

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

BILLY SHAPLEY, et al.,

PLAINTIFFS

VS.

MICHAEL O'CALLAGHAN, et al.,

DEFENDANTS

CASE NO. CU-R-77-221-ECR

FOURTH PROGRESS REPORT

ON COMPLIANCE WITH

STIPULATED SETTLEMENT AGREEMENT

Shapley v. O'Callaghan



PC-NV-005-007

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INTRODUCTION

This is a class action which concerns certain conditions of confinement at the Nevada State Prison, a maximum security institution which is a part of the Department of Prisons, State of Nevada. The parties presented, and the Court approved, a Stipulated Settlement Agreement on August 19, 1983¹. As an integral part of the settlement, parties agreed to retain an independent auditor to observe and report upon compliance with the terms of this Agreement. The Auditor was instructed to prepare reports summarizing findings and evaluations three (3) times during the sixteen (16) month period of the Agreement.²

The First Progress Report was submitted to the Court and parties on May 11, 1984, and the Second Progress Report was submitted on October 25, 1984.

On the basis of observations and findings made in the first two Progress Reports, the Auditor concluded that the defendants would be unable to be in compliance with the Agreement by December 19, 1984. On the basis of the authority vested in the Auditor by the Court, the period of this Agreement was extended for an additional twelve months with termination on December 19, 1985³. The Third Progress Report was submitted on February 28, 1985. The report that follows is intended to apprise the Court of the defendants' state of compliance with all orders issued to date, and specifically covers the period of March 1, 1985, through September 30, 1985. A final report will be submitted prior to December 19, 1985.

The reader is again reminded that by the conditions of this Agreement, the defendants are required to act immediately to comply fully with the Consent Decree entered in the case of Craig vs. Hocker⁴. Since the provisions of Part I, A of the Craig vs. Hocker Agreement apply equally to the inmates of both protective custody and administrative segregation classes, this report will cover both groups under the administrative segregation section.

The format of the report will include the verbatim agreements; a discussion section which incorporates material gathered by the Auditor through review of reports, interviews of staff and inmates, and observations on site during three intensive visits to the prison; and a finding of fact relative to compliance with the Agreement.

AGREEMENT

Appendix I - Physical Facilities - Renovations

"Defendants shall:

1. Subject to appropriations:
 - (a) remodel the plumbing and electrical systems in both A and B blocks and refurbish the same.
2. Regardless of appropriations levels:
 - (a) repair or replace locking devices and systems in said cell blocks and abolish the use of padlocks in all cell blocks throughout the institution, and
 - (b) operate A and B blocks consistent with life/safety and public health codes.
3. In the event appropriations referred to in Paragraph (1) are not forthcoming, limit the population to the current occupancy of 103."

*is this
in
settlement?
yes* →

Discussion

Until this past summer the Nevada Legislature had not provided any appropriation for the remodeling of what is known as A and B blocks. The 1985-87 Capital Improvements Program, however, was funded in the amount of \$1,127,800, which will allow for the "replacement of antiquated plumbing, electrical fixtures and lines, new cell fronts and doors, new security windows and screens, new shower facilities, enlarged water storage capacity and miscellaneous improvements to provide 47 cells in A and B blocks meeting the standards of the American Correctional Association."⁵. With new funding available it will now be necessary to develop final working drawings, go out to bid and allow 12 to 18 months for construction. The defendants have deligently worked through the legislative funding process, but will not have the availability of (additional) cell space in A and B blocks until March, 1987, at the earliest.

*how many
total
cells?*

Regardless of appropriation levels, the defendants were to make certain improvements in this cell block and limit the occupancy to 103 inmates if continued use were to be made. During the reporting period the defendants have not exceeded the capacity

limit of 103 inmates.

