for Adult Correctional Institutions (c. 1977).
3. Defendants shall maintain and distribute current post orders for all custodial positions.

~~VII.~~ Medical Care

1. Defendants shall provide adequate medical care to inmates at New Hampshire State Prison. This shall include services providing for their physical and mental well-being as well as treatment for specific diseases or infirmities.

2. Such medical care shall include the following:

- See above*
- a. Establishment of a Chief of Medical Services, who shall be a physician licensed in New Hampshire, and who shall be responsible for medical services, and who shall work cooperatively with the mental health unit on mutually related matters.
 - b. A comprehensive medical examination conducted by a physician within ten (10) days of an inmate's commitment directed to the discovery of physical and mental illness. Said examination shall include at a minimum: a complete physical and dental examination; prediagnostic lab tests including a blood workup; urine sample, as well as tests for infectious or contagious diseases; a complete medical and mental health history taken orally by a member of the medical staff or mental health staff, respectively; notation of apparent mental or physical illnesses or handicaps; a determination of the physical capacity of the inmate for work; notation of referrals or recommended treatment for specific illnesses or handicaps. Based on the examination and history, the physician shall prescribe any necessary treatment, including referral, or therapy.
 - c. Beginning July 1, 1978, each inmate will be given an annual medical re-examination during the month of his birthday.

- d. Medical services performed by a medical staff licensed by the State of New Hampshire under the supervision of a licensed physician. The staff shall consist of a minimum of five (5) full-time licensed nurses or licensed paramedics, a medical records technician, and a physician employed a sufficient number of hours each week to adequately perform all the duties and responsibilities of the Chief of Medical Services as well as provide competent medical care to inmates. It is acknowledged that the defendants currently employ two (2) physicians who together provide a total of twenty (20) hours of medical service each week. Plaintiffs at this time contend that twenty (20) hours is insufficient; defendants believe it is sufficient. The New Hampshire Department of Public Health or a private group or association of physicians such as the New Hampshire Foundation of Medical Care will be contacted to conduct an evaluation of the medical care at the New Hampshire State Prison to determine whether additional physician time is necessary, and, if so, how much additional time is necessary. If said evaluations and recommendations are not completed by February 1, 1979, plaintiffs and defendants will consult in an effort to resolve this issue and, if necessary, submit the issue, if still unresolved, to court. Plaintiffs and defendants agree to be bound by the recommendations of the consulting group. When there are vacancies in the nursing positions, defendants shall continue to make efforts to hire a male nurse or paramedic.
- e. Medication prescribed only by a licensed physician and dispensed by a licensed nurse, except to the extent that New Hampshire State Prison

20 -

employees who have successfully completed a medication certification training program approved by the New Hampshire Board of Nursing Education may dispense medication set up by nurses. Said program will be implemented as soon as practicable, but no later than November 1, 1978. Personnel who are assigned to dispense medication should be over and above staff currently assigned to work in the particular area in which the medication is being dispensed to avoid conflicting duties. Medication shall be dispensed in accordance with good medical practice and shall not be administered in any manner which might alter its effectiveness or potency.

- f. Emergency medical care on a twenty-four (24) hour basis, seven (7) days a week to include transfers to the Concord Hospital or other medical facilities as necessary.
- g. A member of the medical staff present at the New Hampshire State Prison at all times.
- h. Referral upon approval of the Chief of Medical Services for necessary medical care and services to accredited hospitals, medical specialists, and the New Hampshire Hospital, subject to acceptance by the gaining facility. If an inmate is refused admission to the New Hampshire Hospital or another State institution, the Attorney General's Office and plaintiffs' counsel shall be notified.
- i. Complete and accurate records documenting all medical examinations, medical findings, and medical treatment maintained pursuant to standards established by the American Medical Association, under the supervision of the physician.

