



PC-NM-001-015

IN THE UNITED STATES DISTRICT COURT

FILED

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES DISTRICT COURT
SANTA FE, NEW MEXICO

JUL 11 1985

DWIGHT DURAN, et al.,

Plaintiffs,

vs.

TONEY ANAYA, et al.,

Defendants.

[Signature] CLERK

No. CIV 77-721 JB

MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION TO MODIFY THE
MAXIMUM SECURITY POLICY STATEMENT
OF THE CONSENT DECREE

I. INTRODUCTION

On or about June 4, 1985, through counsel and by letter, Defendants notified Plaintiffs of their intention to seek changes in the Maximum Security Policy Statement of the Consent Decree. A photocopy of the letter notifying Plaintiffs' counsel of the proposed changes is attached to the instant motion as Exhibit "A".

On or about June 26, 1985, counsel for Plaintiffs notified counsel for Defendants by letter that they objected to the proposed changes. A photocopy of the letter from Plaintiffs' counsel is attached to the instant Motion as Exhibit "B".

Pursuant to paragraph 6 of the general agreement of the Consent Decree, it is incumbent upon the parties to attempt to

resolve disputes or matters such as this one informally. In their June 4, 1985 letter to Plaintiffs' counsel, Defendants stated that because of recent developments concerning this issue, they would assume that informal efforts to resolve this matter would be futile, unless Plaintiffs were to notify them to the contrary. Plaintiffs have not so notified Defendants and Defendants therefore are submitting this matter to the Court.

The Consent Decree, agreed to by the parties, provides procedures, standards and burdens for changing its terms. According to paragraph 6 of the general Agreement, Defendants must now justify to the Court that the "...change or changes should be made and will not lessen the benefits provided by the agreement and the policies attached hereto and the partial consent decrees on file herein before the change or changes will be allowed."

II.

THE CHANGES DEFENDANTS SEEK SHOULD BE MADE

Defendants are concerned with providing as much physical safety as possible to all inmates and staff in the New Mexico correctional system. Notwithstanding efforts to date, however, violence has often existed in New Mexico institutions. Inmates have been killed, maimed, otherwise seriously physically injured and subjected to various forms of extortion. Corrections Department staff have been the targets of inmate

violence, resulting in staff deaths and serious injuries. Defendants are asking this Court to give them the tools and procedures to drastically reduce and, if possible, completely eliminate this climate of violence and its tragic consequences.

It would be naive to posit that violence could not exist in the absence of weapons. It would be equally naive to assume that weapons do not contribute to the degree, intensity and frequency of violence in an environment which assumes and accepts weapons as instrumentalities of manipulation and intimidation. The fact is that "...instruments capable of causing death or serious physical injury. . .", when used in the "proper" circumstances, can cause death or serious physical injury. It is not necessarily the skill of the possessor or user of the weapon which makes death or serious physical injury possible, it is instead the nature of the weapon itself. Persons will, if possible, arm themselves with instruments and weapons capable of helping them achieve the desired result. In a prison setting, since there is no possible legitimate use for contraband weapons, their mere existence will inevitably lead to their use and that use will inevitably lead to death or serious physical injury to inmates or staff.

Eliminating dangerous, contraband weapons is therefore only a logical, basic and sensible step toward eliminating killings, maimings, stabbings, threats and other forms of extortion. The metaphysical argument "guns do not kill people, people kill people", is only that. In the real world, it is

impossible for people to kill people with guns, unless they have guns. In a prison setting, as in the real world, it is impossible for persons to cause other persons death or serious physical injury with dangerous weapons, if they are not available.

Plaintiffs may argue that if weapons are taken away from the inmate population at large, a result will be that stronger inmates will be able to prey on weaker inmates and weaker inmates will have lost their protection and defense because of their loss of weapons. This would be sophistry reduced to dangerous rhetoric. If such a proposition were to be given even passing consideration, a logical corollary would be that weaker inmates should be armed with dangerous weapons, in order to equalize their status with stronger inmates who would not be armed. Some form of status quo would then have to be presumed, accepting the notion that the weaker, armed inmates would never use them against the stronger, unarmed inmates or against the staff of institutions in which they are confined. As a footnote, it is common correctional practice to forbid the possession of any weapons by correctional officers and staff while working in prisons. The reason, of course, is that it is too dangerous to allow "legitimate" weapons inside the institutions. To presume that weaker inmates who have been allowed to possess dangerous weapons would never use them against arguably stronger inmates or staff would be at best irresponsible.

Defendants' theory and argument are straightforward, obvious and simple. If weapons are eliminated, the potential for violence against inmates and staff is dramatically reduced and, in many cases, eliminated. Defendants have been unable, given the sanctions available, to completely prevent the introduction, possession, manufacture and use of weapons within New Mexico prisons. In order to further the process of completely eliminating weapons, Defendants seek the Court's assistance in providing them with the essential and necessary tools to accomplish that end.

Until recently, ". . .possession, introduction, or manufacture of a sharpened instrument, tool, or knife. . ." was punishable by confinement in disciplinary segregation for only 20 days and loss of good time not exceeding 120 days. A disciplinary violation of this nature was a minor offense. Recently, Defendants filed a motion, unopposed by Plaintiffs' counsel, seeking a new category "A" major offense for the ". . .possession, introduction, or manufacture of any contraband instrument which is capable of causing death or serious physical injury." By this Court's order, such a change was approved and this disciplinary violation is now punishable by segregation for up to 30 days and/or loss of good time not to exceed 180 days.

The new category "A" major offense, although a step in the right direction, is clearly insufficient to alter the long-standing climate of violence and the habits and attitudes

with regard to possession and use of dangerous weapons in New Mexico correctional facilities. An additional 10 days in disciplinary segregation and an additional 60 days potential loss of good time will not provide much greater disincentives than those which existed before the change.

By this Motion, Defendants seek the Court's order changing the Maximum Security Policy Statement of the Consent Decree to allow them to place in maximum security, inmates who have been found guilty in the disciplinary process of possession, introduction or manufacture of a contraband instrument capable of causing death or serious physical injury. The Consent Decree, as it is now drafted, does not allow Defendants to take such action.

Defendants' theory that curtailing or eliminating dangerous weapons is directly related to reduction in inmate violence is not conceived in a vacuum and is not unsupported in fact. Sound, modern correctional practices support the conclusion that the only important variable in controlling weapons within prison environments is strong and sufficient disciplinary sanctions against such practices. Defendants respectfully refer the Court to the Affidavits of George E. Sullivan, Dareld Kerby and Eloy Mondragon, attached to the instant Motion as Exhibits "A", "B" and "C".

George Sullivan, a respected corrections professional, currently Warden of the Penitentiary of New Mexico, and an expert in the field of corrections, has concluded that

weapons-free or relatively weapons-free institutions are the result of one factor and one factor only, strong sanctions enforced against the possession and use of weapons. Warden Sullivan has also concluded, after familiarizing himself with the operations and the situation at the Penitentiary of New Mexico and after becoming acquainted with wardens in other New Mexico prisons, that the problem of weapons in prisons and the violence attendant thereto can be virtually eliminated, if prison administrators are given the sanctions which Defendants seek.

At this time, Defendants are unable to take sufficient action to adequately discourage the possession and use of contraband weapons within their institutions. In effect, their hands are tied by the terms of the Consent Decree.

III.

THE DEFENDANTS' PROPOSED CHANGES
WILL NOT LESSEN, AND WILL INCREASE,
THE BENEFITS PROVIDED BY THE CONSENT
DECREE AND RELATED POLICIES AND ORDERS

The parties to this litigation agreed to the entry of the Consent Decree, in order to provide the benefits contained in it to all members of the Plaintiff class, not to a favored few. In fact, however, much of Plaintiffs' counsel's efforts in the last two years, since the Order of Reference was entered by this Court, have been directed to redressing grievances of individuals within the class, rather than grievances of the Plaintiff class as a whole. What Defendants intend to

accomplish if this Court grants this Motion is to more completely enable all members of the Plaintiff class to receive and enjoy the benefits which the Consent Decree guarantees.

Protective custody status in a penal institution is the direct result of any individual inmate's need for protection from other inmates. Any inmate in protective custody, simply by the nature of the assignment itself, is in some way deprived of benefits of the Consent Decree which other inmates not so classified are able to enjoy.

Warden Sullivan's Affidavit, supported by the Affidavits of Wardens Mondragon and Kerby, clearly demonstrates that protective custody status is directly related to inmate violence, which is in turn directly related to the possession and use of dangerous weapons by inmates in an institution. As set forth in the Affidavits, New Mexico has had and does have a continuing problem of a large protective custody population. Furthermore, as Warden Sullivan's Affidavit demonstrates, there are many persons in the general population of the Penitentiary of New Mexico who, for reasons generally involving the fear of retribution for requesting protective custody, are in essence "captives" within the general population of stronger, and often armed, inmates.

Defendants are responsible for providing the benefits and guarantees of the Consent Decree to the entire Plaintiff class. In order for them to do so, the administrative,

disciplinary sanctions sought by way of the instant Motion are an absolute necessity.

If there are members of the Plaintiff class who would seek to deprive other members, through their use or possession of dangerous weapons, of the benefits to which those other members may be entitled by the Consent Decree, their arguments must be disregarded. In the event that such a division of interest exists, the Plaintiff class should perhaps be split into subclasses, with those inmates who wish to argue against the Motion at hand represented by one set of counsel and those whose benefits will be increased by the changes which Defendants seek represented by other counsel. Defendants contend, however, that this is unnecessary in that the changes sought by this Motion will be of benefit to all members of the Plaintiff class, if the procedures requested are allowed by the Court to be implemented.

This Consent Decree involves the totality of conditions in the New Mexico correctional system. In its negotiation, without doubt concessions were sought and given by both sides and errors were made. If the failure to negotiate stronger disciplinary sanctions for possession and use of dangerous weapons was an error, Defendants now seek to correct that error. If it was instead and more likely the result of lack of information and knowledge, this Court's continuing jurisdiction and the Decree itself allow changes, now that there is a clear awareness of the need to control weapons and predators and a

history available upon which to base sound conclusions and predictions.

Defendants submit that the relief sought is absolutely necessary and if this Court grants the Motion, all members of the Plaintiff class will benefit and none will be disadvantaged, except arguably those who are illegally and without concern for their fellows violating the disciplinary section of the Consent Decree, New Mexico law and related, acceptable standards of human behavior.

Respectfully submitted,

John Bigelow
Special Assistant
Attorney General
Post Office Drawer 9570
Santa Fe, New Mexico 87504
(505) 982-9911

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing Memorandum in Support of Defendants' Motion to Modify the Maximum Security Policy Statement of the Consent Decree was mailed to all counsel of record this 10th day of July, 1985.

John Bigelow

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

DWIGHT DURAN, et al.,

Plaintiffs,

vs.

No. CIV 77-721 JB

TONEY ANAYA, et al.,

Defendants.

AFFIDAVIT

STATE OF NEW MEXICO)
)
COUNTY OF SANTA FE)

GEORGE E. SULLIVAN, being first duly sworn, deposes and
says:

1. My full name is George E. Sullivan.
2. I make this Affidavit in support of Defendants' Motion to Modify the Maximum Security Policy Statement of the Consent Decree herein.
3. I became Warden of the Penitentiary of New Mexico at Santa Fe, New Mexico on January 7, 1985 and have held the position of Warden since that date.
4. I have attached as Exhibit "A" to this Affidavit my personal history resume consisting of 21 pages, which provides a reasonably comprehensive outline of my personal, educational and employment background.
5. I have appeared and qualified as an expert witness in the field of corrections in the following:

a. On behalf of the Attorney General of the State of California, in the Superior Court, Marin County.

b. On behalf of the Attorney General of the State of Arizona, in the Superior Court, Maricopa County.

c. On behalf of inmate plaintiffs in United States District Court, Southern District of New York.

d. On numerous occasions, as a party defendant in United States District Court, District of Oregon, where I gave testimony in the nature of expert testimony.

6. During my 12 years and three months corrections career and employment at the Oregon State Penitentiary (inmate population: 1,750) and 17½ years at the Oregon State Correctional Institution (inmate population: 1,030), those two institutions were regarded as among the finest in the nation in the area of security control. The wardens of those institutions received many letters from national corrections leaders and authorities who had visited the institutions and which supported the high quality of security control at the institutions. In addition, approximately five years ago, the United States Bureau of Prisons sponsored a team of 15 federal wardens, headed by Sherman Day, then Director of the National Institute of Corrections, who inspected the institutions and similarly had high praise for the quality of security control at the institutions.

7. The Oregon institutions also received very high marks in the areas of maintenance, sanitation and quality of

life for both inmates and staff. In my opinion, the high quality level of security control is directly and proportionately related to the higher quality of life that was and can be provided for inmates and staff in Oregon and any other institution. Without a high level of security control, it is impossible to provide a good quality of life for inmates and staff within a correctional institution.

8. In Oregon, both institutions were essentially weapons free. It was an extremely rare occurrence for an inmate to be found in possession of a weapon or for an inmate weapon to be found within either of the institutions.

9. As a result of the weapons-free environment in the institutions, it was possible to control predatory inmates and, except for very short term classification and counseling processes, neither institution was required to assign inmates to "protective custody".

10. In my opinion, any form of "protective custody" represents the end result of poor correctional practice. I co-authored the drafting of a paper supporting this proposition entitled Challenge: Abort Protective Custody, and have attached a draft copy of it to this Affidavit as Exhibit "B".

11. In the Oregon correctional system, any inmate found in possession of a weapon was subject to severe disciplinary sanctions, including up to six months in disciplinary segregation and potentially unlimited assignment to administrative segregation. I have attached copies of the relevant

disciplinary code and administrative segregation regulations of the State of Oregon to this Affidavit as Exhibits "C" and "D".

12. The State of Oregon rules governing procedures for processing disciplinary actions and administrative segregation of inmates resulted from the directed mediation of those policies by the Honorable James Burns, Chief Judge, United States District Court, District of Oregon, Portland, Oregon, in a prison conditions lawsuit in his court. The negotiations between the parties were mediated by Allen Breed, then Director of the National Institute of Corrections, and the mediated result was presented to Judge Burns and accepted by him.

13. Additionally, Oregon criminal statutes provided for potential prosecution of an inmate in possession of a weapon, as a felony, with a sentence possibility of up to 20 years in prison.

14. During my career as a corrections professional, I have traveled extensively throughout the United States and British Columbia, visiting and inspecting numerous correctional institutions, both state and federal, as chairman of the audit teams auditing the institutions' compliance with national standards promulgated by the American Correctional Association (ACA) and Commission on Accreditation for Corrections Compliance to determine whether or not the institution was accreditable under the national standards.

15. In my opinion, at the Oregon correctional institutions and at other state and federal institutions which are

weapons-free or relatively weapons-free, the common factor which contributes to that weapons-free environment is a strong program of potential sanctions, administrative and statutory, which provide a major deterrent to inmates possessing weapons. Potential sanctions are the only important variable for control of weapons in an institution. In the absence of sufficient and strong sanctions, inmates lack strong disincentives to possess or use weapons in an institution.

16. In my opinion, a weapons-free institution is the only variable which can influence the possibility of an institution eliminating the category of "protective custody" for inmates. Although weapons themselves may not hurt, maim and kill people, they are the main factor in corrections institutions which allow inmates to hurt, maim and kill other inmates and staff.

17. In addition to the potential for physical harm, weapons allow predatory inmates an extra and unacceptable advantage over reasonable and weak inmates. Elimination of weapons in an institution substantially and in some cases completely eliminates the potential for forced homosexual rape and other forms of extortion.

18. It is necessary to have both administrative sanctions available within an institution and statutory sanctions available in the criminal statutes. Because the prosecution of crimes in the criminal justice system tends to take a substantial period of time, it does not provide as immediate a

disincentive to inmates to possess or use weapons as a strong institutional or system-wide disciplinary code. That is why the potential three-year prison sentence in New Mexico alone is not effective as a disciplinary tool. Institution officials must have the latitude and flexibility to take immediate action within an institution to control predators and use and possession of weapons.

19. There is no alternative to stronger disciplinary sanctions against inmates who possess or use weapons in an institution. As long as there are no strong sanctions against use or possession of weapons, inmates will take the chance of possessing them and even constant searches or shakedowns of an institution would never rid the institution of those weapons. Furthermore, constant searches or shakedowns of an institution are highly disruptive to the staff and inmate population - especially those who are not in possession of weapons - and would mean incurring an enormous administrative cost, given the limited resources in any corrections system.

20. On January 11, 1985, five days after I assumed my position as Warden of the Penitentiary of the State of New Mexico, my staff convinced me that a major confrontation was potentially about to occur in the inmate dining room between groups of inmates, on an ethnically divided basis. I therefore ordered a complete lockdown of the institution and a thorough search followed. Approximately 40 inmate weapons were found and delivered to my office. These were all stabbing type

weapons fabricated from a variety of metal and rigid plastic material, any one of which was fully capable of causing bodily harm and death. During the past five months, the staff has found approximately 80 such weapons during routine searches of the institution and it is only reasonable to assume that these represent only a small percentage of the total inmate weapons which continue to exist within the institution.

X 21. The Penitentiary of New Mexico continues to have nearly 200 inmates in actual or effective protective custody, who, as a result of institution and administration failure to provide a totally protective environment for them, are effectively denied the many institution program benefits available. These protective custody inmates are forced into their situation as a result of inmate predators, gangs, and marauding behavior, all of which are in direct proportion to the availability of weapons to predator inmates. At the Penitentiary, these inmates cannot feel safe within their environment; they must either go into a protective custody setting, join a gang for protection, or pay stronger inmates for protection with money, other items of value or homosexual favors.

shd be elsewhere

22. The Penitentiary of New Mexico is burdened with inmates in possession of weapons and has a tragic history of inmate violence. It is my professional opinion that for the Penitentiary to have 200 inmates in need of protection is a disgrace. Homosexual rape, head bludgeonings and stabbings

within the Penitentiary are situations which can be practically eliminated to the degree that the Penitentiary administration can control inmate predators and gangs, again directly related and proportionate to the availability of inmate weapons within the institution.

23. As Warden of the Penitentiary of New Mexico, my top priority is to provide a safe environment for inmates to live within and for staff to work within. The Penitentiary of New Mexico has the necessary security, physical plant, staff, staff training and in general the ability to control weapons.

However, such resources and ability are essentially nullified in the absence of adequate sanctions for inmates who possess and use weapons. There is no current sufficient and identifiable deterrent to inmates who are engaging in weapons use and possession.

How many
pr found
w/ weapons?
sequest?
prosecuted?
max sec?
disi.?
later offenses?

24. I am confident that with adequate administrative sanctions and prosecution, I can direct the eventual cleansing of the Penitentiary of New Mexico of inmate weapons. As that highest priority is achieved, it will be possible to move toward eliminating the need for protective custody. As the administration and staff of the Penitentiary gain control over inmate weapons, it will be possible to eliminate the existence of gangs and to more responsibly insure a safe environment for inmates and staff.

25. The elimination of weapons will not only decrease the power of predatory inmates within the institution, but it

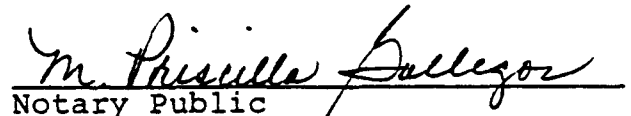
will also significantly enhance the access to the benefits guaranteed by this Consent Decree to persons in protective custody and those in the general population whose benefits are being curtailed by predatory inmates. The only persons who could conceivably be disadvantaged by increased administrative sanctions and increased control and elimination of weapons would be predatory inmates who are not legitimately entitled to the benefits which they receive as the result of their possession and use of weapons.

X
26. In my opinion, any corrections professional with respected credentials in the United States would agree with the policies and opinions which I have set forth in this Affidavit.

27. In my opinion, the relief sought in Defendants' Motion to Modify the Maximum Security Policy Statement is the only reasonable, effective way to accomplish these goals, for the Penitentiary and all other correctional institutions in New Mexico.


GEORGE E. SULLIVAN

SUBSCRIBED AND SWORN TO BEFORE ME this 10th day of July, 1985.


Notary Public

My Commission Expires: 10/10/88

PERSONAL HISTORY RESUME

of

GEORGE EARL SULLIVAN

PERSONAL:

Born: June 17, 1932, Kansas City, Kansas. Grew up in Kansas City, Missouri to age 15. Moved to Hillsboro, Oregon, November, 1947.