All existing locking devices have been repaired and the use of padlocks on all doors has been discontinued. Several allegations have been made by inmates that padlocks are still in use. Each report has been carefully traced down and it has always been found that the padlock has been on a shower room or cell used as a storeroom. The defendants continue to use padlocks on the entrance gates to the various tiers and, in case of fire, this would be a dangerous practice. Procedures appear to call for only one key being available for these padlocks, which, in an emergency situation, could create serious delays in evacuating inmates from the tiers.

fire hazard

The defendants are also required to operate A and B blocks consistent with life/safety and public health codes. The most recent semi-annual fire and life safety inspection was conducted by E. L. Williams, Assistant State Fire Marshal, on August 30, 1985. (Appendix A). In this report the Fire Marshal only cited the following"

- ° Exposed wiring and uncovered electrical panels in shaftways. ✓
- ° Standpipes for 1½ " fire hose should be installed at both ends of the shaftway and preconnected with fire hoses. ✓

Items that have appeared in previous Fire Marshal's reports and have not been corrected, and others observed by the writer in recent inspections follow:

- ° Cells are overloaded with furniture, pasteboard boxes, wall hangings, curtains and clothing which collectively cause a serious fire hazzard.
- ° Windows are broken and, in some cases, frames have broken away from hinges. Few of the windows can be closed tightly.
- ° Extension cords provide energy to all types of electrical equipment far in excess of load limits.
- ° Fire extinguishers are not immediately available for use.
- ° Because of the building construction and high level of combustible materials in all cells, the lack of any smoke

detectors or sprinkling system should be addressed by the Fire Marshal and specific recommendations made.

- No emergency lighting.
- No provision for an alternate exit from the block in case a fire prevents use of regular exit.
- Continued use of plastic trash containers without any testing to determine if gas released by the burning of such containers would be toxic.
- Deadlocks on "A" Section need re-alignment.

The last fire drill was held on June 18, 1985, and all procedures were successfully carried out. The next fire drill will be held during the month of October. The Prison Safety Committee has inspected the entire institution each month and reported areas which appeared to be not in compliance with Fire and Life Safety codes.

Was it held?
yes

Findings of Fact

The defendants have repaired or replaced all locking devices and no longer use padlocks on cell doors. Padlocks are still used to lock tier doors.

Population has not exceeded 103 inmates during the reporting period.

Although numerous fire safety problems have been addressed, the general conditions found on A and B blocks do not currently comply with national fire and life safety codes.

(*)

AGREEMENT

Appendix I - Physical Facilities

"B. Capacity

1. Design Capacity is that capacity as designed equal to the number of inmates beds excluding infirmary beds. The current design capacity at N.S.P. is 418 plus 11 shortline beds.
2. Critical capacity is that level of safe operation for an extended period with some double-celling. Currently, critical capacity at N.S.P. is 514 plus 11 shortline beds.
3. Emergency capacity is that level of safe operation for no longer than a ninety (90) day period.
4. Future capacities shall adhere to these generic definitions.
5. Under no condition shall the emergency capacity be maintained beyond a ninety (90) day period.
6. Upon the conclusion of this agreement, recreational programs, staff, and other programs will be in place such that it will be unnecessary for inmates who are double-bunked to be confined in their cells more than twelve (12) hours daily, absent exigent circumstances."

Discussion

The Agreement calls for specific population limits on capacity design, critical and emergency levels. Since the Agreement was authorized by the Court there have been some changes in the capacity levels due to new construction, remodeling and the addition of space to house Federal prisoners. These figures have been communicated by the defendants to the Attorney General for negotiation with the plaintiffs. Unfortunately, no official action has been taken and for monitoring purposes the capacity levels in the Agreement must be used. Population at the prison has averaged as follows:

January, 1985	565
February, 1985	570
March, 1985	603
April, 1985	595
May, 1985	587
June, 1985	584
July, 1985	598

The critical capacity established by the Agreement was set

at 525 inmates, which would mean that the defendants have exceeded that capacity throughout the past six months. The Auditor knows that additional cells have been made available which would bring the prison within acceptable limits. This change in the Agreement, however, has not been approved by the plaintiffs, or legitimated by the Court. ✓ A

Appendix I also requires that recreational programs, staff and other programs will be in place such that it will be unnecessary for inmates who are double-bunked to be confined to their cells more than twelve hours daily.