- j. A sick call procedure. An inmate's need for medical and mental health care should be determined only by a licensed physician or member of the medical or mental health staff, respectively; the correctional staff shall not be authorized or allowed to inhibit an inmate's access to medical personnel or to interfere with medical treatment. Inmates in the Annex or at the Minimum Security Unit will be visited by the physician at their respective units or, in the alternative, shall have the opportunity to visit the physician at the infirmary. The sick call procedure shall be monitored by the Warden and Chief of Medical Services to ensure that all requests are promptly brought to the attention of the medical staff. A record of all medical requests shall be maintained. Defendants' Medical Regulation No. 3 (April 4, 1978) entitled "Routine Sick Call," as amended by the inter-departmental communication dated 20 July 1978, is attached hereto as Appendix A and fully incorporated herein as part of this Decree.
- k. An examination room of sufficient size. Plaintiffs acknowledge that defendants are in compliance with this provision.
- l. Use of portable screens to ensure privacy during examinations and treatment.
- m. A buzzer/call system in the medical services facility. Plaintiffs acknowledge that defendants have installed a buzzer system.
- n. A nurse's station located so that adequate monitoring of patients in the ward is possible. Plaintiffs acknowledge that defendants have installed such a nurse's station. When medication is being dispensed, inmates in the ward will be provided a full-time attendant if their medical

- 10 -

condition requires constant observation. In the alternative, the buzzer/call system will be extended to the dispensary to enable inmates to signal the nurse if they require assistance.

3. Inmates housed in segregation or any other status that systematically prevents them, for whatever reason, from attending sick call shall be visited once every day by a member of the medical or mental health staff.

4. The Chief of Medical Services shall report to the Warden whenever he considers that an inmate's physical or mental health has been or will be adversely affected by continued imprisonment or by any condition of confinement. All New Hampshire State Prison staff shall be informed that any problem relative to an inmate's physical or mental health shall be reported to the Chief of Medical Services or a member of the medical or mental health staff.

5. All medications deemed medically necessary by a prison physician shall be given to the patient. An insufficient budget shall not excuse failure to provide necessary medication, and medications shall not be denied an inmate because of a disagreement between prison physicians unless the Chief of Medical Services determines that to administer a prescribed medication would endanger the health of the patient or threaten the security of the institution.

6. The defendants will ensure that the medical facility is licensed by the New Hampshire Department of Public Health within three (3) months after the Department of Public Health issues standards governing such facilities, but if it should appear that compliance with such standards and licensure will not be completed by February 1, 1979, defendants will consult with plaintiffs. Defendants will request inspection of the facility by said Department at least once every six (6) months thereafter. Defendants will undertake changes in the facility's operation at the Prison to comply with recommendations of the said Department.

7. Plaintiffs will agree to allow defendants to have routine sick call for four days per week pursuant to the attached July 20, 1978 memorandum, marked Exhibit A Part 2, pending receipt of recommendations from the New Hampshire Department of Public Health or a private group of physicians on this issue as well as the issue of the number of hours a doctor should be employed at the Prison to be resolved as set forth in subsection VII(2)(d) supra.

8. The Warden and the Chief of Medical Services are responsible for the promulgation, implementation and review of written regulations which detail the operations and procedures of the New Hampshire State Prison medical facility, medical care, medical services and medical treatment.

SICK
CALL
any
4 days per week

~~VIII.~~ Mental Health Care

1. The Mental Health Unit will provide for inmates' mental health needs as determined by testing, personal interview staff and self referrals.

2. The Mental Health Unit shall be sufficiently staffed and will include, at a minimum:

a. A full-time Ph.D. psychologist or Senior Psychologist I under the State of New Hampshire Personnel system who shall administer the unit in coordination with the Chief of Medical Services and discharge the following duties:

1. oversee testing and determine within six (6) months after hiring what additional tests are required to identify psychological or psychiatric disturbances or mental retardation;
2. conduct staff training and assist case manager/counselors with individual cases;
3. provide individual and/or group counseling;
4. study the mental health needs of prisoners and implement within six (6) months appropriate new programs;
5. other activities necessary to ensure that inmates receive adequate mental health care.

b. If a full-time Ph.D. psychologist or Senior Psychologist I cannot be hired, then the Unit will be administered by a person who shall possess at least an M.S.W. and in such event defendants shall hire a group of consulting psychologists who will be available at the NHSP no less than three consult days per week. They shall perform all the duties enumerated in paragraph 2(a) of this section.

c. A psychiatrist who will be available at the NHSP eight (8) days each month to provide counseling, consultation with mental health and medical staff, prescribe medication in coordination with the physician, authorize transfers and prepare court reports;

- 2 -

d. A sufficient number of full-time case manager/counselors in the Mental Health Unit to continuously maintain a case manager/counselor-inmate ratio equal to that which exists at the NHSP as of July 1, 1978. As of said date there were five such case manager/counselors. All full-time mental health employees will satisfy, at a minimum, the requirements of a Social Worker II position under the New Hampshire Department of Personnel system and at least 50% of said employees will possess a Masters degree or higher in social work, psychology, or related fields.