Married Rosalee Joan Hupy, October 17, 1957. Three children: Kevin Lee (age 23) U.S. Air Force Jet Pilot; Katherine Rose (age 19) College Student; and Robert Earl (age 16) High School Student.

EDUCATION AND EMPLOYMENT HISTORY:

May, 1949, graduated from Hillsboro Union High School, Hillsboro, Oregon.

June, 1949 - September, 1950, employed as a stock boy, Meier and Frank Company, Portland, Oregon.

September 25, 1950 - July 23, 1954, served in U. S. Navy, Korean War Veteran, attained rate of Gunners Mate II, Honorable Discharge.

July, 1954 - April, 1955, miscellaneous jobs as tile setter, carpet layer, formica installation, and with the Atomic Energy Commission at Hanford, Washington, Plutonium Plant, as a utility worker, with "Top Secret Security Clearance", from the Federal Bureau of Investigation.

April 3, 1955 to December 31, 1984 (29 years 9 months) - Oregon Corrections:

April 3, 1955 - October 10, 1955, Correctional Officer, Oregon State Penitentiary.

October 10, 1955 - December 26, 1962, Prison Counselor, Oregon State Penitentiary. During this period of time attended Willamette University, Salem, Oregon, as a special student majoring in Sociology/Psychology.

June 3, 1962, graduated from Willamette University, Salem, Oregon, with Bachelor of Arts Degree in Sociology/Psychology.

December 26, 1962 - July 5, 1967, Deputy Warden Treatment, Oregon State Penitentiary, under Warden C. T. Gladden.

July 5, 1967 to August 16, 1969, Assistant Superintendent Program Services, Oregon State Correctional Institution, under Superintendent Amos E. Reed.

August 16, 1969 to December 31, 1984, Superintendent, Oregon State Correctional Institution. (See attached Job Description).

December 31, 1984 - Retired from Oregon Corrections.

Personal History Resume:
George Earl Sullivan
Page two,

MEMBERSHIPS:

National Council on Crime and Delinquency
Oregon Corrections Association (1966, member of Board of Directors;
1968, Vice-President)
American Correctional Association (Executive membership since 1963); (Member -
Membership Committee and Long-Term Institutions Committee, 1980-82)
Oregon Correctional Education Association
American Association of Wardens and Superintendents
West-Central Wardens and Superintendents Association
State of Oregon Executive Service
Oregon State Management Association
Oregon Sheriffs' Association, Honorary Charter Member
American Correctional Association's Membership Committee (Western Region Coord.)
American Correctional Association's Committee on Adult Correctional Institutions
American Correctional Association's Protective Custody Within Adult Correctional
Facilities (Special Projects Team Member)

VOLUNTEER ACTIVITIES:

1984 "Celebrity" Marcher for March of Dimes Drive, Salem, Oregon.
Oregon Social Welfare Association (1967, Willamette District Board Member)
Marion County March of Dimes Board (1967, Co-Chairman of Campaign)
Four Corners Elementary School Local School Advisory Committee Member 1970-71,
1971-72
Four-Corners Elementary School Parents/Teachers Club (1972, President)
Salem School District 24-J Community Advisory Group Chairman to School
Board and Administration in developing prototype for five new elementary
schools (1972-73)
Assisted in producing 1979 Oregon Olympics for the Physically Disabled, and
serving as Organization Consultant to standing committee in charge of Program
within Salem Parks and Recreation Department, City of Salem, Oregon

HOBBIES:

Boating
Fishing
Camping
Landscaping
Raising Beef Cattle

G. E. Sullivan

Committee and Special Activity Assignments:

Oregon Department of Human Resources Executive Committee - Member

Oregon Corrections Division Policy and Rules Committee - Member

Governor's Task Force on Converting State Agencies to Zero Base Budgets;
Alternative Program Levels System - Member

Mental Health in Oregon Corrections, Lakota Indian Program Proposal - Member

Mental Health in Oregon Corrections Steering Committee - Member

Chemeketa Community College Corrections Curriculum Advisory Committee - Member

Oregon College of Education Corrections Curriculum Advisory Committee - Member

American Corrections Association, Oregon Host Committee - Chairman, Special Events Committee for the 108th Congress in Corrections, American Corrections Association - (Congress was held August 20-24, 1978, in Portland, Oregon)

National Institute of Corrections 1979 Training Planning Program Panel - Member of Panel in Denver, Colorado (May 12, 1978)

Serve as Instructor on "Code of Ethics for Corrections Employees" and "Role of a Corrections Officer" for training classes conducted by Oregon State Board on Police Standards and Training

Serve as Consultant and American Correctional Association Resource Sub-Committee Member and Reviewer for ACA Committee on Standards; published Guidelines for the Development of Policy and Procedures, Adult Correctional Institutions, published May, 1981

Instructing 3-credit course on Criminal Justice Seminar, Adult Correctional Institutions Operations, at Chemeketa Community College - April 1 - June 11, 1982; January 15 - March 20, 1983

Consultant to Governor's Task Force on Oregon Prison Overcrowding - 1982-84

Serve as Commission Member on behalf of the Administrator, Oregon Corrections Division, on the Governor's Commission Against Violent Crime; serve on Sub-Committee as well.

Presentor on "What do we do with the guilty?" at Fourth Annual Law Day Conference, sponsored by Oregon State Bar, Multnomah County District Attorney, Multnomah County Bar and Portland State University at Portland State University, Portland, Oregon on May 1, 1984.

Banquet Speaker for 1984 Annual Congress of Oregon Corrections Association, October 16, 1984, Eugene, Oregon.

G. E. Sullivan

Training and Experience Sessions Attended:

September 15, 1984
Sheridan, Illinois

- Commission on Accreditation for Corrections - Conducted a Standards Compliance Re-Audit of the Sheridan Correctional Center, Sheridan, Illinois.

September 12-14, 1984
Joliet, Illinois

- Commission on Accreditation for Corrections - Chairman of the Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of Statesville Correctional Facility, Joliet, Illinois.

G. E. Sullivan

Training and Experience Sessions Attended:

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| July 30, 1984
Gold Beach, Oregon | - At the request of Curry County Sheriff's Department, I made a review of the physical plant and quality of life conditions of the Curry County Jail Facilities. |
| July 18-19, 1984
Washington, D. C. | - Member, American Correctional Association/Commission on Accreditation for Corrections Task Force to finalize "Accreditation Facility Performance Inventory" questionnaire to assess changes in Institution conditions for improved working conditions and quality of life for staff and inmates as a result of involvement in Accreditation process. |
| July 16, 1984
Baker, Oregon | - At the request of Baker County District Attorney and Sheriff's Departments I reviewed the physical plant and quality of life conditions of the Baker County Jail Facilities. |
| June 25-29, 1984
Tennessee | - At request of State of Tennessee Attorney General in Re: Grubbs v. Pellegrin, et al, Case Nos. 80-3404, et al, Conducted a Safety-Sanitation Inspection tour of Tennessee State Prison, Nashville; Fort Pillow State Farm, Fort Pillow; and Brushy Mountain East Tennessee Reception Center, Petros; Gave deposition and developed testimony summary preparatory to testify in Federal Court. |
| June 13-15, 1984
Texarkana, Texas | - Commission on Accreditation for Corrections - Chairman of the Accreditation Consultant Examiner Team conducting Standards Compliance Review Re-Accreditation Audit of the Federal Correctional Institution, Texarkana, Texas. |
| June 11-13, 1984
Pine Bluff, Arkansas | - Commission on Accreditation for Corrections - Member of the Accreditation Consultant Examiner Team conducting Standards Compliance Review Re-Accreditation Audit of the Arkansas Women's Unit, Pine Bluff, Arkansas. |
| May, 1984
Salem, Oregon | - Provided technical assistance to KOBA Associates, Washington, D.C., by reviewing and commenting on research paper presented by ABT Associates, Cambridge, Massachusetts, for National Institute of Justice, paper titled: "The Privatization of Corrections". |
| April 2-4, 1984
Stillwater, Minnesota | - Commission on Accreditation for Corrections - Chairman of the Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of the new Maximum Security Minnesota Correctional Facility - Oak Park Heights, Stillwater, Minnesota. |

G. E. Sullivan

Training and Experience Sessions Attended:

- | | |
|---|--|
| February 6-9, 1984
Bastrop, Texas
Tucson, Arizona
Pleasanton, California
Draper, Utah | - Visited eight (8) Correctional Facilities located in Texas, Arizona, California, and Utah conducting a special review of Institution Perimeter Security Systems: electronic sensors, closed circuit TV, fence fabrics, razor ribbon, mobile patrol units, etc., at the following-listed Correctional Facilities: Federal Correctional Institution, Bastrop, Texas; Metropolitan Correctional Center, and Arizona Correctional Training Center, Tucson, Arizona; Federal Correctional Institution, Pleasanton, California; Utah State Youth Correctional Facility, Utah State Women's Correctional Facility, and Utah State Correctional Facility, all located in Draper, Utah. |
| November 16-18, 1983
Sheridan, Illinois | - Commission on Accreditation for Corrections - Chairman of Re-Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of the Sheridan Correctional Center, Sheridan, Illinois. |
| November 13-16, 1983
Dwight, Illinois | - Commission on Accreditation for Corrections - Member of Re-Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of the Dwight Correctional Institution, Dwight, Illinois. |
| October 7, 1983
Folsom, California | - Tour/conditions review of California State Prison, Folsom, preparatory to serving as witness in California Superior Court on prison conditions suit. Witness on behalf of California Attorney General's Office request. |
| October 4-6, 1983
Tracy, California | - Commission on Accreditation for Corrections - Conducted a Standards Compliance Progress Review Visit at the Deuel Vocational Institution, Tracy, California. |
| October 2-4, 1983
Vacaville, California | - Commission on Accreditation for Corrections - Conducted a Standards Compliance Progress Review Visit at the California Medical Facility, Vacaville, California. |
| September 27-28, 1983
Phoenix, Arizona | - Expert Witness for Attorney General, Arizona, Kelly case Re: Dorm Security in "Failure to Protect" suit. Toured Arizona State Prison, Florence, Arizona. |
| July 11-13, 1983
Marion, Illinois | - Served on Commission on Accreditation for Corrections/American Correctional Association Special Task Force to consider Accreditation procedures for Maximum Security Correctional Facilities at the U. S. Penitentiary at Marion, Illinois. |
| June 6-10, 1983
Lompoc, California | - Commission on Accreditation for Corrections - Chairman of Re-Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of the U. S. Peni- |

G. E. Sullivan

Training and Experience Sessions Attended:

May 24-27, 1983
SanRafael, California

- Testified in California Superior Court concerning Quality of Life in San Quentin Penitentiary at the request of the California Attorney General.

May 16-20, 1983
Menard, Illinois

- Commission on Accreditation for Corrections - Chairman of the Re-Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of the Menard Correctional Center, Menard, Illinois.

Re-Accreditation Consultant Examiner Team Member conducting Standards Compliance Review (Audit) of the Menard Psychiatric Center, Menard, Illinois.

March 28-30, 1983
Victoria, B. C.

- Commission on Accreditation for Corrections - Chairman of the Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of the William Head Institution, Vancouver Island, Victoria, B. C., Canada.

March 17-18, 1983
Washington, D. C.

- Participated in Task Force on Re-Accreditation Policy and Procedures Review at the request of the Commission on Accreditation for Corrections.

December 13-15, 1982
Tracy, California

- Commission on Accreditation for Corrections - Conducted a Standards Compliance Progress Review (third Re-Audit) at the Deuel Vocational Institution, Tracy, California.

December, 1982
Salem, Oregon

- Provided technical assistance to KOBA Associates, Washington D.C., by reviewing and commenting on research paper presented by American Justice Institute titled: "Program Models, Managing the Institutional Environment".

November 15-17, 1982
Mission, B. C.

- Commission on Accreditation for Corrections - Chairman of the Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of the Mission Medium Security Institution at Mission, B. C., Canada.

October 24-25, 1982
Walla Walla, Washington

- Conducted an Operations Evaluation tour of Washington State Penitentiary at Walla Walla, Washington for Expert Witness testimony in U. S. District Court for the Eastern District of Washington, at request of Washington State Attorney General.

October 22, 1982
Salem, Oregon

- Oregon Corrections Association - Conducted a Workshop during the Annual Fall Conference concerning ACA Accreditation; "How to begin the Accreditation process," held in Salem, Oregon.

G. E. Sullivan

Training and Experience Sessions Attended:

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| April 24, 1981
Eugene, Oregon | - Spring, 1981 Justice Series Workshop sponsored by University of Oregon School of Community Service and Public Affairs and Continuing Education. Panel Member on "Impact of Institutional Overcrowding on the Criminal Justice System". |
| March 18-20, 1981
Frontera, California | - Commission on Accreditation for Corrections - Chairman of Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of California Institution for Women, Frontera, California. |
| January 12-15, 1981
San Quentin, California | - Commission on Accreditation for Corrections - Chairman of Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of California State Prison San Quentin, California. |
| December 3-5, 1980
Somers, Connecticut | - Commission on Accreditation for Corrections - Chairman of Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of Connecticut Correctional Institution, Somers, Connecticut. |
| October 20-23, 1980
Soledad, California | - Commission on Accreditation for Corrections - Chairman of Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of California Training Facility, Soledad, California. |
| August 17-21, 1980
San Diego, California | - Attended 110th Congress of Correction of the American Correctional Association. Presented paper to special workshops on the Accreditation Process on behalf of the Commission on Accreditation for Corrections. |
| August 15, 1980
San Diego, California | - Commission on Accreditation for Corrections - Presented final Standards Compliance Review Audit Report on California Mens Colony, San Luis Obispo, to Commission on Accreditation for Corrections. |
| June 10-13, 1980
San Luis Obispo, Calif. | - Commission on Accreditation for Corrections - Chairman of Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of California Mens Colony, San Luis Obispo, California. |
| March 3,4, 1980
Rockville, Maryland | - Commission on Accreditation for Corrections - Attended Consultant Examiner Advanced Training Session. |

J. E. Sullivan
Training and Experience Sessions Attended:

- August 23-24, 1982
San Francisco, Calif. - Provided deposition as Expert Witness in California Superior Court case concerning San Quentin Prison at invitation of the California Attorney General.
- August 11-13, 1982
Toronto, Canada - Commission on Accreditation for Corrections - Attended Commission hearings in regard to San Quentin and Deuel Vocational Institution Audits. Hearings held in conjunction with American Correctional Association's Annual Congress of Corrections in Toronto, Canada.
- July 23-24, 1982
Rockville, Maryland - Commission on Accreditation for Corrections - Attended Seminar on Accreditation Policy and Procedure held in offices of the Commission in Rockville, Maryland.
- June 28, 1982
Tracy, California - Commission on Accreditation for Corrections - Conducted a Standards Compliance Progress Review (Re-Audit) at the Deuel Vocational Institution, Tracy, California.
- May 18, 1982
Washington, D. C. - Commission on Accreditation for Corrections - Presented the San Quentin Re-Audit Report to the Commission Panel in Washington, D. C.
- May 15-16, 1982
Washington, D. C. - Commission on Accreditation for Corrections - Served on Commission Task Force on "Quality of Life" Standards in Washington, D. C.
- May 10-11, 1982
Washington, D. C. - Served on the "Protective Custody" Task Force for the American Correctional Association in Washington, D. C. Task Force published booklet "Protective Custody".
- April 4-5, 1982
San Quentin, California - Commission on Accreditation for Corrections - Conducted a Standards Compliance Progress Review Audit at the California State Prison, San Quentin, California.
- March 30 - June 11, 1982
Astoria, Oregon - Instructor for an Adult Correctional Institution Operations course (3-credit hours), offered through Chemeketa Community College.
- February 27, 1982
Newberg, Oregon - Participated in a one-day "Corrections in Oregon: Issues and Options" Conference at George Fox College, Newberg, Oregon. Theme of my presentation was: "Institutionalization in the Oregon Corrections System: Now and the Future."
- September 27-29, 1982
Springfield, Missouri - Commission on Accreditation for Corrections - Chairman of the Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of the U. S. Medical Facility for Federal Prisoners in Springfield, Missouri.

G. E. Sullivan

Training and Experience Sessions Attended:

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| February 18, 1982
Olympia, Washington | - Conducted a one-day discussion session with slide/sound presentation to the Washington State Corrections Standards Board on the Commission on Accreditation for Corrections and American Corrections Association Standards process. |
| January, 1982
Salem, Oregon | - Instructor for an Adult Correctional Institution Operations course (3-credit hours), offered through Chemeketa Community College. |
| December 12, 1981
Salem, Oregon | - Participated as Panel Member on Combatting Crime Seminar, sponsored by U. S. Congressman Denny Smith. |
| November 17-18, 1981
Tracy, California | - Commission on Accreditation for Corrections - Conducted a Standards Compliance Progress Review Visit at the Deuel Vocational Institution, Tracy, California. |
| November 16, 1981
Vacaville, California | - Commission on Accreditation for Corrections - Conducted a Standards Compliance Progress Review Visit at the California Medical Facility, Vacaville, California. |
| June 30, 1981
Vacaville, California | - Commission on Accreditation for Corrections - Conducted a Standards Compliance Progress Review Visit at the California Medical Facility, Vacaville, California. |
| June 29, 1981
Soledad, California | - Commission on Accreditation for Corrections - Conducted a Standards Compliance Progress Review Visit at the California Training Facility, Soledad, California. |
| June 4, 1981
New York, New York | ✓ - Plaintiff's Witness (U. S. District Court, District of New York, New York City, New York) in case involving strip searches of New York Department of Corrections inmates - represented and funded by New York Prisoners' Legal Services. |
| May 9, 1981
Menard, Illinois | - Commission on Accreditation for Corrections - Conducted a Standards Compliance Monitoring Visit review at the Menard Correctional Center, Menard, Illinois. |
| May 8, 1981
St. Louis, Missouri | - Commission on Accreditation for Corrections - Attended Consultant Examiner Advanced Training Session. |

G. E. Sullivan

Training and Experience Sessions Attended:

G T F H	April 24, 1981 Eugene, Oregon	- Spring, 1981 Justice Series Workshop sponsored by University of Oregon School of Community Service and Public Affairs and Continuing Education. Panel Member on "Impact of Institutional Overcrowding on the Criminal Justice System".
J M	March 18-20, 1981 Frontera, California	- Commission on Accreditation for Corrections - Chairman Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of California Institution for Women, Frontera, California.
D B	January 12-15, 1981 San Quentin, California	- Commission on Accreditation for Corrections - Chairman Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of California State Prison San Quentin, California.
N R	December 3-5, 1980 Somers, Connecticut	- Commission on Accreditation for Corrections - Chairman Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of Connecticut Correctional Institution, Somers, Connecticut.
S D	October 20-23, 1980 Soledad, California	- Commission on Accreditation for Corrections - Chairman Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of California Training Facility, Soledad, California.
S	August 17-21, 1980 San Diego, California	- Attended 110th Congress of Correction of the American Correctional Association. Presented paper to special workshops on the Accreditation Process on behalf of the Commission on Accreditation for Corrections.
A P	August 15, 1980 San Diego, California	- Commission on Accreditation for Corrections - Presented final Standards Compliance Review Audit Report on California Mens Colony, San Luis Obispo, to Commission on Accreditation for Corrections.
J A	June 10-13, 1980 San Luis Obispo, Calif.	- Commission on Accreditation for Corrections - Chairman Accreditation Consultant Examiner Team conducting Standards Compliance Review Audit of California Mens Colony, San Luis Obispo, California.
J M	March 3,4, 1980 Rockville, Maryland	- Commission on Accreditation for Corrections - Attended Consultant Examiner Advanced Training Session.
J P		

G. E. Sullivan

Training and Experience Sessions Attended:

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| April 17 - 18, 1979
Canon City, Colorado | - Commission on Accreditation for Corrections - Accreditation Field Consultant on Adult Correctional Institutions for Colorado Department of Corrections on Accreditation Standards interpretation. |
| February 19 - 23, 1979
Vienna, Illinois | - Commission on Accreditation for Corrections - Accreditation Consultant/Examiner in Accreditation Standards compliance audit of Illinois Correctional Center, Vienna, Illinois. |
| October 30 - November 1, 1978
Washington, D. C. | - Commission on Accreditation for Corrections - Accreditation Consultant/Examiner training/orientation program. Accepted as Consultant/Examiner for Commission, as assigned. |
| August 20 - 24, 1978
Portland, Oregon | - American Correctional Association's 108th Congress of Correction - Executive Member. Served on the Oregon Host Committee as Chairman, Special Events, planning and preparing for the Congress which was held in Portland, Oregon. |
| May 17 - 18, 1978
Portland, Oregon | - Pacific Northwest Conference on Career Criminals. Funded by grant from The Law Enforcement Assistance Administration. Conducted by the Multnomah County, Oregon District Attorney's Office. Served on two (2) panels and attended the two-day conference. |
| May 12, 1978
Denver, Colorado | - National Institute of Corrections Training Program Planning Panel for 1979 Training Program Planning. Invited by National Institute of Corrections to serve as panel participant, presented paper on suggested National and Oregon Corrections Training needs and goals. |
| May 3 - 4, 1977
Monmouth, Oregon | - Attended and served as panel participant in two-day conference sponsored by Oregon College of Education, Criminal Justice Research Associates, Inc., funded by Oregon Committee for the Humanities. Conference on "Sentencing and Release of Law Offenders: Indeterminate vs. Fixed". |
| March 31, 1978
Eugene, Oregon | - Follow-up Management Training Seminar conducted by Oregon State Department of Human Resources. |
| March 15, 1978
Monmouth, Oregon | - Enrolled Graduate Student, Oregon College of Education, Master's Degree in Correctional Administration goal. |

G. E. Sullivan

Training and Experience Sessions Attended:

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| May 14 - 17, 1972
Jefferson City,
Missouri | - Attended 25th Annual Conference of West Central
Warden's Association - Member. |
| June, 1971 thru
May, 1972
Salem, Oregon | - Served as Chairman of Citizens Advisory Committee on
Elementary School Construction, Salem Public Schools,
School District 24J, Salem, Oregon at request of
Schools Superintendent Charles D. Schmidt. Developed
plans for "proto-type" elementary school for construc-
tion of five schools. |
| June 1 - 3, 1971
Morgantown,
West Virginia | - "Orientation of Prison Administrators to Program Fea-
tures of the Robert F. Kennedy Youth Center (A new
"model" Federal Correctional Facility); Sponsored by
Law Enforcement Assistance Administration (LEAA). |
| May 16 - 19, 1971
Lake Tahoe, Nevada | - Attended West Central Wardens' Association, 24th Annual
Conference - Member. |
| November 25, 1970
Portland, Oregon | - "Corrections Training Process and Administration
Juvenile Manpower Development Project", Oregon State
System of Higher Education. |
| October 11 - 15, 1970
Cincinnati, Ohio | - Attended the Centennial American Correctional Associa-
tion, Congress of Corrections - Executive Member. |
| May 7 - 10, 1970
Seattle, Washington | - "Management Briefing - Listening, A Missing Link in
Management", U. S. Civil Service Commission, Seattle
Regional Training Center; Sponsored by Law Enforcement
Assistance Administration (LEAA). |
| March 24 - 25, 1970
Seattle, Washington | - "Management Briefing - Management by Objectives",
U. S. Civil Service Commission, Seattle Regional Train-
ing Center; Sponsored by Law Enforcement Assistance
Administration (LEAA). |
| August 15 - 20, 1967
Miami Beach, Florida | - Attended 97th Congress of Corrections American Correc-
tional Association - Executive Member. |
| August, 1963
Portland, Oregon | - Attended 93rd Congress of Corrections, American Correc-
tional Association - Executive Member - Served on Host
Committee. |
| March 25, 1963
Salem, Oregon | - Work Analysis and Improvement Course, Interagency
Training Certificate. |

G. E. Sullivan

Training and Experience Sessions Attended:

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| June 10 - 11, 1976
Inn at Otter Crest,
Oregon | - Oregon Administrative Rules and Procedures; Conducted by the Oregon Attorney General's Office. |
| March 29, 1976
Salem, Oregon | - "Boating Safety and Seamanship"; U. S. Coast Guard Auxiliary, 10-week course completed. |
| March 15 - 17, 1976
Seattle, Washington | - "The Management-Oriented Corrections Evaluations Workshop"; Sponsored by National Institute of Law Enforcement and Criminal Justice. Conducted by University Research Corporation. |
| March, 1975
Boise, Idaho | - Special assignment to evaluate Idaho Correctional Institution operation. Assigned to the Idaho Governor's Task Force; Governor Cecil D. Andrus; Attorney General Wayne L. Kidwell. |
| December 6 - 10, 1974
San Francisco, California | - "Labor Relations and Conflict Resolution in Corrections", Executive Training Program in Advanced Criminal Justice Practices. Sponsored by National Institute of Corrections. Conducted by American Arbitration Association, Department of Education and Training. |
| June 19 - 21, 1974
Quantico, Virginia | - FBI, National Symposium on the American Penal System A Revolutionary Target; Federal Bureau of Investigation Academy. Sponsored by Law Enforcement Assistance Administration, (LEAA). |
| May 13 - 18, 1974
La Jolla, California | - "Correctional Administration"; Conducted by University of Southern California; Sponsored by National Institute of Corrections, The Institute for Criminal Justice Executives (follow-up). |
| September 9 - 28, 1973
La Jolla, California | - "Correctional Administration"; Conducted by University of Southern California; Sponsored by National Institute of Corrections, The Institute for Criminal Justice Executives. |
| August 13 - 17, 1973
Seattle, Washington | - Attended 103rd Congress of Corrections, American Correctional Association - Executive Member. |
| May 10 - 15, 1973
Minneapolis, Minnesota | - Attended 26th Annual Conference of West Central Warden's Association - Member. |
| June 18 - 21, 1972
Portland, Oregon | - Attended and assisted in Hosting 19th National Institute on Crime and Delinquency, annual meeting of National Institute on Crime and Delinquency (NICD). |

G. E. Sullivan

Training and Experience Sessions Attended:

- December 14 - 16, 1977 - "Health Care in Correctional Institutions", Executive
Renton, Wasington Training Program in Advanced Criminal Justice Prac-
tices. Funded by National Institute of Law Enforce-
ment and Criminal Justice; conducted by University Re-
search Corporation.
- December 5 - 9, 1977 - "Collective Bargaining Contract Administration",
Phoenix, Arizona Sponsored by National Institute of Corrections; con-
ducted by American Arbitration Association, Depart-
ment of Education and Training.
- November 14 - 18, 1977 - Oregon State Department of Human Resources Management
Gearhart, Oregon Training Seminar
- September 8 - 9, 1977 - Oregon State Management Association Annual Meeting -
Eugene, Oregon Member
- August 21 - 25, 1977 - Attended American Corrections Association, 107th
Milwaukee, Wisconsin Congress of Corrections - Executive Member
- May 25 - 27, 1977 - "Prison Grievance Mechanisms", Executive Training Pro-
Renton, Washington gram in Advanced Criminal Justice Practices. Funded
by National Institute of Law Enforcement and Criminal
Justice; conducted by University Research Corporation.
- January, 1977 - National Safety Council, Defensive Driving Course,
Salem, Oregon Oregon Corrections Division
- October 17 - 22, 1976 - "Grievance Arbitration, Labor Relations, Advanced
SanDiego, California Topics in Collective Bargaining and Arbitration in
Corrections"; Sponsored by National Institute of
Corrections; conducted by American Arbitration Asso-
ciation, Department of Education and Training.
- August 22 - 26, 1976 - Attended American Corrections Association, 106th
Denver, Colorado Congress - Executive Member. By invitation, pre-
sented paper "Classification for Risk" to National
Institute of Corrections Advisory Board.
- August 20 - 22, 1976 - "Managing Complex Organizations", Charter Member,
Aurora, Colorado College of Correctional Management; Funded by National
Institute of Corrections, Federal Prison Systems Staff
Training Center; Sponsored by American Association of
Wardens and Superintendents, and Association of State
Correctional Administrators.

POSITION TITLE: Superintendent CLASS NO: Z1903Z
Oregon State Correctional Institution
INCUMBENT: George E. Sullivan DATE: June 1, 1984
AGENCY: Oregon State Correctional Institution
Oregon Corrections Division
Department of Human Resources

POSITION PURPOSE:

Executive head of the Institution, responsible for total Institution operations and management.

DIMENSIONS:

Employees: 262
Biennial Budget: \$22 Million

NATURE AND SCOPE:

The OSCI Superintendent reports directly to the Oregon Corrections Division Administrator along with the Superintendents of the Oregon State Penitentiary, Oregon Women's Correctional Center, Eastern Oregon Correctional Institution, Chief of Corrections Division Release Center, Chief of Field Services, and several other staff positions in the Corrections Division.

The Oregon State Correctional Institution is a Medium/Maximum Security Correctional Facility with jurisdiction over 900-1,000 inmates. The Superintendent provides Executive Administrative direction for all operations of the Institution.

The Superintendent directs and coordinates all Agency staff, resources and facilities toward the objective of providing a full array of humane care and rehabilitation programs and services to the individuals committed to the custody of the Institution. Such services and programs include but are not limited to: medical/dental; counseling/psychological/psychiatric; housing/clothing/personal hygiene; food preparation and service; vocational training, academic education/library; recreation; religious programs; and constructive work programs. The Superintendent assures individual programming for each inmate of the Institution through a client information system of records keeping, and through individual case management services.

The Superintendent is responsible for coordinating Institution programs and services with resources, programs and activities of Oregon communities, the Corrections Division and Department of Human Resources agencies and components. The Superintendent makes final decisions on inmate participation in community programs and activities. Superintendent fully participates in public information and education activity by conducting tours of the Institution, serving as a speaker before community groups and providing published information concerning Institution operations. Much of the Superintendent's public speaking is accomplished in the evenings or on weekends.

The Superintendent personally tours the facility frequently; interviews inmates and their family members, staff members, and others concerned with Institution

operation and inmate programming: schedules monthly staff meetings with Program Managers, but expects them to function independently bringing to attention primarily problems affecting the budget, security, or maintenance of the Institution.

Superintendent supervises all Agency personnel management practices: regular and Affirmative Action recruitment; employee work analysis and performance evaluation functions; staff training program; employee union negotiations and relationships, including collective bargaining and contract administration; payroll processes; staff morale; grievance procedures; disciplinary actions; layoffs and terminations.

The Superintendent directs and monitors management of the Agency's budget from preparation through final expenditure; trust accounts; and related business service activity, consistent with and in compliance with all requirements of law and rules for State Agency fiscal control. Presents the Agency budget to Legislature Ways and Means Committee and as necessary to the interim Legislative Emergency Board.

Superintendent is responsible for proper maintenance of Institution facilities, buildings and grounds, all of which are to be kept in a condition of good repair, good appearance and fully serviceable. Responsibility also includes maintenance of a sewer-line system serving several nearby State facilities. High priority is assigned to energy conservation at the Institution.

Superintendent monitors and keeps self-informed on a current basis concerning all applicable United States and Oregon State laws, all relevant Administrative Rules, Regulations and Orders of the Executive Department, Department of General Services, Department of Human Resources, Corrections Division and other Oregon State Agencies having command and/or operational concerns over the Correctional Institution. Appears before Legislative Committees on Bills related to Oregon Corrections.

Superintendent lives in residence on Institution property to maximize ready availability. Must regard self as being on on-call duty when in the proximity of the Institution, keeping the Control Center advised of his whereabouts at all times. In touch with the Institution via telephone or radio when off the grounds. Must be responsive to personal and telephone contacts of State Officials, Institution Staff and inmate family members at all times. Must respond promptly and in person to any significant emergency at the Institution at all times.

Consistent with the legal rights of inmates, Superintendent is in frequent contact with attorneys and the courts. The sensitivity and possible implications of matters dealt with are such that Superintendent personally handles such communications. Responds directly to inquiries from Legislators and other Officials. Concepts of inmate rights have been established, by a series of court decisions significantly affecting penal administration. It has been necessary for the Corrections Division to develop and codify a great many rules governing day-to-day operations. The Superintendent is a member of the Corrections Division Rules Committee, which identifies those matters to be covered by Rule and drafts and presents these to the Administrator with recommendation for adoption.

Other matters are covered by Rules unique to OSCI; the Superintendent is responsible for seeing that these are appropriate and consistent with the general philosophy of the Oregon State Corrections Division.

The possibility of lawsuits against self or the State must be considered frequently. The Superintendent is covered by State Tort Liability to a limit of \$300,000, but will not be defended by the Attorney General if sued for any act done in violation of adopted rules. This is not an academic matter; unusual situations arise and the Superintendent is expected to use best responsible judgment as to the proper course of action.

Each of the following report directly to the Superintendent:

Assistant Superintendent, Program Services: Responsible for all Institution programs that work with inmates as individuals, i.e., psychiatric/psychological services; medical and dental services; recreational programs; religious services; social services; case management; records and processing services; vocational and academic education of inmates; mail processing and the visitation program.

Assistant Superintendent, General Services: Responsible for all programs that care for or work with inmates as a group, i.e., physical plant maintenance services; security, housing and food service programs; all Institution lands (480 acres) with a 485 head beef herd; maintenance of all farm equipment and highway vehicles; Institution safety and sanitation programs, Canteen and Warehouse operations.

Training Coordinator: Responsible for coordinating all initial and advanced in-service staff training programs. Identifies and arranges outside training opportunities and assures staff receive needed and available training as appropriate. Coordinates with Corrections Division Manpower Development and Training Section. Supervises Training Sergeant and Accreditation/Rules/Policies/Procedures Coordinator.

Business Manager: (Transferred to Corrections Division 10-1-83). Responsible for all fiscal aspects of Institution management including budget, allotment plans, inventory control, purchasing, warehousing, inmate canteen and trust accounts.

Personnel Officer: (Transferred to Corrections Division 10-1-83). Serves as technical advisor on all personnel matters; aids in interpretation and application of policies, rules and statutes governing recruitment, selection, employment and termination of all staff positions. Implements Affirmative Action Program, supervises administration of personnel rules, and merit system law, collective bargaining contracts, compensation plan, promotional examinations, and timely actions on all employee work plans and performance evaluations.

Institution Investigator: Serves as direct liaison between Superintendent and inmates. Assures that each inmate needing representation within the Disciplinary process is provided adequate representation, that reported acts of inmate misconduct requiring additional investigations are properly investigated, and that appeals to the Superintendent for review of various aspects of inmate Institutional programming are handled in a timely manner.

Hearings Referee: Serves as Hearings Officer for the Institution Disciplinary process. Assures that a fair, impartial, legal hearing is provided to each

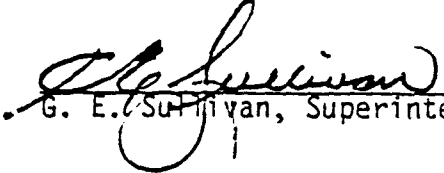
inmate charged with misconduct and that all disciplinary hearings are conducted in a timely manner and in full compliance with prescribed procedures. Further assures timely program review of each inmate assigned to the Institution's disciplinary unit. ..

Minority Affairs Manager: Serves as direct liaison between Superintendent and inmates and Superintendent and staff concerning all matters involving discrimination and/or affirmative action complaints. Assures effective communications between administration and all minorities and compliance with all Federal and State Laws in regard to minorities.

Management Assistant: Assistant to the Superintendent in providing all secretarial and records-keeping work related to the Superintendent's office.

PRINCIPAL ACCOUNTABILITIES:

1. Assure that inmates receive proper care and the community is protected, by providing administrative leadership to all facets of the Institution's program.
2. Assure that the Corrections Division Rules, Policies and Procedures are carried out by developing appropriate programs and standards for the Institution.
3. Assure that these programs and standards for inmates are carried out by managing the necessary staff and facilities.
4. Assure that legal rights of inmates are protected by maintaining knowledge of applicable law and developing Institution policy in compliance with the law.
5. Assure the efficient use of the allotted funds by careful administration of the Agency budget.
6. Assure high standards of safety and sanitation are maintained at all times by directing a program of maintenance of Institution facilities, buildings and grounds.
7. Contribute to positive public, legislative, and family understanding of the Institution and its programs by active presentation of this program to these groups and by encouragement of community involvement with inmates.
8. Contribute to the efficient operation of the Institution by selecting, developing, and motivating employees.


G. E. Sullivan, Superintendent 6-1-84 Date

POSITION DESCRIPTION

1. CLASS TITLE AS APPROVED BY THE PERSONNEL DIVISION Superintendent		2. PLANNED EFFECTIVE DATE 5-15-80	3. POSITION INV. NO. 0100-001
4. WORKING TITLE OF THE POSITION Superintendent		5. CLASS NO. Z-1903	6. AGENCY NO. 294
7. AGENCY Oregon State Correctional Institution	8. WORK UNIT Administration	9. LOCATION (CITY AND COUNTY) Salem Marion	
10. EXCLUDED FROM BARGAINING UNIT—YES ☐ NO ☐ IF YES, CHECK ONE: SUPERVISOR ☒ CONFIDENTIAL ☒		11. ELIGIBLE FOR OVERTIME COMPENSATION YES ☐ NO ☐	
12. POSITION IS—FULL-TIME ☒ PART-TIME ☐ PERMANENT ☒ LIMITED DURATION ☐ SEASONAL ☐ *DESCRIBE:		13. STATE PROVIDED HOUSING MUST LIVE IN ☒ EMPLOYEE'S OPTION ☐	
14. EMPLOYE NAME George E. Sullivan			

15. WHAT IS THE PURPOSE OF THIS POSITION? (SUMMARIZE IN ONE SENTENCE IF POSSIBLE)

Administrative Executive Office, responsible for operation and management of Correctional Institution.

16. DESCRIPTION OF ASSIGNED DUTIES—DESCRIBE DUTIES IN TERMS OF "WHAT THE EMPLOYEE DOES" RATHER THAN "WHAT GETS DONE." USE WORDS THAT GIVE CLEAR PICTURE OF EACH DUTY. FOR THE "% OF TIME" COLUMN SHOW EITHER (1) WHAT PERCENT OF TIME IS SPENT FOR EACH DUTY OR (2) HOW OFTEN DUTY IS PERFORMED, I.E. MONTHLY, ETC.

16A. LIST THE MAJOR OR MOST IMPORTANT DUTIES THAT MUST BE PERFORMED TO ACCOMPLISH THE PURPOSE OF THE POSITION	% OF TIME
Direct and monitor management of the Agency's budget, trust accounts, and business service activity, consistent with and in compliance with all requirements of law and rules for State Agency fiscal control.	5
Continuously monitor and keep informed on a current basis concerning all applicable United States and Oregon State Laws, all relevant Administrative Rules, Regulations and Orders of the Executive Department, Department of General Services, Human Resources Department, Corrections Division and other Oregon State Agencies having command and/or operational concerns over the Correctional Institution.	5
Supervise all Agency personnel management practices, including regular and affirmative action recruitment; employee work analysis and performance evaluation functions; staff training programs; employee union negotiations and relationships; payroll processes; staff morale; grievance procedures, disciplinary actions, layoffs and terminations.	10
Direct proper maintenance of Institution facilities, buildings and grounds, all of which are to be kept in a condition of good repair, good appearance and fully serviceable. High standards of safety and sanitation are to be maintained at all times.	8
Account for, safeguard and properly maintain all items of capital and expendable property and supplies.	2
Direct and coordinate all Agency staff, resources and facilities toward the objective of providing a full array of humane care and rehabilitation programs and services to all individuals committed to the custody of the Institution. Such services and programs include but are not limited to: medical/dental, counseling/psychological/psychiatric, housing/clothing/personal hygiene, and food services; vocational training, academic education/library, recreation, religious, and constructive work programs. Assure individual programming for each resident of the Institution through a client information system of records keeping, and through individual case management services. (See continuation)	45

16B. LIST THE MINOR OR INCIDENTAL DUTIES THE EMPLOYEE MUST PERFORM.