Inmates are double-bunked as follows:

B Block	26 cells
Unit I	48 cells
Unit II	36 cells
Unit III	24 cells
Unit IV	24 cells

Careful review of program schedules and actual observations of inmate activities would indicate that inmates who are double-bunked in B Block, Unit II, Unit III and Unit IV are not confined to their cells for more than twelve hours daily. The inmates assigned to Unit I, which is a protective custody program, do not have out of cell time which meets the standards set by this Appendix. There is some variation of time out of cell depending upon the inmate's assignment to school or culinary. Inmates also received more tier time until mid-spring when this opportunity to remain out of one's cell was reduced dramatically. Counting all opportunities to program out of cells, an inmate in Unit I remains locked down in excess of twelve hours daily.

P.C.
inmates
not out >
12 hours

Much could be done to address this problem which would not require additional resources. Examples are:

- ° Increase tier time.
- ° Increase use of outdoor recreation yard.
- ° Increase use of gymnasium.

- Reduce time to take counts.
- Increase program activities through use of volunteers.
- Provide greater access to law library.

Findings of Fact

The defendants are probably in compliance with reasonable capacity limits, but, technically speaking, their current population exceeds that allowed by the Agreement. -?!

The defendants are not in compliance with the requirement that inmates who are double-bunked shall not be confined in their cells more than twelve hours daily, in so far as those inmates assigned to Unit I are concerned. ✓

AGREEMENT

Appendix II

Educational, Vocational, Work and Recreation Opportunities

"1. In accordance with the institutional classification process, each inmate shall be assigned a job, and/or the opportunity to participate in an educational, vocational, recreational, or physical educational program with reasonable equipment and facilities.

2. Consistent with the above, defendants agree:

(a) units 1 and 4 will have individual recreation yards.

(b) general population will be given greater gymnasium usage.

(c) N.S.P. shall offer an ABE, GED or high school diploma program to serve 80-120 inmates initially. In this regard, every effort will be made to develop this program through the Carson or other local or state school district.

(d) institute additional vocational programs. An industrial program evaluation will be conducted by the Federal Bureau of Prisons. This study will provide information for the implementation of the overall prison industrial program.

(e) establish Alcoholics Anonymous and substance abuse groups."

Discussion

Each inmate not assigned to restricted housing has the opportunity of a work, industry, educational, recreational or physical education program, although the number of assignments in industry, work and education are limited as to numbers and variety. To provide job assignments more inmates are placed in the culinary and laundry than the work stations require. Recreation equipment is limited and it does not appear that any planned events take place except as inmates independently develop them. There is an excellent gym, well equipped, and an additional recreation specialist was hired with funds made available in the 1985-87 fiscal year budget, which should markedly increase the use of this facility.

Specifically, the defendants have addressed the requirement of Appendix II as follows:

(a) An individual recreation yard was provided for Unit II (Protective Custody), but Unit IV, which is now a general

population unit, utilizes the large upper recreation yard with other general population inmates.

(b) General population has been given greater use of the gymnasium. Until July 1, 1985, the gym was open only five days a week, with a rotating schedule that allowed general population and protective custody use of this facility. With the acquisition of an additional recreation specialist (reported earlier as being made available through increased funding in the 1985-87 Fiscal Year budget), all inmates who are not assigned to restricted housing have 12½ hours of gym usage each week and every fourth week they have 15 hours of possible usage.

(c) The defendants, in conjunction with the Carson City School District, provide an ABE, GED or high school diploma program for approximately 90 to 100 inmates. The educational program is provided daily for both general population and protective custody inmates. Although the facilities barely meet minimal educational requirements, there is a healthy and constructive environment, with inmates working industriously and three certified teachers, assisted by inmate teachers, who appear to be providing sound basic educational skills.

In previous reports mention was made that the Fire Marshal had limited the capacity of the educational facility to 65 inmates and required a second exit from this second story facility. The Fire Marshal has now verbally corrected his earlier requirement and now states that the capacity shall not exceed 130 inmates, and that an exit into the old hospital section, and from there to the general floor via another staircase, will meet all fire requirements. The Auditor has requested that this position be put in writing to the Department of Prisons and that a specific evacuation route be established and marked ~~for use~~ if the primary exit is blocked by fire. } fire safety ✓

A closed circuit educational T.V. program has also been instituted. Currently, the educational video transmits three highschool classes daily for a total of four hours. These classes include U.S. History, English/Literature, Blueprint

Reading, Health Tips and the MacNeil-Lehrer News Hour. These educational programs are intended for inmates in restricted living units or workers unable to attend regular classes. There are currently over fifty inmates enrolled in these programs and this membership should increase now that the closed T.V. circuits have been extended to all living units, including death row. Although the distribution of books, lessons and materials to students in restricted units could be more timely, the defendants are to be commended for their creativity in providing programs for administrative segregation inmates and encouraged to both expand the program and improve the communications/supply need of students.