3. During the reception cycle, an inmate will be interviewed and tested under the supervision of the psychologist(s) to determine, where possible, if he is suffering from a psychiatric or psychological disturbance or mental retardation. Procedures during the reception cycle will include:

- a. administration of the MMPI test as well as other tests which the psychologist determines are necessary to adequately identify inmates mental health needs;
- b. referrals to other departments at the NHSP, as necessary, for achievement, aptitude, interest and vocational inventory tests;
- c. involvement of case manager/counselors who will:
 1. interview each new inmate and obtain a mental health history;
 2. review tests results and medical information;
 3. advise each prisoner who his case manager/counselor will be during incarceration;
 4. advise each inmate of programs available at the NHSP;
 5. refer an inmate, if necessary, to the medical staff, senior psychologist or psychiatrist for additional testing, counseling or treatment;

6. recommend after consultation with the psychologist(s) appropriate programs including but not limited to counseling, education, and vocational training.

4. Defendants will provide for an inmate to be promptly transferred to an appropriate facility pursuant to RSA 623:1, subject to acceptance of the gaining facility, when, in the opinion of the psychiatrist, physician or senior psychologist, he is suffering from a severe psychological or psychiatric disturbance or mental retardation. If an inmate is refused admission to the New Hampshire Hospital or another State institution, the Attorney General's Office and plaintiffs' counsel shall be notified.

5. Beginning July 1, 1978, the Mental Health Unit will offer the following services and programs:

- a. psychiatric/mental health counseling and drug therapy;
- b. individual counseling by the psychologist(s) and case manager/counselors;
- c. small and large group therapy sessions as deemed appropriate by the head of the Mental Health Unit.

6. Mental health services will be available to all inmates regardless of their custody or disciplinary status.

~~IX.~~ Classification

1. Defendants shall maintain a classification system which shall include:

- a. Due consideration to the age; offense; prior criminal record; vocational, educational and work needs; and physical and mental health care requirements of each inmate;
- b. Methods of identifying aged, infirm and psychologically handicapped or physically disabled inmates who require transfer to a more appropriate facility, or who require special treatment within the institution;
- c. Educational, vocational, rehabilitative, training, religious, recreational and work programs specifically designed to meet the needs of the classification system; and
- d. Methods of identifying those inmates for whom pre-release, work release or school release are appropriate.

2. Plaintiffs acknowledge and concur with the prison's Classification Plan, which is attached hereto as Appendix B, and except for Attachment III of the Plan entitled "Inmate Job Locations and Descriptions," with which plaintiffs do not concur, is fully incorporated herein as part of this Decree. Plaintiffs agree that compliance with the said Plan as well as other relevant provisions of this Consent Decree will satisfy the requirements set forth in paragraph (1) above.

3. The Classification Manual shall govern all decisions relative to classification of inmates. The defendants may issue such rules, regulations, policy statements or directives which they deem necessary to implement any of the provisions of the said Manual and which are not inconsistent with the requirements of the Manual.

4. Defendants shall, as part of the reception cycle for new inmates, inform such inmates of the procedures and standards of the Classification System. In addition, defendants shall

Classification Manual or otherwise disseminate to all such inmates the procedures and standards of the Classification System incorporated as part of an Inmate Manual and/or in separately issued rules, regulations, policy statements or directives.

5. All prisoners at NHSP shall be classified pursuant to the Classification System on or before November 1, 1978.

6. Defendants agree to allow plaintiffs' counsel to inspect at least twenty-five individual inmate files which contain all the material and decisions relative to classification of each inmate. In selecting the files, plaintiffs may either designate the specific inmate files they wish to inspect or choose files at random or use a combination of both methods. Prior to inspecting the files, releases from the affected inmates will be obtained or the names or other identifying features in the files will be concealed. The purpose of such an inspection is to provide a method to ensure that the matters and decisions relative to classification are being made consistent with the Classification Plan as set forth in the Manual. Plaintiffs' counsel shall be able to inspect the files during two different time periods. The first inspection shall occur between November 1, 1978 and December 1, 1978, and the second shall occur between March 1, 1979 and April 1, 1979. The exact dates and times shall be arranged by the parties.