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PERSONNEL SECTION

POSITION DESCRIPTION

1. CLASS TITLE AS APPROVED BY THE PERSONNEL DIVISION Superintendent		2. PLANNED EFFECTIVE DATE 5-15-80	3. POSITION INV. NO. 0100-001
4. WORKING TITLE OF THE POSITION Superintendent		5. CLASS NO. Z-1903	6. AGENCY NO. 294
7. AGENCY Oregon State Correctional Institution	8. WORK UNIT Administration	9. LOCATION (CITY AND COUNTY) Salem Marion	
10. EXCLUDED FROM BARGAINING UNIT—YES ☐ NO ☐ IF YES, CHECK ONE: SUPERVISOR ☐ CONFIDENTIAL ☐		11. ELIGIBLE FOR OVERTIME COMPENSATION YES ☐ NO ☐	
12. STATE PROVIDED HOUSING: MUST LIVE IN EMPLOYEE'S OPTION ☐		13. POSITION IS—FULL-TIME ☐ PART-TIME ☐ PERMANENT ☐ LIMITED DURATION ☐ SEASONAL ☐	
14. EMPLOYEE NAME George E. Sullivan		15. WHAT IS THE PURPOSE OF THIS POSITION? (SUMMARIZE IN ONE SENTENCE IF POSSIBLE)	

16. DESCRIPTION OF ASSIGNED DUTIES—DESCRIBE DUTIES IN TERMS OF "WHAT THE EMPLOYEE DOES" RATHER THAN "WHAT GETS DONE." USE WORDS THAT GIVE CLEAR PICTURE OF EACH DUTY. FOR THE "% OF TIME" COLUMN SHOW EITHER (1) WHAT PERCENT OF TIME IS SPENT FOR EACH DUTY OR (2) HOW OFTEN THE DUTY IS PERFORMED, I.E. MONTHLY, ETC.

16A. LIST THE MAJOR OR MOST IMPORTANT DUTIES THAT MUST BE PERFORMED TO ACCOMPLISH THE PURPOSE OF THE POSITION.	% OF TIME
Coordinate Agency programs and services with resources, programs and activities of Oregon communities, the Corrections Division and Human Resources Department Agencies and components.	5
Personally tour the facility; interview residents and their family members, staff members and others concerned with Institution operation and resident programming. Strive at all times to maintain a positive relationship for the Institution, internally and externally, at all levels.	10
Attend and conduct staff meetings as necessary to fulfill duties as reflected above. Fully participate in public information and education activity by conducting tours of the Agency, by serving as a speaker before community groups and by providing published information concerning Agency operation.	10
Perform similar and related duties as may be assigned by the Corrections Division Administrator or Deputy Administrator, or as may arise in performance of duties of the office.	

16B. LIST THE MINOR OR INCIDENTAL DUTIES THE EMPLOYEE MUST PERFORM.

17. EMPLOYEE'S IMMEDIATE SUPERVISOR: NAME, CLASSIFICATION, WORKING TITLE, AND POSITION NO.

Mr. Robert J. Watson, Assist. Director Human Resources, Administrator of Corrections

18. SUPERVISORY DUTIES ASSIGNED TO THIS POSITION:

- CHECK THE APPROPRIATE BOXES TO SHOW WHETHER THE EMPLOYEE: (A) EFFECTIVELY RECOMMENDS HIRING ☒ (B) TRAINS AND ASSIGNS WORK ☒ (C) EFFECTIVELY RECOMMENDS DISCIPLINARY ACTION ☒ (D) COMPLETES PERFORMANCE APPRAISALS ☒ OR (E) COMPLETES PROMOTIONAL MERIT RATINGS ☒
- WHAT PERCENT OF TIME DOES THE EMPLOYEE PERFORM THE SAME WORK AS SUBORDINATES? _____%

LIST IMMEDIATE SUBORDINATES BY CLASSIFICATION AND WORKING TITLE. IF MORE THAN 3, SHOW NUMBER PER CLASS

R. L. Wright	Z-1904	Asst. Superintendent	G. Kay	X-7111	Train. Coordinator
R. E. Pribble	Z-1904	Asst. Superintendent	N. Wolcott	X-0023	Adm. Sup. Serv. Mgr.
S. P. Heperud	X-0052	Business Manager	R. Fleming	X-0031	Exec. Operations Mgr.
E. M. Nugent	X-0010	Management Asst. to Super.			
B. Singh	X-0606	Personnel Officer			
J. A. Ward	X-0023	Institution Investigator			
F. R. Berkshire	X-0706	Hearings Referee			

19. WORKING CONDITIONS

CHECK APPROPRIATE HEALTH CLASSIFICATION GROUP FOR THIS POSITION:

- GROUP 1 ☐ REQUIRES PHYSICAL ABILITIES TO PERFORM INSTANT OR SUSTAINED ANOUCOUS PHYSICAL ACTIVITY
- GROUP 2 ☐ REQUIRES OCCASIONAL LIFTING AND EXERTION FOR SHORT PERIODS
- GROUP 3 ☒ VERY LIMITED PHYSICAL EXERTION

DESCRIBE THE PHYSICAL AND ENVIRONMENTAL CONDITIONS OF THIS POSITION. ALSO DESCRIBE SUCH CONDITIONS AS TRAVEL REQUIREMENTS AND UNUSUAL WORKING HOURS.

Daily face-to-face, telephonic and correspondence communication with Government Executives, public employes, Legislators, Institution staff and residents, resident family members and general public.

Position incumbent must circulate through all areas of Correctional Institution. Life at risk by any disgruntled person or inmate.

20. LIST REQUIRED SPECIAL SKILLS, LICENSES, OR CERTIFICATES.

Behavioral Sciences and/or Correctional Administration. 4 years. BA
Communication skills; public relations skills; management skills.
At least 10 years in executive positions in Corrections.

21. EQUIPMENT, TOOLS, OR MACHINES

- IS THE OPERATION OF A MOTOR VEHICLE REQUIRED? YES ☒ NO ☐
- LIST THE EQUIPMENT, TOOLS, OR MACHINES THAT ARE USED.

Dictation Equipment.

22. EMPLOYEE SIGNATURE

DATE

23. SUPERVISOR SIGNATURE

DATE

NOTE: THE EMPLOYEE'S SIGNATURE MEANS ONLY THAT THE EMPLOYEE HAS REVIEWED THIS DESCRIPTION AND DOES NOT MEAN THAT THE EMPLOYEE AGREES OR DISAGREES WITH THE DESCRIPTION.

24. APPROVED BY (APPOINTING AUTHORITY OR CHIEF)

DATE

FOR PERSONNEL DIVISION USE ONLY

CHALLENGE: ABORT PROTECTIVE CUSTODY

Within the data of the first section of this publication we have evidence of the increasing numbers and testimony of the growing acceptability of Protective Custody in our nation's prisons today. This section is presented in objection to and rejective of such acceptability; recommends such programs be aborted; gives reasons and warnings on "Why Abort?"; and, suggests some thoughts and approaches on, "How To".

Standard 2-4220 in the January, 1981 Second Edition of Standards for Adult Correctional Institutions, /1/ reads:

"Written policy and procedure provide that admission to the segregation unit for purposes of protective custody is made only when there is documentation that protective custody is warranted and no reasonable alternatives are available. (Essential)"

As this Standard is read again, more slowly and more deliberately, its intent becomes very clear. With highlighting, the Standard requires that assignment to Protective Custody is made "only when documentation exists that protective custody is warranted and no reasonable alternatives are available." Regrettably, this Standard can be read to as much recognize the growing acceptability of Protective Custody as to courageously require that Protective Custody be absolutely limited to those very few high publicity cases wherein the individual is clearly at risk by others who would wish to replace him/her on "front page". Because the "Quality of Life" for inmates assigned to Protective Custody is severely diminished, it is hoped in future update that 2-4220 will become more courageous and its value increase from (Essential) to (Mandatory).

/1/ Standards for Adult Correctional Institutions, Second Edition, January, 1981; American Correctional Association in cooperation with the Commission on Accreditation for Corrections.

In ordering desegregation of publicly-supported schools, the U.S. Supreme Court held that "separatism" and "equality" were mutually exclusive and that so-called "separate-but-equal" facilities were, in fact, unconstitutional. The paraphrased opinion of our highest court was that, "even if the physical facilities, service-delivery, and service-support systems were identical in every detail - segregated individuals would be deprived of their right to associate freely and safely in the mainstream of community life." Are the conditions of segregated public schools and segregated categories of inmates analogous? Many correctional administrators would say, "No", and they would be quick to add, "Protective Custody inmates both need and want the special protection we provide and we are certainly not guilty of the same sort of discrimination identified as being practiced in some schools prior to the intervention of the courts - simply because we are responding to a manifest need!"

This fairly potent rejoinder seems to have prima facie validity and usually has the effect of suppressing any further discussion or examination of the "need". The "need" for a Protective Custody status must, however, be examined and correctional administrators must be willing to consider the extent to which we ourselves create the "need". Whether by omission or commission, if we allow the quality of life (i.e., life, health and safety) in our institutions to deteriorate to the point where certain inmates cannot maintain themselves safely in the general population - are we not generating the "need" for special protection? Also, to justify Protective Custody on the grounds that "many inmates want or, even, demand such protection" begs the issue of whether or not there is an intrinsic "need" for a Protective Custody status in our institutions. We are simply stating the obvious when we conclude that people who live in fear will seek safety.

The important question is, "If all things are truly equal, will substantial numbers of inmates voluntarily elect to be segregated from the mainstream and be housed in 'separate-but-equal' facilities?"

This paper embodies the same constitutional principles expressed by the U.S. Supreme Court in its desegregation rulings and explores some of the administrative failures creating the "need" for Protective Custody - as well as some

of the sound correctional practices which can help to obviate the "need".

ANATOMY OF TYPICAL PROTECTIVE CUSTODY PLACEMENTS

Case 1

John Smith, age 32, was received at the institution on June 1, 1982. He was convicted on charges of Rape and Sodomy in a highly publicized case involving a young mother in a local community. He received a sentence of 10 years.

Shortly after arriving at the institution, Smith had coffee spilled down his back in the Dining Room and has, on two occasions, had lighted cigarettes thrown through the bars of his cell onto his bedding.

On June 28, Smith approached the Watch Commander and complained of not being allowed a seat in the TV room, and added that his cell partner had told him to "get a cell change - or else." After a conference between the Watch Commander and the Assistant Warden of Security, Smith signed a voluntary commitment form and, on July 2, was transferred to the Administrative Segregation Wing as a Protective Custody placement.

Case 2

Raymond Brown, age 27, was received at the institution on May 30, 1982. He had been charged with Murder and Armed Robbery, but the Murder charge was dismissed when he agreed to testify against his "crime-partner" - who was received at the same institution two months prior to the arrival of Brown.

The Deputy who delivered Brown to the Institution told staff in Receiving and Release that there had been "a lot of talk" among inmates at the County Jail that Brown's co-defendant had put out a contract and that Brown "wouldn't last a week in the joint."

Brown was placed in a one-man cell on the day he arrived and was kept under close staff surveillance during the ten-day Inmate Orientation period. Upon completion of orientation, he agreed with the Security Manager that he "had better lock up" and was placed in Protective Custody on June 17, 1982.

Case 3

Joseph White had been in the institution for six months when he was granted a request for a cell change on the grounds that he and his cell partner "couldn't get along together." Shortly after moving to a new cell, White's former cell partner was found to be in possession of dangerous contraband and was placed in the Segregation Unit pending a Disciplinary Hearing.

At the hearing it was revealed that the information regarding the dangerous contraband was received from a "reliable informant".

White told his Work Supervisor that he had had a "jacket put on him" and was being threatened by his former cell partner's friends. After a discussion between the Work Supervisor and the Deputy Warden, White was "voluntarily" placed in Protective Custody.

Case 4

Keith Jones, age 19, was received at the Institution on August 4, 1982, with a 3 year sentence for Burglary. Jones repeatedly complained to the Prison Chaplain that he was being subjected to lewd comments and homosexual advances. After being contacted by Jones' mother, who insisted her son "needed protection", the Chaplain approached the Warden and it was agreed that Jones could "sign himself" into Protective Custody.

"These four cases certainly do not reflect the full spectrum of reasons why inmates end up on Protective Custody, and the administrative processes which

precede placement in "special protection" will certainly differ markedly from institution to institution. These four cases, however, have certain denominators in common with the vast majority of all Protective Custody placements, i.e., inmates who perceive a threat to their personal safety and institution staff who agree - and, with total agreement between the "keepers" and the "kept" regarding the nature of the problem, who can possibly question the necessity of the placements? In fact, many reasonable and prudent "outsiders" would read file documents no more detailed than the skeletal case summaries listed above and agree that the placements were administratively sound and legally justified.

The same reasonable and prudent "outside" observers would not, in all probability, suggest any parallel between the four hypothetical placements and the racially segregated schools of the pre-1960's era - and, in response to such a charge, might advance the argument, "The four inmates perceived a threat to their safety and obviously preferred the security and community of interest afforded by Protective Custody." We have, then, an unassailable *raison d'etre* for Protective Segregation!

Or, do we?

When the U.S. Supreme Court ordered the desegregation of our public schools, the proponents of continued separation of the races advanced a similar argument. They said, "The minorities would be subjected to racial slurs and other kinds of abuse in integrated schools, and we really have their best interests in mind in maintaining separate-but-equal facilities. Besides, they would rather be "with their own kind."

As evidence of the validity of their argument, the segregationists displayed the results of a number of informal polls conducted among minority students which showed, rather convincingly, that large numbers of affected individuals did, indeed, voice a desire to continue with the status quo!

The preceding report on Protective Custody study reveals seventy-nine (79) percent of the PC inmates admitted to self-placement. Nearly three-quarters of the inmate sample would be happy to stay in PC until their sentence was

completed. When asked what would have to change before they would request to be returned to general population, answers included the following:

- Would not go - regardless,
- Certain inmate(s) must be gone,
- Better control of racial tensions,
- Better control of gangs.

These "reasons" to continue status quo are readily translatable into identical arguments/"reasons" of the Segregationists' minority study findings.

The U.S. Supreme Court, however, was unimpressed with both the argument of the segregationists and the informally collected supporting data. The Court held that it was reasonable that minority students would not relish the expectation of racial slurs and physical abuse, but they also held that the resolution to their fears could not be continued isolation from the mainstream of American life. The Court ordered desegregation - with equal protection for all!

In order to lend greater definition to the analogous nature of "separate-but-equal" educational facilities in the community and "separate-but-equal" living arrangements in correctional institutions, it might be enlightening to make a not-too-speculative examination of the environment within which our four hypothetical Protective Custody cases might have arisen.

In searching for a parallel between the concerns of the racial minorities that they would be subjected to verbal abuse in integrated schools and the concerns of inmates who seek asylum in Protective Custody, we might consider the pejorative labels that are used by staff in reference to "special protection" inmates. How many institutional staff members, for example, would read the four hypothetical cases of Protective Custody placement and automatically register, mentally or verbally, that: "Smith is a rapo; Brown is a rat; White is a snitch; Jones is a knick-knack"?

What substantive difference is there between these labels and racial or ethnic slurs? How many times does an individual hear these demeaning and dehumanizing terms before deciding to seek a "community of interest" with "his own

kind". More importantly, perhaps, is the question, "How many times does a staff member hear these terms before reaching the point of relating to a label rather than attempting to interact with the human being who has been so labeled?"

While it may be rare that an institution staff member physically abuses an inmate because of his criminal history or institutional behavior patterns, how often do staff, wittingly or unwittingly, declare "open season" on particular inmates by announcements such as "Rapo Smith had coffee thrown on him.", "White is in a world of hurt because he snitched-off his cell partner.", "No, I don't mean Joe Jones. It was queer Jones."?

To what extent do we create the "need" for Protective Custody through the medium of the self-fulfilling prophecy? How many times have we heard staff predict, in the presence of inmates, that, "We are going to have trouble with Webster's crime partner when he gets here. He testified against Webster and was able to cop a plea. His name is Brown - and a lot of people are waiting for him."?

X In many more cases than we would ever admit, Protective Custody assignment is made more as a result of attitudes, staff and inmates, than of actual fear of danger or for physical safety. Staff training may well be the key to immediate, significant reduction or abortion of Protective Custody. There are ample reasons to eliminate Protective Custody from staff perspective, as revealed by the preceeding study data. (Thirty-eight (38) percent of the Correctional Officers consider duty in Protective Custody Units to be undesirable.) With more specific training to aid staff in appreciating their own contribution to the problem they will surely modify attitudes and unthinking "chatter-talk". Retraining should include instruction to staff to be "very aggressive" in coming to the defense of those being harrassed or oppressed, even if only motivated by knowing to do so precludes Protective Custody.

Rather than dwell, however, on the overt and covert ways in which we make our own segregated beds, we may better serve our profession by examining the cost-effectiveness of Protective Custody and, if we conclude that the costs exceed the benefit, sketch some other affirmative steps we can all take in an effort

to desegregate our institutions.

COSTS OF PROTECTIVE CUSTODY

In these critical days of institution overcrowding, skyrocketing costs, and huge budget deficits - both correctional administrators and State Legislatures are carefully scrutinizing institution programs in an effort to determine where corners can be cut and dollar savings realized. In fact, many correctional systems are re-examining their basic mission and, because of the perceived high costs of rehabilitative programs, are beginning to look more favorably at the so-called "Just Desserts" models of incarceration, i.e., feed them, clothe them, and keep them busy for the length of their stay - but cut out all the educational and vocational frills.

Obviously, any shift to a "punishment" model from the rehabilitative model would be antithetical to the fine professional standards we have adopted under the auspices of ACA - but it is understandable that fiscal constraints might cause an erosion of humanistic principles in institution management. Systems throughout the United States are computing the man-hour and man-day costs of providing academic and vocational training and are beginning to ask the question, "Is it worth it?"

Missing, however, from the cost-benefit analyses being conducted on a nationwide scale is a study of the varying costs of different levels of security supervision in the same facility. It simply is not true that "security operations/manpower" are so essential as to be "untouchable". Institution Administrators should as carefully scrutinize "security operations/manpower" as they do other operations/manpower budgets. Were this done, the belt-tightening administrators and legislators might conclude that our "separate-but-equal" facilities constitute the most expensive programs we operate!

Consider the following example of a maximum security penitentiary located on the West Coast. This 1000-bed facility operates a 48-bed Administrative Segregation Unit in addition to a 48-bed Disciplinary Detention Unit. (While most segregation units throughout the country function as both Administrative

Segregation and Disciplinary Segregation facilities - some have found it desirable or necessary to separate the two categories of confinement. Also, those institutions which operate separate facilities for Administrative Segregation and Disciplinary Segregation have learned that the costs of supervision in the two types of segregation are almost identical.)

A. Administrative Segregation (48 inmates)

1. Staffing =	(1) Sergeant @	\$ 1,800 per month
	(1) Corporal @	\$ 1,600 per month
	(14) Officers @	\$ 1,450 each per month
	Base salaries =	\$ 23,700 per month
	OPE* @ 31% =	\$ 7,347 per month
	Total Supervision =	\$ 31,047 per month
		\$372,564 per annum

*Other Personnel Expenses.

2. Per Capita Costs - Based on only staff costs, and assuming a full complement of 48 inmates in Administrative Segregation, the cost per man year of inmate supervision is \$7,762.

B. General Population Housing Unit (150 inmates)

1. Staffing =	(1) Sergeant @	\$ 1,800 per month
	(6) Officers @	\$ 1,450 each per month
	Base salaries =	\$ 10,500 per month
	OPE @ 31% =	\$ 3,255 per month
	Total Supervision =	\$ 13,755 per month
		\$165,060 per annum

2. Per Capita Costs - Based on only staff costs, and assuming a full complement of 150 inmates in the General Population Housing Unit, the cost per man year of inmate supervision is \$1,100.

The above cost comparison is, admittedly, superficial - but, if it errs, it errs on the side of conservatism. Significantly higher staffing ratios in

Administrative Segregation, including Protective Custody, are necessary to a "full service" lockup as practically all inmate services need almost to be hand-carried and security supervision has to be intensive. Not included in these costs of supervising inmates in Administrative Segregation are the rather substantial overtime costs involved in providing additional hours of specialized in-service training each year to the staff assigned to the Administrative Segregation Unit, the indirect costs of providing additional supervision during special line movements, etc.

Also, the base-salary levels and the costs of Other Personnel Expenses (e.g., vacation, sick leave, retirement contributions, employer-paid insurance, etc.) will differ somewhat from correctional system to correctional system. It is felt, however, that the ratio of costs will not differ radically - and that ratio is a dramatic 7 to 1! For every dollar spent on the day-to-day supervision of an inmate in the general institution population, seven dollars would be spent on the same inmate in Protective Custody. The cost increase per man-year of supervision is an astronomical \$6,661 for each inmate housed in the "separate-but-equal" facility!