(d) The defendants were to have instituted additional vocational programs, and this has not been done. There are no vocational programs at the prison, and the number of prison industry programs is identical to that which existed at the time the Agreement was signed. } ★

(e) Within the past two months an Alcoholics Anonymous and a substance abuse program have been started, and meetings are now on a regular basis. These programs are sponsored by volunteers, and the organizational work has been the product of the Catholic Chaplain, Father Dave. The prison psychologist continues to lead a general drug abuse discussion group.

Findings of Fact

If all inmates requested a meaningful work, school or industry program there are currently not enough resources available to provide them with one. Since some inmates do not want an assignment, or are content with a recreation yard/gymnasium type existence, the remaining inmates have some type of work or educational assignment. ✓

The defendants are in compliance with the Agreement's requirements that a separate exercise yard be provided for Unit I,

that a GED/highschool diploma program serving initially between 80 and 120 inmates be created, that greater use be made of the gymnasium, and that Alcoholics Anonymous and substance abuse programs be instituted. They are not in compliance with the Agreement's requirement that additional vocational programs be instituted.

AGREEMENT

Appendix III - Classification

"To provide for the security of the institution and the safety of the inmates, defendants will implement by September 1, 1983, the NIC Model Classification System recommended in the August, 1982, Krisberg/Austin Report. Contingent upon funding by NIC, the defendants shall also implement an additional risk assessment program designed by Rans/Fowler."

Discussion

Utilizing the material set forth in the Krisberg/Austin report, the defendants have instituted a "NIC Model" classification system. A record review clearly indicates that Departmental policy and institutional procedures call for the use of an objective, essentially equity based, model which utilizes a small number of risk criteria variables in reaching classification decisions. Each variable has been weighted and a total score is computed for each inmate. Scores are indexed to a classification scale which indicates the appropriate security designation. A risk assessment evaluation was conducted by Laurel Rans, and it was decided that a statistical cross validation study to determine appropriate weights for each criterion variable would be too expensive and therefore could not be justified at this time.

The new classification system was instituted at the reception center levels and, through use at reclassification at all facilities, ~~has now~~ incorporated all inmates in the Department of Prisons. Under this system, if properly used, the classification decision making can be equitable, explicit and reduce the potential for over-classification.

Little provision was made for training of staff in what amounted to a massive change in the philosophy and operation of inmate assignments. Many staff still do not understand the system, the method of computing scores, or the appropriate use of an override. An override allows for a change in classification

✓ to greater or lesser security when the objective score does not call for such a placement. An override is to be used administratively when there is reasonable cause to believe that a classification other than that the system calls for should be utilized.

On the basis of administrative regulations and institutional procedures the Nevada Department of Prisons' classification system conforms to the guidelines set forth in the NIC model. Inmates, however, feel strongly that the system is not being properly used, and that the defendants are not in compliance with this Agreement. Part of the problem is that most inmates have little or no understanding of the NIC model and don't recognize that the classification process basically calls for an identification of security risks and a resulting decision to assign an inmate as minimum, medium or maximum security. The defendants are doing this. The inmates' concerns are focused, however, on two relevant factors:

- (a) the degree to which staff override the classification score and assign inmates to security levels higher than risk criterion would justify, and
- (b) the use of the classification process to punish inmates more severely than current Departmental regulations will allow.

The Code of Penal Discipline currently allows an inmate to be placed in Disciplinary Detention for only 14 days, and in Disciplinary Segregation not to exceed 180 days. Often, following the completion of a sentence to these discipline categories, an inmate will be "reclassified" to Administrative Segregation, which appears to be similar to, or identical with, the conditions existing in Disciplinary Segregation. This "reclassification" occurs without any new charges and appears to continue a security status that can no longer be permissible under existing Departmental Penal Discipline policies. This inmate perceived abuse of the classification process will be discussed in detail later in this report under the section "Administrative Segregation; Classification Procedures".