7. Quarantine status for purpose of reception, admission, orientation and classification shall not exceed fourteen days. While in quarantine status inmates shall receive food, health and hygiene services of the same quality as the general population and as is otherwise in conformity with the requirements of this Decree. Such inmates shall receive at least one hour of tier time each day in addition to any other time spent out of their cells for any other purpose. Defendants shall continually make reasonable and good faith efforts to provide quarantine inmates with adequate exercise and recreation.

X. Protection From Violence

Defendants shall make reasonable efforts, including classification, housing, and monitoring, to segregate inmates who engage in violence and aggression.

XI. Work Opportunities

1. Each inmate at NHSP shall be afforded the opportunity to work at a useful job. No inmate shall be idle or on a status whereby he has to await a job assignment longer than fourteen (14) days.

2. No inmate, who by virtue of age, physical or mental incapacity cannot work, shall be required to work; but he shall have the opportunity to participate in all other vocational training, educational or recreational programs commensurate with his physical or mental ability.

3. Defendants, prior to removing an inmate from a job and placing him in a nonworking status, shall afford him full due process procedures as set forth in the Classification Manual. Transfers between jobs shall be governed by the Classification System.

~~XI.~~ Vocational Training

1. Defendants shall provide suitable vocational training programs designed to allow each inmate an opportunity to learn skills which are marketable in New Hampshire.

2. During the reception cycle, inmates shall be interviewed as to their educational and vocational background, interests and goals, and as necessary, tested as to their aptitude. Entrance by a current and future inmate into a vocational training program(s) shall be consistent with the requirements of the Classification System and the inmate's interests, goals and aptitude.

3. Defendants, in addition to maintaining the current vocational training program (which consists of automobile body school, automobile mechanic school and small engine shop which has a total capacity for 24 inmates) and the existing staff position levels therein, shall:

- a. Put into operation by October 1, 1978, the Automobile Shop which will provide on-the-job training (hereinafter OJT) for inmates. The total capacity for the Automobile Shop will be approximately fifteen (15) inmates.
- b. Make operational by October 1, 1978, an Industrial Arts Program which will have a capacity of eighty inmates. The program will provide vocational education in such areas as carpentry, roofing, electricity, masonry, plumbing, agriculture, medical aid work, and janitorial or custodial services. OJT for inmates participating in this program shall be provided in the prison industries or other work assignment positions in the prison which correlate to the skills being taught.
- c. Establish by June 1, 1981, two or more additional vocational training programs which will have a combined capacity of at least thirty

inmates in such areas as welding, computer programming, business machines and/or appliance repair, and/or business and office occupations such as general office work, typing, bookkeeping, accounting, etc.

4. By June 1, 1981, the vocational training programs the defendants will operate and maintain including the programs set forth in Subsection (XII) (3) above, shall have a combined capacity equivalent to fifty percent (50%) of the inmate population.² Prevocational courses such as Math or English taught by the prison's Education Department may be included as part of the fifty percent capacity requirement, provided that such courses are being given to inmates who require them for participation in one of the prison's vocational training programs and the inmates are enrolled in the vocational training program simultaneously or intend to be so enrolled upon completion of the courses. Inmate job assignments to the prison industries or any other work position in the prison may be counted as part of the fifty percent capacity requirement only if the assigned inmates are receiving actual OJT as part of the Industrial Arts Program or any other vocational training program and such OJT is in accordance with the standards of the Commission on Accreditation for Corrections of the American Correctional Association.

5. Defendants shall provide for the necessary curricula, facilities and equipment, including audiovisual, as is required for accreditation by the Commission on Accreditation for Corrections of the American Correctional Association including but not limited to periodic updating of equipment and curricula to ensure comparability with training developments in the community.