Perhaps some administrators in the more generously endowed systems might observe that it is academic to compute cost differences in the two types of supervision, since the budget appropriation is based on the average cost of supervision of all inmates housed in the institution. Even those administrators must, however, consider the enormous "opportunity costs" involved in operating a Protective Custody program, i.e., "How might these dollar resources be applied to the total institution environment, if they were not consumed in the operation of segregated housing? How much staff training, education, vocational training, psychological counseling, etc., would the total difference of \$319,728 buy in a 1000-bed institution each year?"

This dollar cost focus, i.e., the added monetary costs of supervising inmates in Protective Custody, may be the least of all of the costs which result from the operation of such a program. The truly significant costs of Protective Custody may well be the social and emotional debilitation suffered by inmates who are segregated from the general institution population. In terms of social status, the incarcerated felon ranks fairly low in our country and, in

the institutional social hierarchy, the Protective Custody inmate is at the very bottom! Consider the impact on self-esteem and personal motivation of being unable to associate freely with a population of social outcasts!

All inmates are keenly aware of the fact that they have forfeited their freedom as the result of a felony conviction, but most are able to come to terms with, or rationalize, both the crimes and the fact of incarceration - and they quickly establish themselves much in the same manner in which they established themselves in the free community. They cultivate friends, find jobs, participate in sports and other leisure-time activities, attend classes. They are able to make choices and, eventually, find a reasonably acceptable niche. In a Maslovian sense, most of their physiological, security, and affiliation needs are fairly well met and they are in a position to cultivate their self-esteem.

Not so with Protective Custody inmates!

In accepting Protective Custody as a program option, both, institution staff and the inmate(s) are faced with a critical choice, and, once having made a decision in favor of Protective Custody placement, most other possible options are forever negated. The finality of Protective Custody recalls the cliched expression, "There is no such thing as being a little bit pregnant." In a very real sense, there is no such thing as 'partial' or 'short-term' Protective Custody. Like pregnancy, Protective Custody for an inmate ends only with deliverance from the system, i.e., Parole or Discharge. Even institutional transfer has proved to be unreliable in terminating the condition - because the "PC Jacket" will inevitably follow the inmate across jurisdictional lines and, while some staff may not be aware of the "jacket", it is as obvious to other inmates as a maternity smock.

In the light of Maslow's thesis, however, one could contend that, once the inmate's safety needs are met through the medium of Protective Custody - the pre-potency of that need is dissipated and the inmate is liberated to pursue ego satisfaction in a protected environment. This might be true if Protective Custody did, in fact, erase the threat to safety. Quite to the contrary, however, Protective Custody formalizes, magnifies, and broadcasts the threat.

The Protective Custody inmate is arrested on the safety-security rung of Maslow's ladder and will live out his period of incarceration in constant fear, supported by recent acts perpetrated on Protective Custody inmates during a prison riot.

N/M

The Protective Custody inmate is bombarded daily with a constant series of reminders of where he is situated on the "needs" ladder. Every meal served from a hotcart in the Protective Custody Unit, every visit in the Security Visiting Room, every staff escort to a callout, every special line movement to Canteen or Clothing Exchange, every period of segregated recreation, serve to underscore the pre-potency of his need for special protection. Having elected to place himself in the Protective Custody of institution staff, the inmate had re-entered a metaphorical womb and will, for the duration of his life in the system, be dependent on staff for his survival.

It is precisely in the parent-child relationship engendered by Protective Custody that we find the seeds of the management problems encountered by Protective Custody staff. Some of the Protective Custody placements relate to staff as passive children and are typically termed "good inmates". Most, however, recognize the extent of their self-induced dependency plus their inability to emancipate themselves, and their behavior is characteristic of angry, destructive, demanding children. Unfortunately, these modes of behavior tend to reinforce among correctional administrators and institution staff the felt "need" for the very same protective segregation which generates the seeming infantile response. It certainly seems reasonable that we would segregate inmates who are not only "snitches" - but who also are volatile, nuisances, manic-depressive, suicidal, destructive, etc.

The preceeding report on Protective Custody study reveals fully seventy-five (75) percent of the staff reported PC inmates presented problems not common to Administrative Segregation or Disciplinary Detention inmates, such as: "Are usually more harrassing, demanding", "Require inordinate amount of staff time", and "Feeding, exercise, visits, etc., are more complicated". Staff listed some of the worst things about working the PC unit as: "Excessive complaining/demanding", "verbal abuse from inmates", "must baby-sit inmates", and "low quality of inmates".

While the human costs inherent in Protective Custody defy the kinds of exact measurement we can apply to staff salaries, we cannot dismiss at least the potential for long term or, even, permanent, socio-psychological impairment. As one Protective Custody inmate remarked, "If going to prison is like being sent to hell, being in Protective Custody is like living in the basement of hell."

Back to Standard 2-4220; even the most elementary of research effort in any institution will surely reveal significant financial savings in maintaining full compliance with 2-4220, when compared to maintaining full compliance with the other "Essential" and "Mandatory" Standards requiring "equal-if-separate" programs for Protective Custody inmates. The costs in the human condition and human dignity are immeasurable and probably for life.

Pointing to the costs of Protective Custody, both dollar costs and human costs, is much like bemoaning the high cost of energy. Unless we can prevent, eliminate, or reduce the "need" - it costs what it costs! We believe there are mechanisms which, if properly designed and implemented, can assist in the eradication of the "need" - but these mechanisms will be effective only if predicated on total and sincere organizational commitment.

PREMISES

Before expecting any organization to commit itself fully to a course of action, it is necessary that the members of the organization understand and accept the premises on which the course of action is based. While the following propositions are based largely on site visits and program audits conducted throughout the United States, it would be dishonest to suggest that the primary purpose of the aforementioned visits and audits was to collect data relating specifically to the necessity and efficacy of Protective Custody programs. It would be equally dishonest not to admit that part of what follows is based rather more on the intuitive interpretation of events, and professional conclusions based on years of institutional experience, than on a systematic analysis of data. This disclaimer is not presented as an apology for deficiencies in research methodology but as a lament!

The fact is that scant attention has been given to this burgeoning and expensive program in our institutions. While dollar costs can be computed easily, there has not been, to our knowledge, a single responsible follow-up study of former Protective Custody inmates, now released, in an attempt to gauge the possible long-range effects of prolonged stays in special protection. So, in the absence of any carefully constructed hypothesis regarding "delayed shock syndrome" traceable to Protective Custody experience, conjecture and inference must suffice until our profession is able to conduct a sound and defensible examination of this particular form of segregation in our institutions.

Premises

1. Both the number of institutions which operate Protective Custody programs and the percentage of inmates placed in Protective Custody are increasing at a rate faster than the increase in total numbers of new commitments.
2. Most institutions do not budget separately for the operation of Protective Custody programs and, consequently, are not completely aware of the extremely high costs involved.
3. Few institutions consider the "opportunity" costs related to Protective Custody or seriously examine the extent to which the resources so committed might be alternatively applied to an increase in general security or "quality of life" programs to reduce the perceived need for special protection.
4. Many Protective Custody programs serve operationally as informal mechanisms for affecting racial-ethnic segregation, or escape hatches for the weak, timid, emotionally troubled and/or socially unskilled.
5. While "treatment" program staff are frequently involved in the review of recommendations for reduction in custody supervision, temporary leaves, work assignments, meritorious pay, etc., - decisions regarding Protective Custody are usually exclusively within the purview of security staff, usually without clear, formal policy and guidelines.

6. Because of similarities in socio-economic backgrounds, security staff often share values in common with the general inmate population - relative to types of crimes, sexual preference, interpersonal codes, racial equality, etc.
7. There is rarely any effort to involve the outside support systems of inmates when exploring the possible necessity of a Protective Custody placement.
8. Through a claim of fear of possible legal liability as a consequence of not providing special protection, little effort is made to dissuade inmates from entering Protective Custody.
9. Few institutions have specific policies or procedures which govern the screening and processing of requests for Protective Custody.
10. Many correctional administrators have never carefully assessed the pros and cons of Protective Custody, but have come to simply accept it as a standard ingredient in institutional management.

If, after pondering the above premises, the correctional system concludes that at least some of them have even partial validity - the important question becomes, "What, if anything, do we want to do about it?"

In those cases where the response to the above question is a solid decision to avoid, eliminate, or reduce the need for Protective Custody - it then becomes of paramount importance to generate total organizational commitment prior to designing and implementing an organization-wide strategy to achieve the desired results.

ORGANIZATIONAL COMMITMENT

The first step in engendering broad-based support for avoiding, eliminating, or reducing the need for Protective Custody is to communicate the Executive Management position that "Protective Custody is costly, antithetical to sound

correctional practice, and poor stewardship over public funds - and that every reasonable means will be employed to engineer a total-institution-safe-environment to preclude the perceived need for Protective Custody". ✓

This management position is best communicated via an official Policy which is widely disseminated, and subsequently discussed during staff meetings involving all levels and categories of institution staff. Meetings to discuss the Policy should be conducted by individuals who subscribe to the Executive Management position, and should include data relating to both direct dollar costs and "opportunity" costs. While constructively critical feedback should be accepted at these meetings, care should be taken to avoid communicating an understanding that the management position is tentative or subject to staff veto. Also, it should be stressed that specific strategies and procedural steps to translate management policy into operational reality have not been adopted and that all staff and selected groups of inmates will be given the opportunity to provide input into the design of the ultimate blueprint.

During staff discussions of the Executive Management position in opposition to the continued promiscuous use of Protective Custody as a quick and easy solution to ad hoc problems, one can anticipate many of the same arguments which were mounted in opposition to the integration of public schools - including, finally, the position, "If it's going to be forced on us, there's not much we can do about it, but we should consider starting the new program with people just coming into the system and let those who are already in Protective Custody finish out their terms in Administrative Segregation." This compromise position represented a last-ditch effort on the part of earlier proponents of public school segregation to maintain at least a semblance of a traditional separation of the races - but it fell on deaf ears with members of the U.S. Supreme Court. Rightly so!

When presented as a viable strategy for the gradual reduction of the use of Protective Custody, however, it might be viewed as the "light at the end of the tunnel" - and, in some institutions might constitute the only realistic bridge from entrenched Protective Segregation to an enhanced quality of life which offers the maximum feasible protection for all inmates on an equal basis.

These suggestions on steps a correctional system might take in generating a climate of acceptance for a policy position which discourages Protective Custody are certainly elementary and somewhat pedestrian, but they are repeated here to lend emphasis to the necessity of "campaigning for commitment" in advance of effecting a major change in the way we conduct our business. The suggestions also highlight, hopefully, the absolute necessity of a firm and unequivocal position on the part of Top Management, if the change is to materialize in a planned and orderly manner.

PLANNING FOR INTEGRATION

Having announced Executive Management's firm policy position on Protective Custody, and, having conducted an intensive campaign to gain sufficient acceptance for the policy position, a rationally designed plan to achieve the desired results must be developed. To be effective, the plan must be comprehensive and will, necessarily, involve a cross-section of planners drawn from all levels of all institutional programs. Also, it must be recognized and accepted that the planning process will be time-consuming, expensive, and fraught with logistical problems, inmate and staff resistance. There is no substitute, however, for a carefully engineered plan if the result is to be cost-effective, legally defensible, and compatible with sound rehabilitative programming.

As a minimum, the planning process should address the following critical elements:

1. Standards;
2. Deviation Testing;
3. Constraints Assessment;
4. Resource Identification;
5. Objective Setting;
6. Selection of Preferred Strategy;
7. Organizing for Implementation;
8. Implementing, Coordinating;
9. Monitoring, Evaluating.

Since most of the above elements are fairly standard ingredients in any planning process, they need no amplification here. The application of Standards to the planning process, however, deserves special attention for at least four reasons:

1. Most correctional professionals in the U.S. are already attuned to the nature and use of ACA Standards in the Accreditation process;
2. Positive transfer from the concepts of familiar ACA Standards to operational areas not addressed by ACA Standards can be effected with relative harmony;
3. Broad ACA-type Standards which echo the management policy position regarding Protective Custody can easily be divided into specific subsidiary Standards to use as templates to measure the extent of current deviation from the ultimate condition envisioned by the Policy;
4. It is extremely difficult to assess the efficacy of program objectives without some index of the extent to which such objectives will steer the organization in the direction of a desired result, except as may be defined by nationally accepted Standards.

A reasonable approach to the drafting of a mini "Standards Manual" to begin integration planning might be to rewrite ACA Standard 2-4220 as an umbrella Standard from which all others will flow. As adopted and published in the Second Edition of Standards for Adult Correctional Institutions, 2-4220 stipulates that Protective Custody be used "only when no reasonable alternatives are available" - but the Standard sets forth no requirement that there be written plans for the management of potential Protective Custody inmates in the general population. Despite the fact that 2-4220 does not address the runaway use of Protective Custody in an aggressive manner, it is the only Standard which even approaches a proscription. So, by combining the likely intent of 2-4220 with the unequivocal language of 2-4210, the system seeking integration could launch its planning effort with an all-encompassing Standard similar to the following:

STANDARD:

- There are written plans which detail alternatives to Protective Segregation and which include specific procedures for ensuring: early identification of inmates who may require enhanced protection; timely intervention in special management situations and the development of individually tailored staff/ community/inmate support systems; qualified and professionally committed staff supervision of vulnerable and/or threatened inmates; specialized new employee orientation and ongoing in-service training focusing on the supervision of special management inmates; appropriate remedial action and/or disciplinary action in those situations where inmates or staff aggravate the possible need for special protection. These plans are made available to all personnel, reviewed and updated at least annually. (Mandatory)

- Discussion: At a minimum, plans should reflect input by Personnel and Staff Training Officers, Records Office, Counselors, Inmate Admission and Orientation staff, Assignment Officer, Institution Security staff, Recreation staff, Disciplinary Hearings Officer, and Investigation staff. Alternatives should include a process for determining the feasibility and cost-effectiveness of inter-institutional transfer. Intervention strategies should include the efficacy of support systems for vulnerable inmates made up of some combination of: counseling staff; security staff; inmate clubs; unaffiliated inmates; work supervisors; family members. Staff selection criteria should include mechanisms for surfacing applicants' biases regarding crime-types, aberrant behavior, and racial-ethnic groups. New Employee Orientation and In-Service Training should specifically address the essential supportive role of all staff who interact with special management inmates. Collective Bargaining Agreements should include an "administrative override" which would allow management to challenge a job bid by an individual who is known to be ineffective in working with special management inmates. Crew-kit cards, locator files, assignment rosters, and other records/files/identification cards accessible to any inmates do not include information regarding crime of commitment or criminal history; ~~inmates are not assigned~~ to the Records Office or to any tasks outside the Records Office which would make them privy to information regarding other inmates; records show that remedial and/or disciplinary action is taken whenever a staff member divulges information regarding an inmate's personal or criminal history; records demonstrate effort to prosecute cases of felonious and/or serious threats to the safety of special management inmates.

The above Standard might suffice as a tentative umbrella Standard to enable

Program Managers, Staff Assistants, and others involved in the planning process to begin the critically important task of formulating operational Standards governing "equal protection" for all inmates in every institutional arena. A Standard similar to the foregoing could be incorporated into the official Policy which sets forth Top Management's position vis-a-vis actual or potential special management inmates.

During this important first step in the planning process, it is essential that the Executive Management Team carefully review all operational Standards formulated by subordinate managers and staff assistants to ensure that subsidiary Standards are vertically consistent with the primary (i.e., "umbrella") Standard.

A Standard proposed by the staff supervisor of Inmate Clubs which stipulates, for example: "Club constitutions (charters, by-laws) contain a provision that inmates will not be barred from membership on the basis of race, ethnic background, criminal history, or sexual preference - except by a majority vote of the club membership" would be rejected because it violates the basic principle of "equal opportunity - equal protection" inherent in the umbrella Standard.

On the other hand, a Standard which allows for the "dissolution of any Club which is found to be discriminating against inmate applicants on the basis of any of the above grounds" - might be deemed acceptable.

A fairly common tendency on the part of planners is to generate an inadequate number of general Standards. While there is no magical number of operational Standards relating the desired state of "equal opportunity and equal protection in an integrated environment", there should be a sufficient number of detailed Standards to allow the planners to conduct a responsible self-audit and determine the precise degree of current deviation from the desired state. Only in this way can constraints be realistically assessed and resources accurately forecasted preparatory to the important step of setting objectives - the achievement of which would close, or narrow, the measured gap between "what is" and "what should be". Also, a comprehensive compendium of explicit operational Standards will later serve as an excellent blueprint for the on-going monitoring and subsequent evaluation of the integration strategies.

Following is a brief sample of operational Standards which might be developed by institution Program Managers and Staff Assistants. As previously indicated, all such Standards would be reviewed by the Executive Management Team for both consistency with the umbrella Standard and acceptability in the particular institutional environment. Additionally, the Standards should be categorized according to program applicability - in the same manner as the ACA Manual of Standards for Adult Correctional Institutions.

- * 1. Except in cases of felonies or major threats to institution security, life, health, or safety - staff do not solicit, record, or officially apply information supplied by inmate informants.
- 2. Out-of-character rules infractions which might indicate that the violators are deliberately seeking the protection of Disciplinary Detention are immediately referred to the Institution Investigator.
- 3. Depredations against special management inmates are reported to the State Police for investigation, and prosecuted in all instances where the Prosecuting Attorney deems the evidence to be sufficient. (This may well require firming-up working relationships with associates in Police Agencies and Prosecutors Offices.)
- 4. Counselors know the identity of actual and potential special management inmates on their caseloads and interview each such inmate no less often than twice monthly.
- 5. Whenever the percentages of racial-ethnic minorities, mentally limited, and/or inmates in vulnerable crime categories in Administrative Segregation or Disciplinary Detention exceed their distribution in the general institution population, an investigation is conducted and a report of findings is submitted to the Executive Management Team.
- 6. Staff recruiting announcements, selection examinations, Position Descriptions, Codes of Ethics, etc., speak specifically to the "condition of employment" of relating to special management inmates -

and, also, the consequences of breaches of the confidentiality of "protected" information.

7. Employee Performance Appraisals and Promotional Merit Ratings contain an index of staff ability to interact effectively with, and provide protective supervision over, special management inmates.
8. Actual and potential special management inmates are not assigned to work crews which are not under constant supervision.

A review of the above operational Standards should highlight the necessity of developing a wide array of specific operational Standards as the critical first step in the process of total organizational planning to avoid, eliminate, or reduce the need for Protective Custody.

Liability: In numerous discussions over the past few years with correctional administrators, the evident merit of doing away with Protective Custody units and programs has been readily accepted. However, all such discussions have ended with a lament over l-i-a-b-i-l-i-t-y. Statements of genuine concern over the perceived extremely high risk of agency and even personal liability, seem to be dictating management policy.

As such discussions concerning Protective Custody with correctional managers have closed, so should this paper close - lamenting "fear of l-i-a-b-i-l-i-t-y". Are correctional facility managers really afraid of being sued? Are they really afraid of losing a suit? Correctional administrators are¹ continuously being sued by inmates for every conceivable reason; some suits are lost and the inmate wins a change and sometimes "damages". Being sued now-a-days is as much a part of a correctional managers business as is providing clothes and toothpaste to inmates. Thus, this writing argues that correctional managers are not truly fearful of being sued but, instead, provide expressions of such concerns more because of their acceptability. No one likes being sued; many fear it, and thus it is an endorseable rationale for Protective Custody. It is very difficult to admit that Protective Custody mushroomed before our eyes before we realized it and that now we feel trapped by all it entails. Rather than "fear law suit and liability", correctional administrators simply

need to grapple with the issues. Those who manage America's prisons face major challenges every day; they have "more than they can say Grace over". Major challenges are their "world of work". The challenge to Abort Protective Custody is simply another they need to "take on".

A correctional manager's "liability-risk" in shooting an escaping inmate is just as real and high as are those involved in "failure to protect". The liability-risk for shooting an escaping inmate has been confronted by establishing defensibility through well-developed laws, rules, policies, procedures, post-orders and staff training programs. Going to Court in the aftermath of a shooting is not feared, as professional, responsible defense is well established. Weapons have not been removed from gun-walks or towers because of fear of being sued, yet such suits almost invariably follow weapons use. How can correctional managers properly justify a major management policy as devastating to individual inmates as is Protective Custody status, on the basis of "liability-risk fear"? They can't!