The defendants were asked in the Third Progress Report to

conduct a study of the number of "overrides" and the reasons for such actions to determine whether the classification system is being subverted by overuse of this administrative action. No study was carried out, and the degree to which overrides are used still needs to be carefully analyzed. ✓ ★

Findings of Fact

The defendants have instituted a new classification system developed on the NIC model, and therefore are in compliance with this Agreement. ✓

The analysis of "overrides" should be made to determine whether the NIC model is being followed.

The question of re-classification within the maximum security prison primarily relates to Administrative Segregation issues, and not to the NIC model. Further discussion of classification as it affects internal security issues will be set forth in later sections of this report.

AGREEMENT

Appendix IV - Administrative Regulations

"To provide for the orderly, efficient and secure operation of the prison the defendants shall revise their operations and procedures manual using and cross-referencing DOJ standards, ACA standards or applicable state statutes. Defendants shall also complete and implement a document entitled 'Strategic Management Model with Tactical Response System' to provide for accountability in the management of the facility."

Discussion

With the exception of some medical procedures, records policy, role of mediator and chaplain, and fiscal management policy, the new Administrative Regulations have been completed. The regulations have been developed in a highly professional manner and are appropriately cross-referenced to ACA standards, D.O.J. standards and applicable state statutes. The "Strategic Management Model with Tactical Response System" was instituted and is being used as a management tool.

Findings of Fact

The defendants have made a good faith effort to complete their new Administrative Regulations, but because of review delays and the necessity of clearing all policy with the Prison Board, the process has been slow. All of the regulations which have a direct bearing on this case have been completed and issued. Since some sections of the manual are still in the draft stages, the Auditor must find that the defendants are not yet in total compliance. ✓

AGREEMENT

Appendix V - Living Conditions

"Defendants agree to provide adequate food, clothing, shelter, sanitation and personal safety. In order that this provision is implemented, defendants agree to the following:

A. Sanitation

Defendants agree to quarterly inspections of the entire institution in accordance with state and local public health codes and regulations by the State Public Health Authorities. Any exceptions to the requirements of the code, statutes and regulations noted by the Health Inspector will be handled in the following manner:

1. Where the regular maintenance budget permits, an immediate work order will be issued and performed.
2. Where a work order exceeds the regular maintenance budget, such repair may be postponed until the next appropriations period, absent exigent circumstances of a life/safety nature, as certified by the Public Health authority, an emergency appropriation shall be immediately requested if funds are not available. See ACA standards.

B. Fire Safety

Defendants agree to promulgate and maintain a fire plan dated October 26, 1982, for the Nevada State Prison which will be the governing document for fire safety. State and local fire codes will be observed. Such fire plan and codes will be monitored by the Nevada State Fire Marshal on a regular basis and regular inspections and reports will be made by the Nevada State Fire Marshal's office. Further, the Fire Marshal will direct all fire code violations and deficiencies in compliance to the Director of Prisons for immediate corrective action."

Discussion

Using the same format of earlier progress reports, the Auditor will discuss compliance under the sub-headings of food, clothing, shelter, sanitation and fire and life safety.

Food

Menus were reviewed, meals were observed and eaten, and inspections were made of all food storage, preparation and serving areas. In addition, an inspection was made of the culinary area by James E. Pierce, R.S., Public Health Sanitarian III on July 8, 1985. Mr. Pierce reported the following deficiencies: (See Appendix B for complete report)

- ° Door latch broken on reach-in refrigerator on the front line.

- Ceiling paint needs repair.
- Hose bib vacuum breakers need to be installed on hose bib at cooking line.
- Walls and ceilings need cleaning.
- Some light sheaths are missing.
- Walkin refrigerators need cleaning - food uncovered.
- Mouse droppings on shelves and floors.
- Back dock area needs cleaning.
- Work tables cracked.
- Walk boards cracked

The Auditor inspected the culinary area on several occasions and was particularly displeased with the sanitary conditions found on September 18, 19 and 20, 1985. In addition to the items listed by the Sanitarian the following substandard conditions were found.