6. Defendants shall employ a sufficient number of qualified vocational training instructors/supervisors for the above-mentioned vocational training programs. They shall be qualified

²The vocational training programs to be established by June 1, 1981, under Subsection XII(3)(c), supra, prescribe only a minimum capacity, which is thirty inmates. Therefore, to meet the fifty percent (50%) requirement set forth in this subsection, the number of programs and/or their combined capacities to be

not only in their vocational educational specialities, but shall receive on a pre-service and in-service basis instruction in appropriate aspects of corrections as it relates to their employment. Specifically, with respect to each of the vocational training programs and OJT segments enumerated in Subsections XII (3) (a), (b), and (c), the defendants shall:

- a. For the Automobile Shop (XII (3) (a)), employ a minimum of three (3) supervisors who shall not only be qualified in this field but who shall receive on a pre-service and in-service basis instruction in appropriate aspects of corrections as it relates to their employment.
- b. For the Industrial Arts Program, maintain current staff levels in the Prison Industries and other work positions in the prison which provide the OJT for the program. Defendants shall also employ two industrial arts teachers as they have proposed and are in the process of doing. Additional positions will be provided for this program by July 1, 1979, if the Commission on Accreditation for Corrections or the Vocational Advisory Committee (see Subsection XII (8), infra) so recommends. If additional persons are hired, their placement as either supervisors in the shops or actual industrial arts instructors shall be determined based on the then existing needs. All persons hired as the industrial arts instructors shall be certified by the State Board of Education or certifiable as Teachers of Comprehensive Vocational Education by June 1, 1979.
- c. For the vocational training programs required by June 1, 1981 (see Subsection XII (3) (c), supra), a sufficient number of staff shall be employed as recommended by the Vocational

Advisory Committee or the State Board of Education. Such staff shall be certified or certifiable as Vocational Specialists or Teachers of Comprehensive Vocational Education or combination of each as deemed appropriate.

7. To fulfill the staffing requirements of Subsection XII (6), in lieu of creating new positions, the defendants may convert existing positions as long as such conversions do not conflict with the provisions of staffing for the operation of any service or program otherwise required by this Consent Decree.

8. Defendants shall establish a Vocational Advisory Committee which shall be composed of members of the community such as persons from business, labor, and vocational education. The functions of this Committee shall be to assist the prison administration plan and establish vocational training programs, make recommendations, and evaluate the programs, and to generally act as a consultant.

9. Beginning no later than January 1, 1979, the inmate participants of the vocational training programs, staff and the Vocational Advisory Committee shall evaluate at least annually all aspects of the vocational training programs to include the quality and quantity of the staff, the quality of teaching and supervision, curricula, the QJT components, equipment, facilities and the programs' general operation and administration, to assure that maximum efforts are being made to teach inmates marketable skills. By June 1, 1981, the vocational training programs at New Hampshire State Prison shall be operated in accordance with the Standards of the Commission of Accreditation of the American Correctional Association.

XIII. Services and Programs

1. Defendants shall maintain the services and program enumerated below in a meaningful and effective manner.
2. Religious programs and counseling will be offered for recognized faiths. Inmates in the Minimum Security Unit (MSU) protective custody and general population may participate in communal religious services as well as individual counseling. Individual religious counseling will be available to all other inmates including those in punitive segregation, and other Annex residents.
3. Educational testing and programs conducted by an education department consisting of a minimum of five (5) full-time teachers, at least one of whom will be specially qualified in special education or learning disabilities. Plaintiffs acknowledge that the current education department is so staffed. All full-time teachers will be certified by the New Hampshire Department of Education. Defendants shall maintain an education department of at least five (5) full-time teachers for the present inmate population and will add to the staff in the event that the inmate population expands substantially. One of the teachers shall be designated head teacher who will be responsible for implementing and evaluating educational programs. The head teacher will possess, at a minimum, a Masters degree in education or educational administration and have some previous administrative experience. In addition, inmates will be selected, trained and employed by the education department as tutors and/or instructors to supplement the efforts of the staff, as needed.
4. During the reception cycle, a member of the education department will obtain an educational history from each inmate and administer such achievement tests as may be necessary to determine his academic functioning level together with other tests to identify whether an inmate suffers from a learning disability. This information will be used by the education department and Classification Board in recommending that an inmate participate in one or more of the programs enumerated below.