X All that is really necessary is to get Protective Custody on the Executive Management Team project agenda. Get necessary legislation, Standards, rules, policies, procedures, post-orders, and staff training programs updated to deal with the issues and then - Abort Protective Custody. Because the issues may be legally complex and liability-risk is a barrier of concern, begin accepting the challenge by consulting a counselor - legal counselor.

Legal counsel will, in all likelihood, advise the same concerning Protective Custody as would be offered in any other correctional management issue. That is, that the correctional manager is not negligent, (i.e., liable) if reasonable, prudent steps are taken and sound correctional practices are in place, within the framework of law, rules, policies, procedures, post-orders and implemented with quality staff training and good documentation. Legal counsel will likely add:

1. A request for Protective Custody cannot simply be ignored;
2. The requesting inmate can be required to plead facts and not mere conclusions that he/she is fearful of other inmates;

3. If after careful examination of the facts the correctional manager can make a reasonable, good faith determination that the inmate is not in real danger, then liability is minimal to none;
4. Adequate protection effort, if danger is evident, does not need to include isolation of the inmate.

Essentially, legal counsel will advise that if administrators and staff are performing in a professional, responsible manner, have good policies and have taken reasonable steps attentive to the inmate's expressed fears, it is not necessary to isolate in separate quarters to overcome liability-risk. With competent legal counsel on the issues, correctional managers should be immediately reassured and can proceed accordingly to accept the challenge to Abort Protective Custody. Total institution operations, staff and inmates will all be the better for the effort. Money saved can be better spent on staff training programs to sustain the institution as a Protective Environment Throughout, With Equal Opportunity and Equal Protection For All. Nothing less can be viewed as professionally acceptable!!

SUMMARY

This brief treatise on Protective Custody is a product of a firm belief that "segregation by mutual consent" is nonetheless segregation and that this particular form of non-disciplinary segregation is an admission of failure on the part of correctional administrators to provide equal opportunity, with equal protection, for all inmates. It is our professional opinions that Protective Custody treats one of the symptoms of an institutional social malady, but has the net effect of feeding the disease itself. The widespread practice of warehousing separately those inmates who present special management challenges is a "quick fix" for an ad hoc problem, but leads to a growing addiction - the withdrawal from which is both costly and painful.

This paper also seriously questions the legality of unbridled use of this form of separatism, and unabashedly chides our profession for both the lack of responsible research and a very timid position which amounts to tacit approval of continued social segregation.

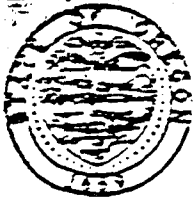
These pages also call attention to the enormous costs involved in the operation of "separate-but-equal" institutions within institutions, and insists that this is not the most efficient application of public funds.

All of these questions and admonitions can, however, be viewed as naive criticism or idle indulgence in the game of "Ain't It a Shame" - unless they are coupled with a valid conviction that we can, as a profession, reverse the trend in the use of Protective Custody. While we do not have a magic wand to offer, we are convinced that honest commitment, proper planning, and adequate resource allocation will substantially diminish the "unacceptable to all" practice of operating Leper Colonies in our institutions. There is proof available that it can be done - seek it - join the campaign - confront the challenge: Abort Protective Custody!

If, after careful study, the correctional manager has to conclude he/she cannot at this time or for the foreseeable future reduce or eliminate Protective Custody placements and programs, then we ask that they assure compliance with Standard 2-4220 and -- READ ON!

PS: Reference on pages 6 and 13 to final study report should be checked to assure accuracy.

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291-105-005 I. AUTHORITY:

R 22

Under the authority delegated to the Administrator by the Director of the Department of Human Resources, and pursuant to ORS 179.040 and 423.050, the Corrections Division shall make and adopt rules, not inconsistent with law, for the guidance, government and administration of its institutions; schools, programs, and services.

II. PURPOSE:

The purpose of this rule is to define the rules of conduct governing inmates and conditional releasees and outline the procedures to be followed in processing disciplinary action.

III. APPLICABILITY:

This rule applies to all inmates as defined herein and to all Corrections Division staff responsible for its administration.

IV. POLICY:

It is the policy of the Corrections Division that specific rules of conduct describing acceptable behavioral standards will be established and precise procedural processes will be outlined to ensure that both staff and inmates understand what behavior is unacceptable, how misconduct reports will be processed and what sanctions can legitimately be imposed. Copies of this rule will be accessible to all inmates and staff. As a matter of procedure, each functional unit manager responsible will ensure this rule is translated into Spanish and made available to Spanish speaking inmates.

291-105-310 V. DEFINITIONS:

A. Conditional Releasee: Any person under the jurisdiction of the Corrections Division who is not confined within the immediate



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- security perimeter of a Corrections Division facility. This includes, but is not limited to, persons on temporary leaves, supervised trips, working on crews outside an institution, parole, probation, conditional pardon, or supervised under Interstate Compact.
- B. Corrections Division Facility: Any facility or office operated by the Corrections Division, or a facility in which an inmate or conditional releasee is confined.
- C. Dangerous/Deadly Weapon: Any instrument, article or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.
- D. Days: Shall mean calendar days, excluding Saturdays, Sundays, and legal holidays observed by the State of Oregon, except as may be otherwise provided for in this rule.
- E. Deadly Force: Physical force which, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.
- F. Explosive: A substance which, when subjected to a suitable initiating impulse, undergoes a chemical change characterized by the liberation of heat in the formation of products which are mainly gaseous.
- G. Functional Unit: Any organizational component within the Corrections Division, supervised by a functional unit manager, which has a responsibility for the delivery of services and/or to coordinate program operations.



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- H. Functional Unit Manager: Any person within the Corrections Division who reports to either the Administrator or Deputy Administrator, and has day-to-day responsibilities for the administration of a functional unit within the Corrections Division.
- I. Inmate: Any person under the supervision of the Corrections Division confined, residing in or on conditional release from a Corrections Division facility.
- J. Local Jail: Any Oregon city or county lock-up or local correctional facility.
- K. Officer-In-Immediate Charge: That person designated by the functional unit manager to make operational decisions in accordance with policy, rule, or procedural statement, during periods when the functional unit manager or officer-of-the-day are not readily available.
- L. Physical Injury: Impairment of physical condition or substantial pain.
- M. Serious Physical Injury: Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of, health or protracted loss or impairment of the function of any bodily organ.
- N. Temporary Segregation Status: Placement in a segregation unit or local jail pending disciplinary hearing.

VI. PROCEDURES:

291-105-015

A. Rules of Prohibited Conduct:

- 1. Disruptive Behavior: No inmate shall engage in, encourage, promote, or create a disturbance. A disturbance is the



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creation or maintenance of an unreasonably annoying condition or disorder, characterized by unruly, noisy or violent conduct or unauthorized group activity which disrupts the orderly administration of or poses a direct threat to the security of a facility, facility program(s) or the safety of personnel.

2. Unauthorized Organizations:

Except as specified by the "Rule Governing Inmate Clubs and Group Activities", or by the functional unit manager, no inmate(s) shall create, promote or participate in any club, association or organization.

3. Unauthorized Area:

No inmate shall be in any location not designated by assignment, programmed activity, call-out or staff directive.

4. Assault:

Except when absolutely necessary for self-defense, no inmate shall engage in a fight or intentionally inflict physical injury upon another person.

5. Unauthorized Possession of Property:

No inmate shall knowingly possess property without staff authorization, in accordance with the Corrections Division "Rule Governing the Control and Disposition of Inmate Personal Property".

6. Destruction of Property:

No inmate shall negligently, or except as authorized by staff, willfully destroy, alter, tamper with, abuse, waste or deface materials or property.



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7. Possession, Manufacture or Use of Dangerous Contraband:

Except as may be authorized by other rules, no inmate shall knowingly possess, manufacture or use:

- a. weapons;
- b. explosives;
- c. narcotics or narcotics paraphernalia;
- d. controlled medication:
 - (1) of another;
 - (2) in excess of authorization; and/or
 - (3) in an unauthorized area;
- e. escape devices;
- f. monies, including negotiable instruments and uncanceled stamps;
- (g) intoxicants; and/or
- (h) gambling proceeds, or paraphernalia.

8. Sexual Activity:

No inmate confined in a Corrections Division facility shall engage in sexually stimulating activity in the presence of or in view of, or with another person, except during a visit, and in accordance with the visiting rules. A "sexually stimulating activity" includes but is not limited to, sexual intercourse, caressing, kissing, fondling, and/or manipulation of the genitalia. Community laws pertaining to consenting adults engaging in sexual activities shall prevail for temporary leave clients.



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9. Disrespect to Another:

No inmate shall direct hostile, abusive or threatening language or gestures toward another person.

10. Disobedience of an Order:

No inmate shall fail to promptly comply with valid orders of staff members. An order includes written, verbal, or gestured communication which directs or forbids the doing of some act over which the inmate had control.

11. False Statements to Staff Members:

No inmate shall knowingly present false or misleading information to staff members. The presentation of false or misleading information includes gestured, verbal and/or written communication(s).

12. Gambling:

No inmate shall wager money or other thing of value.

13. Conspiracy:

No inmate shall enter into an agreement with any person(s) to engage in or cause rule violation(s) and/or assist person(s) in concealing the commission of rule violation(s).

14. Attempt:

No inmate shall knowingly engage in conduct which constitutes a substantial step toward the intentional commission of a rule(s) violation. Attempt is an included charge in "Rules of Prohibited Conduct," 2. through 12. above.



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291-105-C21

3. Procedures for Handling Misconduct by Inmates:

1. Corrective Action:

Staff members may use less than the formalized procedures if the act(s) of misconduct do not constitute a threat to life, health, facility security or good order, staff authority or property. Informal discipline may include: reprimand, warning and counseling, and as authorized by the functional unit manager, loss of leisure activities for no more than eight (8) hours.

2. Misconduct Reports:

When the misconduct justifies submission of a misconduct report:

- a. the staff member shall file a misconduct report no later than twenty-four (24) hours AFTER sufficient evidence is gathered, discovered, and/or observed to support a charge of violation of rules. Determination of the sufficiency of evidence is a matter of judgment for the staff member submitting the report. The inmate will be provided a copy of the misconduct report within twenty-four (24) hours of the filing of the report by the staff member, unless the inmate is unavailable to be served.
- b. the misconduct report shall be as specific and comprehensive as possible and shall be submitted on the attached form.

3. Temporary Placement in Segregation Status or Temporary Confinement in a Local Jail:

An inmate charged with committing a rule violation may be



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placed in temporary segregation status in the parent institution or held temporarily in a local jail if the inmate is on temporary leave, pending resolution of the charge when the officer-in-immediate-charge, as defined in this rule, or the inmate's field officer supervisor determines that the rule violation charged is of such seriousness that the good order and security of the facility requires immediate removal from the general population, or it is determined the client is a threat to the community or the inmate is likely to escape.

- a. If temporary segregation status is ordered or the inmate is temporarily confined in a local jail, the officer-in-immediate-charge or the field officer supervisor must complete his/her portion of the Corrections Division Misconduct Report (attached) specifying the reason(s) he/she determined that the good order and security of the facility required the immediate removal of the inmate from the population or temporary confinement in the community.
- b. A completed copy of the Corrections Division Misconduct Report will be forwarded to the functional unit manager or his/her designee who will review the inmate's pre-hearing detention status and initial the form within seventy-two (72) hours of the inmate's placement in temporary segregation status or temporary confinement in a local jail.



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4. Scheduling a Hearing:

- a. A hearing, either formal or informal, shall be scheduled within seven (7) days of the serving of the misconduct report (excluding Saturdays, Sundays, and legal holidays), except:
 - (1) a formal hearing shall be scheduled within seven (7) days (including Saturdays, Sundays, and legal holidays) if the inmate is placed in temporary segregation status; or
 - (2) an informal hearing will be scheduled and disposition rendered, or the inmate will be returned to the parent institution for a formal hearing, within fifteen (15) days (including Saturdays, Sundays and legal holidays) if an inmate under supervision of Field Services is confined in a local jail.
- b. A formal hearing must be conducted within seven (7) days (including Saturdays, Sundays and legal holidays) of the date of the inmate's return to the parent institution if an inmate was under supervision of Field Services staff or assigned to the Corrections Division Release Center and is alleged to have committed a major rule violation, or requests a formal hearing.
- c. Inmates not segregated prior to an informal disciplinary hearing, but who request or are scheduled for a formal disciplinary hearing in accordance with VI. G. 1. b. will be scheduled for a formal hearing within seven (7) days of

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the date of the request for a formal hearing or their
denial of the rule violation at an informal hearing.

291-105-026

C. Disciplinary Procedures for Minor Misconduct:

1. A Disciplinary Adjudicator and designated alternate(s) shall be appointed by the functional unit manager in each Corrections Division facility as defined in this rule, and as many as needed in each Field Services Region to insure compliance with this rule.
2. Appointment of the Disciplinary Adjudicator at a Forest Camp and/or Annex is not mandatory and inmates assigned to a Forest Camp and/or Annex who receive a misconduct report may be returned to their parent institution for the disposition.
3. If an inmate assigned outside of the parent institution receives a misconduct report determined to be a major violation or denies violation of a misconduct charge, or requests a formal hearing, he/she will be returned to his/her parent institution for disposition. A hearing will be scheduled in accordance with VI. B. 4. a. - c.
4. Duties and Powers of the Disciplinary Adjudicator:
The Disciplinary Adjudicator will receive and classify all misconduct reports as Major or Minor reports of misconduct in accordance with the criteria outlined in Attachment 1, and will:
 - a. refer all Major reports and all inmates receiving Minor reports who request a formal hearing or who deny the violation charged to the Hearings Officer who shall conduct a formal hearing;



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- b. conduct an informal hearing on Minor reports in accordance with VI. D. of this rule;
- c. decide at the informal hearing:
 - (1) if any of the rules of inmate conduct have been violated and, if so, impose sanctions and/or remedial program changes;
 - (2) dismiss the charge(s), if:
 - (a) he/she determines the charge is a part of a disciplinary violation arising out of the same misconduct;
 - (b) there is insufficient evidence to adequately demonstrate the alleged misconduct; or
 - (c) corrective action using less formalized procedures would be more appropriate; or
 - (3) find no violation, based upon the evidence.

291-105-031

D. Conduct of the Informal Hearing:

An informal hearing shall be conducted unless the misconduct report is classified as Major by the Adjudicator, or the inmate requests a formal hearing, denies the violation of conduct rules as charged, or requests any of the rights afforded an inmate in a formal hearing. The hearing shall be conducted as follows:

1. The inmate shall be given the opportunity to exercise his/her rights as set forth in Section VI. G. of this rule.
2. A hearing may be postponed by the Adjudicator for good cause and for reasonable periods of time. "Good cause" includes, but is not limited to:

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- a. illness or unavailability of the inmate.
- b. gathering of additional evidence.
3. No verbatim recording shall be made.
4. After receiving the evidence, the Disciplinary Adjudicator will decide the case in accordance with Section VI. C. 4 of this rule.
5. A copy of the decision and action taken shall be provided to the inmate.
6. In cases where a violation is found, a copy of the misconduct report and action taken will be retained by the Disciplinary Adjudicator for a period not to exceed thirty (30) calendar days at which point it will be destroyed.
7. If no violation is found or the charge(s) dismissed, the report shall be destroyed.
8. Upon being notified of the Adjudicator's decision, the inmate may, within fifteen (15) days of said notification, appeal to the functional unit manager.

291-105-036

E. Imposition of Sanctions - Minor Disciplinary Hearings:

Upon finding that a violation occurred as charged, the Disciplinary Adjudicator may:

1. issue a reprimand and warning to the inmate, including an appropriate delineation of expected future conduct.
2. restrict specific privilege(s) for a period not to exceed thirty (30) calendar days with written instruction as to the length of restriction(s) and precisely which privileges are restricted.



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NOTE: Misconduct arising in relationship to an inmate's visiting privileges, will be referred for disposition in accordance with the Corrections Division "Rule Governing Visiting".

3. temporarily change programming (i.e., work assignment, housing, eligibility for meritorious awards) for a period not to exceed thirty (30) calendar days.
4. confiscate unauthorized property/contraband.
5. order restitution for damages associated with and/or resulting from the misconduct, not to exceed \$50.00.
6. recommend placement of the inmate in segregation status for a period not to exceed five (5) calendar days, giving credit for time served, if the inmate has been placed in temporary segregation status prior to the hearing. Placement of an inmate in segregation status shall be subject to the review and approval of the functional unit manager.
7. assign the inmate to work on an extra duty work detail not to exceed one (1) week, specifying the nature and duration of the assignment.
8. suspend imposition of all or part of any of the above, informing the inmate of expected conduct to avoid imposition.
9. impose any combination of 1. through 8. above, except that 6. may not be used by an Adjudicator outside the parent institution.

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291-105-041

F. Formal Disciplinary Hearings for Misconduct:

1. A formal hearing will be conducted on all reports of misconduct classified as Major by the Adjudicator, on all reports of misconduct for which an inmate requests a formal hearing, denies violation of conduct rules as charged, or requests any of the rights afforded an inmate in a formal hearing.
 - a. The hearing shall be conducted by a Hearings Officer or Committee composed of not more than three impartial persons appointed by the functional unit manager.
 - b. Neither the Hearings Officer nor the Committee members shall or will have participated in the case as a charging, investigating or reviewing officer. Further, no person shall serve as a member of the Committee, Hearings Officer, or as an investigator, who was a witness to the commission of the alleged misconduct or has personal knowledge of any disputed material fact relating to the case being heard.
 - c. The Hearings Officer will conduct the hearing and shall decide whether the inmate has violated the rule(s) as charged by the misconduct report.
 - d. The Hearings Officer or members of the Committee may pose questions during the hearing.
 - e. The evidence considered by the Hearings Officer will be of such credibility as would be considered by reasonable persons in the conduct of their affairs.
 - (1) When unidentified informant testimony is presented to



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the Hearings Officer, the identity of the informant or the verbatim statement of the informant, or both, shall be revealed to the Hearings Officer.

(2) Information must be submitted to the Hearings Officer upon which the Hearings Officer can find that the informant is reliable in the case at issue.

- f. At the hearing, the inmate will be allowed to speak in his/her own behalf and submit evidence as allowed in Section VI. G. 4 through VI. G. 7.
- g. At the conclusion of the hearing, the Hearings Officer will deliberate and determine whether a violation has occurred. The Hearings Officer may postpone the rendering of a decision for a reasonable period of time, not to exceed three (3) days, for the purpose of reviewing the evidence and/or to consider the sanction(s) to be recommended.

291-105-046

2. Findings:

a. No Violation:

The Hearings Officer may find that the inmate did not commit the violation charged, in which case the inmate will be restored to the same status and privileges as before he/she was charged, and the report shall be processed with final action subject to the functional unit manager's review. The findings must be on the merits, and technical and clerical errors in the writing and/or processing of the misconduct report shall not be grounds for dismissal unless

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there is prejudice to the inmate.

b. Violation:

The Hearings Officer may find that the inmate did commit the violation charged, in which case, the Hearings Officer will so inform the inmate. The inmate shall be afforded the opportunity to make a statement regarding the nature of the sanction to be imposed. At the conclusion of the hearing, the inmate shall be informed of the recommended action. The Hearings Officer, or the full Committee if so designated by the functional unit manager, may recommend a sanction and the report shall be processed and recorded with final action subject to the functional unit manager's review.

c. Dismissal:

The Hearings Officer may recommend dismissal of a misconduct charge without entering a finding if he/she determines the charge is a part of a disciplinary violation arising out of the same misconduct, if there is insufficient evidence to adequately demonstrate the alleged violation, or corrective action using less formalized procedures would be more appropriate.

291-105-051

3. Recommendations - Formal Disciplinary Hearing:

Upon the finding of violation by the Hearings Officer, the Hearings Officer and/or the Disciplinary Committee may recommend any of the following sanctions:



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- a. Issue a reprimand to the inmate including delineation of expected future conduct.
- b. Restrict specific privilege(s) for a period not to exceed six (6) months with written instruction as to the length of restriction and precisely which privilege(s) are restricted.
NOTE: Misconduct arising in relationship to an inmate's visiting privileges will be referred for disposition in accordance with the Corrections Division "Rule Governing Visiting".
- c. Temporary or permanent change in programming (i.e., work assignment, housing, educational plan, eligibility for meritorious awards, or any other facet of specific programming).
- d. Confiscation of contraband and/or unauthorized property.
- e. Restitution for damages associated with and/or resulting from the misconduct.
- f. Placement of the inmate in segregation status giving credit for time served as appropriate and set a maximum period the inmate will remain in segregation status using the process outlined in Attachment 2.
- g. Modification of the inmate's statutory release date by reducing the allowance of Good Time reported to the Administrator of Corrections in accordance with the Corrections Division "Rule Governing Sentence Computation".
- h. Extension of the inmate's parole release date pursuant to

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the Corrections Division "Procedural Statement Governing Reports to the Parole Board and Recommendations to Modify Parole Release Dates."

i. Suspend imposition of all or part of any of the above, informing the inmate of expected conduct to avoid imposition.

h. Any combination of a. through i. above.