- Uncovered food sitting both inside and outside of refrigerator.
- Open milk containers in walkin refrigerator.
- Bathroom for inmates was filthy, had holes in walls, no soap, no paper towels or toilet paper, and no handles on the wash basin faucets.
- Food trays stored in bathroom.
- Drain behind serving counter stopped up.
- Drain by grill and stove not working and emitting a strong odor.
- No records of meals actually served.
- Sludge from kitchen draining into open ditch at west side of culinary building.
- Back dock filthy with garbage strewn all over; surface has many cracks and holes which make adequate cleaning impossible.
- 17 cats counted at back door of kitchen. ✓
- No wind curtains on any doors entering the culinary section.
- Palettes broken and dirty in walkin boxes.
- Hot water on dishwashing machine below 140°.
- Food trays coming out of dishwasher in greasy condition.
- Ventilator fan inoperative above grill and ovens.

- No vacuum breakers on hose bibs at back dock.
- Drain through storeroom stopped up and odiferous.
- Too many inmate workers during day shifts causing confusion and turmoil.
- Food workers do not have clean clothes daily.
- Period between dinner and breakfast exceeds ACA standards.

It should be reported that when conditions in the culinary unit were brought to the attention of the Director he took prompt and effective action. There have been extensive cleanups from ceiling to floor, but unless careful supervision of the feeding operation is maintained, the conditions will revert to what was described earlier.

To meet minimum sanitation standards the existing division of authority for operating the culinary section must be resolved. The Food Manager is responsible for preparing the food and custody is responsible for everything else. It is imperative that the total operation of the feeding programs, storage of food, preparation of food, serving of food and the cleanliness of the total operation be under a single command, and that authority and responsibility should rest with the trained and experienced Food Manager. The recent sub-standard conditions also clearly indicate that regular inspections of the culinary section by administrative and management staff have not been made as scheduled and required.

The good news is that, as a result of extensive cleaning, the sanitation of the kitchen and diningroom has greatly improved. It is hoped that these areas will also be painted in the immediate future. The Legislature provided necessary funds during the 1985-87 Fiscal Year to purchase the following:

- 1 twin automatic coffee urn
- 1 food mixer
- 1 electric free-standing griddle
- 1 stack oven
- 1 steam cooker
- 2 deep fat fryers
- 2 hot air convection ovens
- 8 hot carts

These items have all been ordered and should be available for use before the end of the year. This equipment will markedly improve the sanitation and efficiency of food preparation.

But when will they put the equipment?

Although food continues to be transported to locked units in serving trays that do not keep food items sufficiently warm, the defendants have purchased hot carts which will be utilized in the future. After purchasing the hot carts which were to be used to reheat food trays, it was decided to transport food in bulk to the locked units and reheat to adequate temperature levels before serving. An experiment is currently underway in Unit VII and will be expanded to Unit V and VI as the operational problems are resolved. This addition of equipment and serving procedures will allow meals in the future to be served on a normal schedule and should allow food to be served at optimum temperature levels. For the new procedure to meet acceptable standards the following factors will require close monitoring and supervision:

- what are they waiting for?

1. Heated food prepared in the kitchen must be brought promptly to the locked units and immediately placed in the hot carts. Food must not be allowed to cool and then be reheated.
2. Food trays, cups, eating utensils, breads, salads, desserts and drinks should be delivered at the same time as the hot food, and all items should be tightly covered.
3. Those serving the food should always wash their hands, wear plastic gloves and a hair net or hat.
4. All feeding trays and eating utensils must be returned to the main kitchen and be thoroughly washed.