- a. Adult basic education courses designed to provide students with basic skills in preparation for the GED courses. Said courses will vary from two to ten weeks and will be offered regularly;
- b. Remedial courses and individual tutoring in areas, including but not limited to Math and English;
- c. GED courses designed to enable an inmate to earn the equivalent of a high school diploma. The GED course will be offered regularly according to inmates' needs;
- d. Defendants will make all reasonable efforts to provide college level courses by October 1, 1978, which will enable inmates to earn credit towards college degrees. Said courses would be offered in areas of liberal arts, sciences, and business by instructors from accredited colleges or universities. Such college courses will be funded by BEOG, VA or other funding sources obtained by inmates. Defendants shall assist inmates in contacting the above-mentioned funding sources;
- e. Correspondence courses for instruction not available to an inmate within the institution. Inmates will be responsible for the expense of said courses;
- f. Special classes in areas such as, yoga, meditation, poetry, music, art, as well as topical speakers, slides and lectures according to inmate interest. Defendants shall provide instructors for said classes;
- g. School release programs, including college and vocational training, pursuant to N.H. RSA 651:25.

5. Defendants shall maintain an adequate reading and law library under the supervision of the

6. Defendants shall maintain individual and group counseling programs according to inmate interest coordinated by the mental health unit, such as drug abuse classes, AA, sex offenders group, marital counseling, threatened individuals, and aggression management.

7. Defendants shall implement a pre-release program with a minimum of two full-time staff persons by July 1, 1978. Said program will include vocational testing and counseling, as well as assistance in arranging housing, job interviews and necessary tools. Defendants shall arrange for members of the community to include persons from business, labor, education and social service agencies to provide classes for the prisoners.

8. Defendants shall employ a full-time recreation director to organize and implement athletic and leisure time activities for all areas of the prison. Said director shall select and train inmate assistants to help him implement and maintain the following programs:

- a. An athletic program for inmates interested in exercise and sports involving, where possible, organized leagues from the community in addition to several organized intramural sports per season including, but not limited to basketball, softball, skating, horseshoes, volleyball, and handball, depending on inmate interest.
- b. A leisure program offering activities including, but not limited to handicrafts, art work, table games, movies, topical speakers, Jaycees, pottery, and concerts. Defendants shall make reasonable efforts to provide a permanent location for handicrafts.

9. Defendants shall convert the North Yard into a recreation area by June 1, 1979. Said area will include a baseball/softball diamond, track and handball courts. Defendants shall obtain funds for a new gymnasium on the current site of the New Hampshire State Prison by June 30, 1980, unless by said date funds

are appropriated for a new prison facility which will include a gymnasium/sports complex. In the event that funds are appropriated for a gymnasium on the current site, construction shall begin no later than January 1, 1981. The gymnasium or sports complex shall include at a minimum, facilities for basketball, volleyball, handball, and exercise room.

10. Defendants shall provide such other space, facilities and equipment required by the provisions of this section.

11. Each of the programs and services enumerated in this section shall be available to all general population inmates who need or desire to participate in them. Protective custody inmates shall have reasonable access to programs and services comparable to those available to the general population. Inmates in maximum custody shall have access to programs and services at the New Hampshire State Prison in accordance with the Stipulation filed in Guay v. Perrin, Civil Action No. 77-256, D.N.H., and approved by this Court this date.

XIV. Visitation

1. Defendants shall allow each inmate to receive at least two (2) social visits per week. Social visits are visits by family members, friends, and associates, and do not include visits by attorneys, law enforcement personnel, prospective employers, teachers, or others with whom consultation is necessary for pre-release arrangements or to continue an approved rehabilitation program or those whose business is otherwise official.

2. Defendants shall not arbitrarily or capriciously deny visits to inmates. Visitation privileges may be denied or restricted only in accordance with the regular disciplinary procedures. Such restrictions may not unduly interfere with an inmate's association with his immediate family. Total withdrawal of visitation privileges or restrictions on visitation with immediate family members shall last no longer than thirty (30) days.

3. Defendants shall deny a particular visit or visitor only if the visit or visitor poses a clear and present danger to the security of the institution or to any person in the institution, or if the person has participated with or assisted any inmate in illegal activities or a serious violation of institutional rules, and there is a reasonable likelihood that if the visit is permitted, such activities or violations will recur. Both the inmate to be visited and the visitor shall be notified and given the underlying reasons for the denial and shall be given an opportunity to respond.

4. Attached hereto, as Appendix C, are the defendants' visiting regulations which plaintiffs acknowledge comply with the requirements of Subsections XIV (1), (2), and (3) above. Said regulations are incorporated herein as part of this Decree.

5. Defendants shall improve the visitation facilities to include:

- a. The defendants shall make the following alterations to the visiting room adjacent to the central control area: installation of molded plastic chairs and small cocktail type tables, repainting, curtains, and carpeting as soon as possible, but in no event later than January 1.