291-105-056

G. Inmate Rights:

1. Hearing:

- a. An inmate shall be entitled to a hearing whenever a misconduct report has been filed against him/her, except that no hearing shall be required for imposition of a disciplinary sanction based upon a criminal conviction for conduct occurring during the period of an inmate's penal custody.
- b. An inmate receiving a Minor misconduct report shall not receive a formal hearing unless he/she specifically requests a formal hearing, if he/she denies violation of rule(s) as charged, or requests any of the rights afforded him/her in a formal hearing.

2. Waiver of Hearing:

- a. In all cases, the inmate shall have the right to waive his/her right to a hearing. An inmate waiving his/her right to a hearing on a Minor misconduct report shall be



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given a sanction which shall be immediately imposed by the Disciplinary Adjudicator.

b. An inmate waiving his/her right to a hearing on a Major misconduct report shall have his/her case reviewed on its merits by the Hearings Officer in accordance with the procedures outlined herein.

c. If an inmate declines or refuses to appear for a hearing, the Hearings Officer may regard such refusal as a tacit waiver of hearing, and review the inmate's case in accordance with the procedures outlined herein.

3. Notice of Hearing:

a. The inmate shall be given written notice of the hearing not less than twenty-four (24) hours prior to the hearing.

b. The notice shall include a statement of the inmate's rights with respect to the hearing, as prescribed in Attachment 3.

c. Inmates appearing at an informal hearing who request a formal hearing or deny the rule violation(s) charged shall not be provided additional Notice of Hearing; their initial Notice of (informal) Hearing shall suffice and they will be scheduled for a formal hearing as soon as practicable.

4. Representation:

a. In all cases, the inmate is entitled to:

(1) speak in his/her own behalf.

(2) be present at all evidentiary stages of the hearing process, except when the Hearings Officer finds that



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to have the charged inmate present would present an immediate threat to facility security. The reason(s) for the finding shall be part of the record.

- b. Assistance by a staff member, inmate, or other person approved by the Disciplinary Adjudicator or Hearings Officer will be ordered in cases where it is found that assistance is necessary based upon language barriers and/or competence and capacity of the inmate to prepare a defense, to understand the charge or surrounding facts, and rights available to him/her.

291-105-052

5. Investigation:

In formal hearings, the inmate has a right to request that an investigation be conducted. A designee of the Hearings Officer shall conduct the investigation.

- a. An investigation shall be conducted upon the inmate's request if taken in the light most favorable to the inmate, the information sought, together with reasonable inferences to be drawn from the information, would constitute a defense to the charge or mitigate the violation, and the information sought is within the ability of the facility to procure.
- b. The Disciplinary Adjudicator or Hearings Officer may order an investigation on their own motion.
- c. The Disciplinary Adjudicator or Hearings Officer shall allow the inmate access to the results of the investigation



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unless disclosure of the investigative results would constitute a threat to the safety and security of the Corrections Division facility. The reason(s) for nondisclosure shall be made a part of the record.

291-105-061

6. Witnesses:

Inmates participating in a formal hearing have the right to call witnesses to testify before the Hearings Officer.

Witnesses may include inmates, staff or other persons.

- a. If witnesses are to be called, the inmate will develop a list of witnesses and questions to be posed to each witness.
- b. The inmate shall not have the right to cross-examine or directly pose questions to any witness.
- c. The Hearings Officer may exclude a specific inmate or staff witness upon finding that the witness' testimony sought, if taken in the light most favorable to the inmate, together with the reasonable inferences to be drawn from that testimony, would not constitute a defense to the charge or mitigate the violation, or the witness' appearance would present an immediate undue hazard to facility security. If a witness is excluded, the reason(s) shall be made a part of the record.
- d. The Hearings Officer may exclude other persons as witnesses upon finding that their testifying is unduly hazardous to facility security, not reasonably available, or would not

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assist in the resolution of the disciplinary action. The reason for exclusion shall be made part of the record.

- e. An inmate witness shall have the right to refuse to testify.
- f. Persons other than inmates or staff requested as witnesses shall have the right to refuse to appear and/or testify.
- g. The Hearings Officer may, on his/her own motion, call witnesses to testify.
- h. All questions which may assist in eliciting evidence that, if taken in the light most favorable to the inmate, together with the reasonable inferences to be drawn from that evidence, would constitute a defense to the charge or mitigate the violation shall be posed. The reason for not posing a question will be made part of the record.

291-105-063

7. Evidence:

- a. Inmates participating in a hearing shall have the right to present documents/physical evidence during the hearing.
- b. The reporting staff members or other agents of the Corrections Division who are knowledgeable of the rule violation may submit documents/physical evidence in advance of the hearing.
- c. The Hearings Officer may exclude documents/physical evidence upon making a finding that such evidence would be unduly hazardous to facility security or will not assist in the resolution of the disciplinary proceeding. The reason for exclusion shall be made part of the record.



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- d. The Adjudicator or Hearings Officer may classify documents/physical evidence as confidential upon making a finding that revealing such would constitute a threat to the safety and security of a facility, informant(s), or interfere with an ongoing official investigation. The reason for classifying documents/physical evidence as confidential shall be made part of the record.
- e. If new nonconfidential documentary evidence is presented at the hearing, the inmate will be given reasonable time to prepare a defense, if he/she so requests.

291-105-064

8. Postponement:

- a. A hearing may be postponed by the Hearings Officer for good cause and for reasonable periods of time.
- b. "Good cause" includes, but is not limited to:
- (1) preparation of defense;
 - (2) illness or unavailability of the inmate charged;
 - (3) gathering of additional evidence (e.g., calling of witnesses, investigation, acquisition of physical evidence); and/or
 - (4) avoiding interference with ongoing police investigation or pending prosecution.
- c. The reason for the postponement shall be stated on the record.
- d. The Hearings Officer may continue a hearing for reasons stated in b. above. If an inmate has been lodged in

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temporary segregation status pending a hearing and the Hearings Officer determines (at the time the continuance is ordered) that the inmate no longer presents a threat to security, the Hearings Officer may recommend to the functional unit manager that the inmate be released from segregation pending conclusion of the hearing.

- e. If an inmate was placed in temporary segregation status and his/her hearing is postponed on motion of the Hearings Officer, the Hearings Officer shall forward a recommendation to the functional unit manager that the inmate's continuance in segregation be dealt with in accordance with the Corrections Division "Rule Governing Institutional Administrative Segregation of Inmates". If the hearing is continued at the request of the inmate, no such recommendation shall be made unless requested by the inmate.

291-105-066

9. Formal Hearing Record:

The record of the formal hearing shall include:

- a. misconduct report;
- b. notice of hearing and rights;
- c. transcript or recording of hearing;
- d. supporting material;
- e. "Finding of Fact, Conclusion, and Recommendation" of Disciplinary Committee; and
- f. "Order" of the functional unit manager. This element will



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not become a part of the record until the process described
in VI. G. 10. is completed.

291-105-363

10. Processing of the Formal Hearing Record:

- a. A verbatim recording shall be made.
- b. Within ten (10) days from the conclusion of the hearing, the Hearings Officer shall prepare and submit to the functional unit manager a "Finding of Fact, Conclusion, and Recommendation," containing a summary of the inmate's statement and reasons for the recommendation.
- c. Formal hearing records prepared on inmates who committed misconduct while on temporary leave from the Corrections Division Release Center will be forwarded by the Hearings Officer to the Chief of Release Services for review and signature.
- d. Within five (5) days of the receipt of the "Finding of Fact, Conclusion, and Recommendation," the functional unit manager, or his/her designee, shall review said document and enter his/her "Order," which may;
 - (1) affirm the recommendation; or
 - (2) modify the recommendation; or
 - (3) reverse the recommendation; or
 - (4) increase the sanction recommended by the Disciplinary Committee.
 - (5) When the functional unit manager takes action to modify, reverse, or increase a sanction he/she must



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state, in writing, his/her reasons and immediately notify the inmate, the Hearings Officer/Disciplinary Committee, and the reporting employee of his/her action and reason(s). When the functional unit manager takes action to increase a sanction, the increase may not be more than twice the limitation(s) outlined in

Attachment 2.

- e. Within five (5) days of the entry of the functional unit manager's "Order," the inmate shall receive a copy of the "Finding of Fact, Conclusion, and Recommendation," the functional unit manager's "Order," and notice of the inmate's right of appeal, if any.
- f. In those instances in which a violation is found, a copy of the misconduct report, "Finding of Fact, Conclusion, and Recommendation," and the functional unit manager's "Order," shall be placed in the inmate's official Corrections Division record and may be provided to the Parole Board, if appropriate, pursuant to the Corrections Division "Procedural Statement Governing Reports to the Parole Board and Recommendations to Modify Parole Release Dates."

291-105-071

11. Appeal Rights:

- a. Upon being informed that he/she has been found in violation of a rule of conduct and of the resulting imposition of a disciplinary sanction or remedial program changes, an



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inmate shall have the right to submit a written appeal to the functional unit manager. Such appeal must be filed within fifteen (15) calendar days of the date the inmate is notified of the written decision of the Disciplinary Adjudicator, Hearings Officer, and/or Committee. Filing of an appeal will not stay the imposition of a sanction. The functional unit manager shall upon receipt of the appeal, review the case in terms of the following factors:

- (1) Was there substantial compliance with this rule?
- (2) Was the decision based on substantial evidence?
- (3) Was the sanction imposed proportionate to the offense and consistent with the provisions of this rule?

The functional unit manager will provide the inmate with a written decision within thirty (30) calendar days of his/her receipt of the inmate's appeal.

291-105-073

b. Judicial Review:

- (1) Any order which places an inmate in segregation and isolation status for more than seven (7) calendar days, and/or results in reprogramming of the inmate's probable release date (i.e., loss of statutory Good Time) is subject to review by the Court of Appeals.
- (2) Petitions for judicial review must be filed by the inmate with the Court of Appeals within thirty (30) days after the administration's "Order."
- (3) Upon the filing of a "Petition for Judicial Review," a

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hearing record of the challenged disciplinary action(s)
shall be prepared by the Attorney General's Office for
transmittal to the Court of Appeals and others as required
by ORS 421.195.

291-105-075 VII. IMPLEMENTATION:

This rule will be implemented immediately, without modification, by all
affected functional unit managers.

11-19-82
Date


ROBERT J. WATSON, Administrator

Supersedes "Rule Governing Inmate Prohibited Conduct, and Procedures for
Processing Disciplinary Actions" dated 4/15/80.

RJW:aw
Atts. (39410)
39290

3. If the hearings process results in a finding that none of the actions cited in "A" (above) are present in the inmate's conduct, but does find that one or more of the following aggravating factors are present in the inmate's conduct, a recommendation for placement of the inmate in segregation in excess of seven (7) calendar days, using the process outlined in "C" (below) to determine the term of confinement, may be made:

1. There was a substantial degree of hazard posed by the misconduct to facility security, good order, staff authority or property.
2. The circumstances and/or intent of the misconduct reflected premeditation, conspiracy, and/or significant disregard for the rights and property of others.
3. The timing and location of the misconduct enhanced the seriousness of the rule violation.
4. The inmate continued to behave in a noncooperative and/or antagonistic manner after the rule violation.
5. The inmate has repetitively demonstrated disregard for facility rules, policies and/or procedures.

- C. First, a Rule Violation Tendency Score must be computed using the following charts:

COMPUTATION SHEET
Rule Violation Tendency Score

Item: _____ Score: _____

Table 1: Prior Major Rule Violations:

No prior within 2 years	5
One prior within 2 years	4
Two prior within 2 years	3
Three prior within 2 years	2
Four prior within 2 years	1
Five or more prior within 2 years	0

SCORE

Table 2: Prior Terms in Segregation for Major Violations:

	Total Time Served (Calendar Days)			
	+90 Days	31-90 Days	8-30 Days	1-7 Days
No prior within 2 years	4	4	4	4
One prior within 2 years	0	1	2	3
Two prior within 2 years	0	0	1	2
Three prior within 2 years	0	0	0	1
Four or more within 2 years	0	0	0	0

SCORE

Total Table 1 & 2 = Rule Violation Tendency Score =

Maximum and Minimum Segregation Sanctions Pronounceable

RULE VIOLATION TENDENCY SCORE			
0-3	4-5	6-7	8-9
1 month	25 cs days	19 cs days	13 cs days
25 cs days	19 cs days	13 cs days	8 cs days

CLASSIFICATION CRITERIA FOR MAJOR AND
MINOR MISCONDUCT REPORTS

Major and Minor Misconduct Reports shall be assessed
according to the following guidelines:

RULES OF PROHIBITED CONDUCT

In all cases, the Disciplinary Adjudicator will consider the timing and location of the alleged rule violation(s), whether the alleged violation(s) constituted a serious threat to the well-being of another person and/or the safety and security of the institution. An additional factor that may be considered is whether or not the inmate charged has repetitively demonstrated a disregard for institutional rules, policies and procedures.

The Disciplinary Adjudicator shall consider all reports as minor unless the following factors are present:

1. DISRUPTIVE BEHAVIOR:

- a. Time and place enhanced the seriousness of the disturbance.
- b. Several inmates became involved.
- c. Disturbance continued after staff ordered inmates to stop.
- d. Occurrences or other acts of prohibited conduct took place during the disturbance.

2. UNAUTHORIZED ORGANIZATIONS:

Purpose for the organization, inmate club, or association constitutes a serious threat to the good order and/or security of the institution.

3. UNAUTHORIZED AREA:

- a. Offense occurred beyond the security perimeter and/or involved flight or attempted flight into the larger community.
- b. Inmate was present in an area which could have resulted in harm to another person (i.e., another inmate's cell or area restricted to staff only).

4. ASSAULT:

- a. Serious injury was sustained by those involved (i.e., cuts, broken bones, major bleeding).
- b. Assault was unprovoked.
- c. Timing and location enhanced the seriousness of the offense.
- d. Inmate did not cease and desist when so ordered.
- e. More than two inmates were involved.

5. UNAUTHORIZED POSSESSION OF PROPERTY:

Possession of property constituting a substantial loss to another person or the institution.

6. DESTRUCTION OF PROPERTY:

- a. Repair or replacement costs exceeded \$50.00.
- b. Extensive amount of staff time was required to correct the situation.

7. POSSESSION, MANUFACTURE, OR USE OF DANGEROUS CONTRABAND:

Possession, manufacture or use of the contraband in question constitutes a substantial threat to the security, safety, and/or good order of the institution.

8. SEXUAL ACTIVITY:

- a. Intercourse.
- b. Kissing, fondling, and/or manipulation of the private parts of another person.
- c. Intentional exposure of the genitalia to another person.

9. DISRESPECT TO ANOTHER:

- a. Timing and location enhanced the seriousness of the offense.
- b. The inmate persisted in acting in an abusive manner when told to stop.
- c. Inmate made threats of bodily harm to another person.

10. DISOBEDIENCE OF AN ORDER:

- a. Overt, verbal refusal to follow a valid order.
- b. Timing and location enhanced the seriousness of the disobedience.

11. FALSE STATEMENTS TO STAFF:

False statement resulted in serious consequences to the well-being of another person or resulted in a serious threat to the security of the institution.

12. GAMBLING:

Any gambling activity which poses a substantial threat to the safety, good order, and/or security of the institution.

13. CONSPIRACY:

Will be dealt with in accordance with guidelines set forth for the rule which the inmate conspired to violate.

14. ATTEMPT:

Will be dealt with in accordance with guidelines set forth for the rule which the inmate attempted to violate.

ATTACHMENT II

An inmate may not be placed in segregation for disciplinary reasons, except when the inmate is placed in segregation status pending a hearing because he/she may have committed a rule violation so serious that good order and security requires immediate removal, unless all other disciplinary sanctions have been specifically considered and found to be, individually and in combination, inadequate to the seriousness of the misconduct.

- A. If the Hearings Officer finds that an inmate committed a rule violation involving any of the following actions, the Hearings Officer shall recommend imposition of the following sanctions:

<u>ACTION</u>	<u>SANCTION</u>
1. Assaulting or conspiring or attempting to assault another person using deadly force resulting in, or that may result in serious physical injury.	No more than 1 year segregation
2. Assaulting, conspiring or attempting to assault a staff member without the use of deadly force.	No more than 9 months segregation
3. Assaulting, conspiring or attempting to assault another inmate (non-mutual fight).	No more than 9 months segregation
4. Engaging in a disturbance or promoting or advocating the creation of a disturbance.	No more than 1 year segregation
5. Possession of, conspiring or attempting to possess a deadly weapon.	No more than 6 months segregation
6. Escape, conspiring or attempting to escape from inside the security perimeter of a Corrections Division facility.	No more than 6 months segregation 
7. Possessing, trafficking or introducing or conspiring or attempting to possess, traffic, or introduce dangerous contraband.	No more than 3 months segregation

D. Anytime an inmate is placed in segregation for fourteen (14) or more days, forfeits Good Time, or accumulates ten (10) major misconduct reports within six (6) months, and the sanction is approved, a recommendation shall be forwarded to the Parole Board in accordance with the Corrections Division "Procedural Statement Governing Reports to the Parole Board and Recommendations to Modify Parole Release Dates," with or without a recommendation to extend the inmate's parole release date.

8. Subject to the provisions of the Corrections Division procedures for processing disciplinary actions, a Formal Disciplinary Hearing will be conducted before an impartial Hearings Officer or Disciplinary Committee composed of not more than three (3) impartial persons appointed by the functional unit manager; neither the Hearings Officer nor the Committee members shall or will have participated in the case as a charging, investigating, or reviewing officer, nor will any person serve as Hearings Officer nor Committee member who was a witness to the commission of the alleged conduct or has personal knowledge of any disputed, material fact related to the case; you will be given an opportunity to exercise the rights provided you in a Formal Disciplinary Hearing; a recording will be made of the proceedings; and at the hearing, it may be decided that you did violate the rule(s) you are alleged to have violated and appropriate sanctions recommended, or did not violate the rule(s) you are alleged to have violated, in which case dismissal of the charge(s) will be recommended or dismissal may be recommended based on other specified considerations. If you are found in violation of a rule of prohibited conduct at a Formal Hearing, an entry will be made on your Conduct Record and therefore, may be considered in making program decisions concerning you.

9. If you are found in violation of a rule of prohibited conduct at a Formal Hearing, one or more of the following sanctions may be recommended: Verbal warning and reprimand; restriction of privileges not to exceed six (6) months; temporary or permanent change in programming; confiscation of contraband and/or unauthorized property; restitution for damages; assignment to Segregation status (credit for time served must be provided); modification of your statutory release date; extension of your Parole Release Date; suspension of the imposition of all or part of any of the foregoing with instructions to you of your expected conduct to avoid imposition; or any combination of the above.

10. INMATE RIGHTS:

- a. Hearing: An inmate is entitled to a hearing whenever a Misconduct Report has been filed against him/her.
- b. Waiver of Hearing: An inmate has the right to waive his/her right to a hearing. If the inmate waives his/her right to a hearing, sanctions will be imposed/recommended based upon the merits of the misconduct report.

If an inmate declines or refuses to appear for a hearing, the Hearings Officer may regard such refusal as a tacit waiver of hearing, and review the inmate's case in accordance with the procedures outlined in the rule.