As was previously reported, the culinary section is not complying with dietary orders issued by the medical department. Although some patients assigned to the prison infirmary have specific diets ordered by a physician, the Auditor observed that there was no difference between what was served in the diningroom and what was given to the patient. In some cases this ignoring of a physician's prescription can be life threatening. A qualified dietician must develop menus which can be used by the culinary

staff when a special medical diet is ordered, and guidelines for staff who are responsible for inmates during feeding periods. The nursing staff must assume the responsibility of determining whether the food sent from the kitchen to the infirmary meets the dietary requirements. Where special medical diets have been prescribed for inmates who eat in the dining hall or in locked units, the officer in charge should inspect the meal and determine whether it meets the general requirements and guidelines set forth by the dietician. A "tickler system" must be established to assure that the physician reviews all diet prescriptions on a regular basis and renews those prescriptions which are to be continued. ✓

Clothing

Although additional supplies of clothing have been purchased there continues to be a critical shortage of most items. The clothing officer insists that he has sufficient clothing available, but factual review simply does not support this position.

- ° To meet ACA standards a clothing exchange must be provided to all inmates a minimum of three times per week. The current schedule of one laundry exchange per week and the amount of clothing issued to an inmate will not allow ✓ compliance with this standard.
- ° New inmates arriving at the prison are not given additional clothing even though the transferring institution took away all but personal clothing and what the inmate was wearing.
- ° During an inspection held on September 18, 1985, the clothing in the laundry available for issue consisted of ✓ 32 pants, 20 shirts, 8 pair of used shoes, no shoe strings, no socks and 16 sets of underwear.
- ° Clothing in the prison storeroom would not provide for one clothing exchange and, at time of inspection, there were no new pants, shoes, socks or towels.
- ° Supplies of sheets and pillow cases were nearly non-existent, and sometimes only a half sheet can be provided for use. !

- ✓ ° Winter underwear is not provided although temperature levels require additional warmth for any type of outdoor activity.
- ✓ ° There are not sufficient blankets to provide each inmate with two blankets.
- ✓ ° Less than half the inmate population has pillows and there are none in the storeroom.
- ✓ ° Cotton mattresses are being reissued in violation of prison policy.
- ✓ ° Although plastic covered mattresses are to be sanitized before reissue there was no evidence that this practice is routinely being followed.
- ✓ ° There are not sufficient towels to provide an exchange twice each week.

One of the serious problems in providing clean clothing on a regular basis has been the prison's totally inadequate laundry equipment. The Legislature provided in the 1985-87 Fiscal Year Budget \$111,000 to provide adequate laundry equipment. The defendants have ordered four laundry carts, two commercial dryers and one heavy duty washer. This equipment, in addition to that which is already in use, should provide an adequate laundry operation. If sufficient clothes are ordered to provide each inmate with a minimum of three changes a week, a storeroom inventory established to allow for normal replacement, and a close monitoring program established to prevent inmates from stockpiling state issued clothing, it should be possible to come into compliance with ACA standards.

Shelter

All new living units at the prison meet necessary building standards, but suffer from a lack of maintenance. Insides of buildings are in need of paint and a more aggressive cleaning program is required. All units have broken windows both in cells and in the control booths. Shower walls all need thorough cleaning and many of the shower ceilings are cracked and require painting. Unit I has cracks in walls and ceilings and the rotunda roof leaks during heavy rainstorms. C Block has been remodeled and

meets code with the exception that hot water was not provided to the cells. Defendants should continue to aggressively monitor this unit to assure that padlocks are not used on cell doors, even on a temporary basis.

A and B Blocks have deficiencies in electrical, plumbing, ventilation, heating and fire safety areas. Although the legislature has provided funds to renovate sections of this cell block to meet ACA standards, it would appear that these monies would only be sufficient to provide 47 additional cells, not improve the 77 cells currently being used. The work plan for this renovation was not available for review by the Auditor, and should be carefully evaluated in terms of the degree to which A and B Blocks will meet sanitation, fire and life safety codes after construction has been completed. The current time schedule calls for this construction project to begin in June 1986, and be completed by March, 1987. Plans should be reviewed by the State Fire Marshal, Public Health Sanitarian, and an individual qualified to determine compliance with ACA standards before construction begins. } ★

Sanitation

The institution was inspected by James E. Pierce, R.S., Public Sanitarian III, on July 8, 1985 (See Appendix B for complete report).