1980. Further, the defendants shall make reasonable efforts to change the configuration of the visiting room by October 1, 1978 to provide for more conversational privacy by removing the tables and by arranging the furniture in cluster like settings; - - -

- b. Separate and private area for attorneys. Plaintiffs acknowledge that such an area exists. Defendants shall post a conspicuous notice informing attorneys of the existence of the area.
- c. Outdoor area for trustees and other approved inmates.

~~XV.~~ Mail

1. Defendants shall continue to implement and enforce their present mail regulation, SOP #81, 4/16/76, with the following exceptions:

- a. The institution may inspect incoming and/or outgoing privileged mail of certain inmates if the individual is suspected of attempting to escape or introduce contraband into the prison only in compliance with the procedures outlined in Wolff v. McDonnell, 418 U.S. 539 (1974), or with the requirements of the Fourth Amendment.
- b. Inmates may correspond with any person unless the Warden or his designated agent determines that such correspondence threatens the life or the security of any individual at NHSP or the institution or unless the Warden and the Chief of Medical Services determine that such correspondence will cause severe psychiatric or emotional disturbance to the inmate or others.

2. Defendants shall not copy any incoming or outgoing correspondence except in conformance with the procedures outlined in Procunier v. Martinez, 416 U.S. 396 (1974), or with the requirements of the Fourth Amendment.

XVI. Harassment

Defendants shall not harass or in any way interfere with plaintiff Laaman's or any other inmate's Sixth Amendment right to access to the courts.

~~XVII.~~ Miscellaneous

1. Defendants shall give inmates written notification that this Consent Decree has been approved and defendants shall make three (3) copies available for the reference of inmates in the library, one (1) in the Minimum Security Unit, and one (1)

2. Defendants shall inform the employees of NHSP of the terms and requirements of the Decree.

3. In order to resolve any problems or questions of compliance as well as to monitor the progress that is being made, defendants agree to be accessible to plaintiffs' counsel for meetings, to respond to written or oral questions relative to implementation of the decree, and upon request to supply them with relevant non-privileged material concerning implementation. Plaintiffs' counsel, or experts, shall be permitted access by the defendants to all facilities at NHSP at reasonable times.

4. The plaintiffs may routinely have access to all rules, regulations, operating procedures, directives issued by the defendants. Plaintiffs' counsel will be provided with a copy of the draft of the Inmate Manual and given an opportunity to comment prior to publication. In addition, defendants shall notify the Attorney General's Office of significant proposals to government agencies or bodies to implement the provisions of this Decree who shall, in turn, provide appropriate notification to plaintiffs' counsel.

5. The terms and provisions of this Decree shall be applicable to any new facility(s) that may be constructed in the future in New Hampshire which confine the class herein and which is operated by defendants.

6. The terms and conditions of this Decree shall remain in full force and effect in the event that a new State department or agency is created, including a Department of Corrections, which assumes some or all of the duties of the Board of Trustees or the Warden.

7. Attorney's Fees

The parties have negotiated with respect to attorneys' fees and have agreed as follows: Defendants agree to pay to Plaintiffs the sum of \$55,000 as payment of their attorneys' fees in prosecuting this case.

8. Jurisdiction is retained by the Court until further order, for the purpose of enabling any party to apply at any time for such further orders as may be necessary or appropriate for the interpretation, implementation, or enforcement, or modification of the terms of this Decree or any of the provisions thereof.

IN WITNESS WHEREOF, we do hereby set our hands this
4th day of AUGUST, 1978.

Plaintiffs, Jaan Laaman, et al.

Defendants, Raymond A. Helgemoe,
et al.

Through their Attorneys

Through their Attorneys

NEW HAMPSHIRE LEGAL ASSISTANCE
INSTITUTIONAL LAW PROJECT

NEW HAMPSHIRE OFFICE OF
ATTORNEY GENERAL

By Richard A. Cohen
Richard A. Cohen

By James C. Sargent, Jr.
James C. Sargent, Jr.
Assistant Attorney General

By John MacIntosh
John MacIntosh

SO ORDERED

Judge Hugh S. Bownes

Dated: _____

Signed by Judge
8/10/78

Laaman v. Helgemoe



PC-NH-002-002