- c. Notice of Hearing: An inmate shall be given written notice of his/her hearing not less than twenty-four (24) hours prior to the hearing. The notice shall include a statement of the inmate's rights with respect to the hearing. Inmates may waive their right to a twenty-four (24) hour notice. Inmates appearing before the Disciplinary Adjudicator who request a Formal Hearing, request any of the rights that they have in a Formal Hearing, or who deny the violation, will be rescheduled for a Formal Hearing as soon as possible. An additional Notice of Hearing shall not be provided.
- d. Representation: In all cases, an inmate is entitled to speak in his/her behalf and to be present at all evidentiary stages of the hearing process except where it is found that to have him/her present would present an immediate threat to institutional security. Assistance by a staff member, inmate or other person approved by

II. APPEAL RIGHTS.

- a. Superintendent: When an inmate is informed that he/she has been found in violation of a rule of prohibited conduct and of the sanctions or remedial program changes to be imposed/recommended, he/she has the right to submit a written appeal to the superintendent/functional unit manager. The appeal must be filed within fifteen (15) days of the date the inmate is notified of the written decision. The filing of an appeal will not stay the imposition of a sanction. The superintendent, upon receipt of the appeal, shall review the case in terms of the following questions: Was there substantial compliance with the Corrections Division procedures for processing disciplinary actions; was the decision based on substantial evidence; was the sanction imposed proportionate to the offense and consistent with the provisions of the Corrections Division procedures for processing disciplinary actions? The superintendent will provide the inmate with a written decision within thirty (30) days of his/her receipt of the inmate's appeal.
- b. Judicial Review: Any order which places an inmate in Segregation status for more than seven (7) days and/or provides for reprogramming of the inmate's probable release date (i.e., loss of statutory Good Time) is subject to review by the Court of Appeals. Petitions for Judicial review must be filed by the inmate within thirty (30) days after the superintendent's "Order."

CORRECTIONS DIVISION
MISCONDUCT REPORT

Violated: _____ Inmate Name: _____ Inst. #: _____
(Last) First
#: _____ Title _____ Housing Unit _____ Assignment _____
#: _____ Title _____ Date of Violation: _____, 19 _____
Location of Violation _____ Time of Violation _____ : (a.m./p.m.)

Description of Misconduct (Explain who, what, when, where and how):

Reporting Employee _____ Names of Staff Witnesses (if any): _____
Title: _____
Work Assignment: _____
Date Report Submitted: _____ Time: _____ (a.m./p.m.)
Disposition of Physical Evidence: _____
Immediate Action Taken: _____
(Including Use of Physical force; Assignment to Segregation)

Placed in Holding Status

As Officer-in-immediate-charge, I have reviewed the foregoing report of misconduct and find that the rule violation(s) are of such a serious nature that the good order and security of the facility require immediate removal and placement in segregation status because:

DATE (a.m./p.m.) OF PLACEMENT: _____ SIGNATURE: _____
DELIVERED TO INMATE BY: _____ At _____
SIGNATURE TIME (a.m./p.m.)
DATE: _____



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ADMINISTRATIVE SEGREGATION OF INMATES

291-46-005

I. AUTHORITY:

Pursuant to ORS 179.040, the Corrections Division shall make and adopt rules, not inconsistent with law, for the guidance of the Division and for the government of the institutions.

Pursuant to ORS 423.060, the Administrator of the Corrections Division shall promulgate rules for the administration of the Division, its institutions, schools, programs, and services.

II. PURPOSE:

The purpose of this rule is to provide a method to administratively segregate inmates who (1) constitute a continuing and/or immediate threat to the safety and security of the institution; (2) are sentenced to death; or (3) request protective custody.

III. APPLICABILITY:

This rule applies to every inmate confined in an Oregon State Corrections Division institution and to all staff responsible for administering this rule.

IV. POLICY:

As authorized by ORS 179.040(2)(b), which empowers divisions to "perform all legal and peaceful acts requisite and necessary for the successful management and maintenance of the institutions within its jurisdiction", and ORS 421.105(1) and (2), which provide that the superintendents may enforce obedience



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with policy, rule, or procedural statement, during periods when the superintendent or officer-of-the-day are not readily available.

- D. Probable Cause: An apparent state of facts found to exist upon reasonable inquiry which would induce a reasonably intelligent and prudent person to believe that another person or persons has or may be in the process of violating the capability of the Corrections Division to maintain proper supervision of its clients or the security of its facilities.
- E. Special Security Housing: Housing separate and apart from the general population, including facilities, rooms, or cells specifically designed for segregation purposes.

VI. PROCEDURES:

A.

291-46-015

1. Inmates Sentenced to Death:

- a. An inmate sentenced to death will be assigned to administrative segregation status upon reception to the institution without a hearing.

291-46-020

2. Protective Custody:

- a. An inmate may be placed in administrative segregation for protective custody without a hearing only when:
 - (1) he/she consents in writing;



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- (2) there is substantial evidence that protective custody is warranted;
- (3) there is no reasonable alternative available; and,
- (4) the superintendent, or his/her designee, authorizes such an assignment.

291-45-025

3. Involuntary Assignment:

- a. An inmate may be involuntarily assigned to administrative segregation for a period not to exceed three (3) working days by order of the superintendent, or his/her designee, only when the superintendent believes there is probable cause, as defined in this rule, that immediate assignment is necessary to protect the security of the institution or others.
- b. An inmate may be involuntarily assigned to administrative segregation for a period in excess of three (3) working days only when information verified through the hearings process, outlined in this rule, shows the inmate to constitute an immediate and continuing threat to the safety and security of the institution, its staff, visitors, or other inmates.

6. Hearings Process:

- 1. Each inmate placed involuntarily in administrative segregation will receive a hearing as described below,



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- prior to placement, or within three (3) working days, if he/she is placed in administrative segregation without a hearing as permitted in Section VI, A.3.a. of this rule. It is the responsibility of each superintendent to notify the hearings officer of the need for a hearing and to provide him/her with a report containing the factual allegations justifying such action, including a recommendation for length of stay.
2. The hearing shall be conducted by the institution hearings officer, or other person trained in the hearings process, in the event the institution hearings officer is unavailable.
 3. The hearings officer shall not have participated in the case as a charging, investigating or reviewing officer. Further, no person shall serve as a hearings officer who was a witness to the allegations or has personal knowledge of any disputed material fact relating to the case being heard.
 4. The hearings officer may pose questions during the hearing.
 5. The evidence considered by the hearings officer will be of such reliability as would be considered by reasonable persons in the conduct of their affairs.
 - a. When unidentified informant testimony is presented to the hearings officer, the identity of the



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informant or the statement of the informant, or both, shall be revealed to the hearings officer.

b. Information must be submitted to the hearings officer upon which the hearings officer can find that the informant is reliable in the case at issue.

6. At the hearing, the inmate will be allowed to speak in his/her own behalf and submit evidence as allowed in this rule.

7. At the conclusion of the hearing, the hearings officer will deliberate and determine whether the factual allegations support placement of the inmate in administrative segregation. The hearings officer may postpone the rendering of a decision for a reasonable period of time, not to exceed three (3) days, for the purpose of reviewing the evidence.

291-46-035

8. Findings:

a. No Justification:

(1) The hearings officer may find that the factual allegations do not support placement in administrative segregation, in which case the hearings officer will recommend the inmate remain in general population status with all rights and privileges of that status. The



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report shall be processed with final action subject to the Administrator's review. The findings must be on the merits and technical and clerical errors in the writing and/or processing of the factual allegations shall not be grounds for dismissal, unless there is prejudice to the inmate.

b. Justification:

The hearings officer may find the factual allegations do support placement in administrative segregation, in which case the hearings officer will so inform the inmate, and recommend the inmate be assigned to administrative segregation status for a specified period of time, as recommended by the superintendent. The report shall be processed and recorded with final action subject to the Administrator's review.

291-46-040

9. Notice of Hearing:

- a. The inmate shall be given written notice of the hearing, by the hearings officer, not less than twenty-four (24) hours prior to the hearing.
- b. The notice shall include a statement of the inmate's rights with respect to the hearing.



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291-46-045

10. Representation:

a. In all cases, the inmate is entitled to:

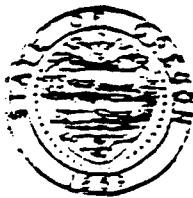
- (1) Speak in his/her own behalf;
- (2) be present at all evidentiary stages of the hearing process, except when the hearings officer finds that to have the charged inmate present would present an immediate threat to institutional security. The reason(s) for the finding shall be part of the record.

b. Assistance by a staff member, inmate, or other person approved by the hearings officer will be ordered by those individuals in cases where it is found that assistance is necessary based upon language barriers and/or competence and capacity of the inmate in relation to the factual allegations.

291-46-050

11. Investigation:

The inmate has a right to request that an investigation be conducted. If an investigation is ordered, a designee of the hearings officer shall conduct the investigation. No person shall serve as an investigator who has participated in the case as a charging, reviewing officer, or who was a witness to the allegations or has personal knowledge of any disputed material fact relating to the case being heard.



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- a. An investigation shall be conducted upon the inmate's request if an investigation will assist in the resolution of the proceedings and the information sought is within the ability of the institution to procure.
- b. The hearings officer may order an investigation on his/her own motion.
- c. The hearings officer shall allow the inmate access to the results of the investigation unless disclosure of the investigative results would constitute a threat to the safety and security of the institution.

291-45-055

12. Witnesses:

Inmates have the right to call witnesses to testify before the hearings officer. Witnesses may include inmates, staff, or other persons.

- a. If witnesses are to be called, the inmate, prior to the hearing, must develop a list of witnesses and questions to be posed to each witness. The inmate shall bring the list of questions and witnesses to the hearing.
- b. The inmate shall not have the right to cross-examine or directly pose questions to any witness.
- c. The hearings officer may exclude a specific inmate or staff witness upon finding that the witness testimony would not assist in the resolution of



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the proceeding, or presents an immediate undue hazard to institutional security. If a witness is excluded, the reason(s) shall be made a part of the record.

- d. The hearings officer may exclude other persons as witnesses upon finding that their testifying is unduly hazardous to institutional security, not reasonably available, or would not assist in the resolution of the action. The reason(s) for exclusion shall be made part of the record.
 - e. An inmate witness shall have the right to refuse to testify.
 - f. Persons other than inmates or staff requested as witnesses shall have the right to refuse to appear and/or testify.
 - g. The hearings officer may, on his/her own motion, call witnesses to testify.
 - h. All questions which will assist in the resolution of the proceeding, as determined by the hearings officer, shall be posed. The reason(s) for not posing a question will be made part of the record.
13. Evidence:
- a. Inmates shall have the right to present documents/physical evidence during the hearing.



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- b. The reporting staff member or other agents of the institution, who are knowledgeable of the factual allegations, may submit documents/physical evidence in advance of the hearing.
- c. The hearings officer may exclude documents/physical evidence upon making a finding that such evidence would be unduly hazardous to institution security or will not assist in the resolution of the proceeding. The reason for exclusion shall be made part of the record.
- d. The hearings officer may classify documents/physical evidence as confidential upon making a finding that revealing such would constitute a threat to the safety and security of the institution. The reason(s) for classifying documents/physical evidence as confidential shall be made part of the record.

291-46-065

14. Postponement:

- a. A hearing may be postponed by the hearings officer for "good cause" and for reasonable periods of time.
- b. "Good cause" includes, but is not limited to:
 - (1) Preparation of defense; and/or
 - (2) illness or unavailability of the inmate charged;



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(3) gathering of additional evidence;

(4) avoiding interference with ongoing police
investigation or pending prosecution.

c. The reason(s) for the postponement shall be stated
on the record.

291-46-070

15. Hearing Record:

a. Upon completion of a hearing, the hearings officer
shall prepare a hearing record within ten (10) days
following conclusion of the hearing for transmittal
to the Administrator.

b. The record of the formal hearing shall include:

- (1) Factual allegations;
- (2) notice of hearing and rights;
- (3) transcript of recording of hearing;
- (4) supporting material; and,
- (5) "Finding-of-Fact, Conclusion, and Recommendation"
of hearings officer.

291-46-075

C. Administrator's Review:

1. The results of any hearing held to involuntarily place
an inmate in administrative segregation status will be
reviewed and approved by the Administrator.
2. The Administrator shall review the case, using the
hearing record described above, in terms of the
following factors:



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- a. Was there substantial compliance with this rule;
 - b. was the decision based on substantial evidence;
 - c. was the sanction imposed proportionate to the
factual allegations and consistent with the pro-
visions of this rule?
3. Within five (5) days of the receipt of the hearing record,
the Administrator, or his/her designee, shall review said
document and enter his/her "Order", which may:
- a. Affirm the recommendation;
 - b. modify the recommendation;
 - c. reverse the recommendation; or,
 - d. increase the sanction recommended.
- d. When the Administrator takes action to modify,
reverse, or increase a sanction, he/she must state,
in writing, his/her reason(s) and immediately
notify the inmate, the hearings officer, and the
superintendent of his/her action and reason(s).

291-46-080

D. Provision of Basic Services and Programs:

1. Each inmate in administrative segregation will be eligible
for the same basic services and program opportunities,
in compliance with current ACA standards, as all other
inmates in the general population.



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2. Basic services and programs may be denied, and/or the manner and circumstances by which services and/or programs are provided may vary from the manner and circumstances by which programs and/or services are provided those in the general population, if the provision of services and/or programs in a routine manner or circumstance would cause an immediate and continuing threat to the security of the institution, or the safety of its staff or others.
3. The officer-in-immediate-charge, as defined in this rule, may temporarily deny or withhold a basic service or program previously granted to an inmate in administrative segregation if there is probable cause to believe the security of the institution, its staff, or others are in immediate danger; however, all such actions must be reported to the superintendent and either affirmed or denied by him/her the following work day. No basic program or service will be permanently withheld without the expressed approval of the superintendent.
4. Inmates in administrative segregation may be given special security housing and may not be permitted out of their assigned cell/room except when in actual custody of a staff member. Restraints may be used at the discretion of the superintendent.



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a copy given to each inmate with whom the plan is developed, updated as required by this rule, and relate to the original reason for placement in administrative segregation.

- c. To coordinate this process, each superintendent will appoint a three (3) member committee, composed of security and program staff, with one member designated as chairman, to monitor and recommend to the superintendent revisions in each inmate's program plan.
 - d. Staff members selected to work with these inmates will be mature, tolerant, well educated, highly skilled, and have an interest and desire to work with this type of inmate.
 - e. Inmates assigned involuntarily to administrative segregation status will be interviewed, and program change considerations made, at least once every thirty (30) days.
4. Psychological Assessments:
- a. If the period of assignment to administrative segregation exceeds thirty (30) days, regardless of the reason for assignment, a psychological assessment will be made by psychological staff and the results provided to the superintendent at least every three (3) months.



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ADMINISTRATIVE SEGREGATION OF INMATES

291-46-095

F. Implementation:

This rule will be implemented immediately, without modification, by all affected functional unit managers.

5/30/80
Date

Robert J. Watson
ROBERT J. WATSON
Administrator of Corrections

This rule supercedes Rule Governing the Institutional Administrative Transfer and/or Institutional Administrative Segregation of Inmates, dated 12/29/78.

RJW:aw



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291-46-095

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Robert J. Watson
ROBERT J. WATSON
Administrator of Corrections

This rule supercedes Rule Governing the Institutional Administrative Transfer and/or Institutional Administrative Segregation of Inmates, dated 12/29/78.

RJW:aw

cc. ✓ Key House

CENTRAL NEW MEXICO CORRECTIONAL FACILITY

A F F I D A V I T

11-5-805

I, DARELD L. KERBY, being duly sworn, as Warden of the Central New Mexico Correctional Facility, Corrections Department, State of New Mexico, do hereby make the following statement:

(1) That I have over fifteen (15) years experience in the field of corrections with experience in three (3) other state departments of corrections in both security and program capacities;

(2) That, except for the State of New Mexico, the possession of a weapon or a sharpened instrument was considered a major rule violation in the States of Iowa, Nebraska and Arkansas, and also punishable by law;

(3) That the stringent sanctions associated with the possession of a sharpened instrument had a direct impact on the number of sharpened instruments found within the facilities where I was employed;

(4) That in the Iowa Department of Corrections, at the Iowa State Penitentiary, the possession of sharpened instruments increased dramatically from 1969 to 1974. During this time, several inmates were stabbed to death and a correctional captain and correctional officer were also stabbed to death. From 1974 through 1979, there was a noticeable decrease in the number of sharpened instruments in the possession of inmates and no employees were killed. In 1974, a more stringent sanction for possession of a sharpened instrument was instituted. The sanction implemented was ten (10) days in isolation followed by up to one-hundred and eighty (180) days administrative segregation with review every thirty (30) days thereafter, cancellation of the inmate's honor contract and loss of good time to include all accumulated good time, EXHIBIT "B" TO MEMORANDUM IN SUPPORT OF DEFENDANIS' MOTION TO MODIFY THE MAXIMLM SECURITY POLICY STATEMENT OF THE CONSENT DECREE - Page 1 of 3 pages

which was not reinstated without the approval of the Director of Corrections, which occurred only in rare instances. In addition, stringent sanctions are still in place at the Penitentiary, the institution reserves the right to conduct a search of any area in the facility in which a weapon is found that may last up to three (3) working days without the declaration of an emergency status. Inmates are not paid for working during this time and may be confined to their cells;

(5) That in the State of Nebraska, the presence of sharpened instruments in their facilities was rare in 1979 and still reportedly remains rare at this time. The sanction for possession of a weapon or sharpened instrument in 1979 included fourteen (14) days to one (1) year of disciplinary segregation, potential loss of good time and classification to administrative segregation following the completion of the disciplinary sanction. In 1973, the sanction was changed to include fourteen (14) days to three (3) years of disciplinary segregation, potential loss of good time and possible classification to administrative segregation following the completion of the disciplinary sanction. In 1985, the sanction included: sixty (60) days disciplinary segregation, potential loss of good time and placement in Intensive Management Segregation in the Nebraska State Penitentiary. The inmates placed in Intensive Management Segregation are reviewed every six (6) months; ✓

(6) That in the State Arkansas in 1979, the inmates found in possession of sharpened instruments could receive up to thirty (30) days disciplinary segregation, potential loss of good time, potential loss of good time earning potential and classification action, including assignment to administrative segregation status, which is reviewed every thirty (30) days; ✓

(7) That at the Central New Mexico Correctional Facility, there has been found a total of forty-four (44) sharpened instruments that could have caused death or serious injury in the cells or on the person of inmates at this facility. From July, 1983, to January, 1984, eight (8) instruments were found in the possession of inmates. From January, 1984, to January, 1985, a total of twenty (20) sharpened instruments were found in the possession of inmates. From January, 1985, through June, 1985, seventeen (17) sharpened instruments were found in the possession of inmates. This indicates an increase in the number of sharpened instruments found in the cells or on the person of inmates at this facility. ✓

(8) That from July, 1983, through June, 1985, a total of fifty-one (51) sharpened instruments that could have caused serious bodily injury or death have been found in the common areas of the housing units or within the compound, including work areas;

(10) That seventy-one (71) inmates have requested and been placed in protective custody from June, 1983, through June, 1985; ✓

(11) That it has been my experience that there is a direct correlation between the severity of the sanctions for possession of sharpened instruments and in the reduction of the presence of those instruments in a correctional facility. In addition, the reduction of the presence of sharpened instruments within a correctional facility increases the safety of both inmates and staff.

7-2-85

DATE

Dareld L. Kerby
DARELD L. KERBY, WARDEN
CENTRAL N.M. CORRECTIONAL FACILITY

SUBSCRIBED AND SWORN To Before Me This 2nd Day of July, 1985.

MY COMMISSION EXPIRES

10-2-86

Stephen A. Mason
NOTARY PUBLIC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DWIGHT DURAN, et al.,

Plaintiffs,

vs.

No. CIV 77-721 JB

TONEY ANAYA, et al.,

Defendants.

AFFIDAVIT

Eloy L. Mondragon, being first duly sworn, deposes and says:

- 1) My name is Eloy L. Mondragon and I am the Warden of Southern New Mexico Correctional Facility, and I have held that position since May 1983.
- 2) Since I have been Warden at Southern New Mexico Correctional Facility, the staff at Southern New Mexico Correctional Facility has found in the institution 109 contraband instruments capable of causing death or serious bodily harm. ✓
- 3) Since I have been Warden at Southern New Mexico Correctional Facility, it has been necessary to provide protective custody status, either in this institution or at another institution for 73 inmates.

FURTHER AFFIANT SAYETH NAUGHT.

Eloy L. Mondragon
ELOY L. MONDRAGON

NOTARY: Subscribed and sworn to before me at Las Cruces, New Mexico this 26th day of June, 1985.

Signed

James A. Butera

Title

Notary Public
(Seal)

My commission expires

September 21, 1987