Sanitation inspections of various types are the responsibility of administrative staff, line corrections officers and the nurse on duty, but appear to be perfunctory and utilize checklists which are often identically filled out from one inspection to the next. Administrative policy calls for frequent and regular inspections, but the general condition of the institution would indicate that practice has not followed policy. Examples of conditions which impact on sanitation and reflect inadequate attention to good housekeeping standards are as follows:

- ° Cells in A and B cell block are overloaded with excess paper, clothing, personal possessions, furniture and electronic equipment.

- Walls and floors of the majority of cells throughout the prison are dirty - toilets not adequately cleaned.
- Shower walls and floors dirty with grime buildup - most shower areas need to be repainted.
- Windows in A and B Block cell house broken and in many cases unable to be closed and secured.
- No screens on windows except Unit I.
- Every other radiator in A and B Block disconnected causing inadequate heat - all radiators operating on fourth floor where no one resides.
- No hot water in cell blocks A, B and C for cell use. This is a critical problem for inmates in Detention and Death Row.
- Inadequate supplies, particularly for cell and shower cleaning.
- Inmates in Detention Unit not showering often enough with resulting strong body odor.
- Utility closets dirty, mop heads seldom cleaned.
- Inadequate time given to inmates in locked housing to clean their cells.
- Leaks in plumbing in chaseways of Cell Blocks A and B.
- Left over food trays remained in detention cells two hours after the meal was served.
- Inadequate personal and toilet supplies are provided inmates in the Detention Unit. (Inmates were found who had no soap, tooth paste, deodorant and, in two cases, no toilet paper.
- Conditions in culinary section have already been discussed; conditions in infirmary will be discussed under medical section.
- No toilets or drinking fountains are available in exercise yards - inmates have been urinating, and sometimes defecating, on the open ground.
- No toilets or wash basins within the two locked classroom area.
- Ventilation system on Units I, II, III, IV, V and VI appear to inadequately draw air out of the buildings - this is particularly a problem during shower periods.

It should be noted that the defendants plan to install toilets and drinking fountains in the remodeled exercise areas which are used by administrative segregation inmates. Exercise yard utilized by general population and protective custody inmates should be similarly equipped.

Much of the sanitation deficiencies do not require additional resources, but do necessitate the use of soap and water and a greater degree of elbow grease - all of which are dependent upon strong first level supervision.

Fire and Personal Safety

The State Fire Marshal's office made an inspection of the prison on August 30, 1985, and a report of his findings has been incorporated as Appendix A. The Agreement called for semi-annual inspections by the State Fire Marshal, which has been exceeded as specific complaints have been investigated separately. The defendants have also established a safety committee which makes monthly inspections as well as supervising quarterly fire drills.

Progress has been made in all fire and life safety areas, and special mention should be made of the excellent prison fire plan which has been approved by both the State Fire Marshal and the Carson City Fire Department. All policies, procedures and equipment required by the fire plan are in effect. Inmates are not aware that fire drills take place as they are simulated from the standpoint of cell evacuation. The prison safety committee, as certified in writing, simulated fire drills of all living units which have been carried out on a quarterly basis. The prison has also obtained funds in the 1985-87 Fiscal Year Budget and has purchased fire resistant locker boxes for all inmates. When these are received and placed in the cells much of the combustible personal supplies can then be safely stored. Even recognizing this progress, the Auditor would still be remiss if he did not note areas of concern which require further attention.

SO? how
are these
"drills"?
what's length?
time in
evacuating a
cell block?

5m ° Fire load in A and B Block cells should be reduced.

- 5m ° Use of extension cords with many pieces of electrical equipment attached should be discontinued.
- ° Smoke detectors should be installed in Cell Blocks A,B and C.
- ° The need for sprinkler systems in Cell Block A,B and C should be reviewed by the Fire Marshal, and a waiver requested if they are not required.
- 5m ° Issue of single stair exit from upper tiers in Cell Block A,B and C should be reviewed by the Fire Marshal.
- 5m ° Second exit from education building should be identified and marked.
- 5m ° Actual fire drills, rather than simulated, should be utilized with general population units, particularly A and B Cell Blocks.
- 5m ° Budget requests should be submitted to provide two post coverage during waking hours on all living units which are currently not so staffed. The safety of both inmates and staff requires this minimum level of coverage.
- ° A secure evacuation area for Unit V (west side) should be provided.
- ° Control panel in Unit VII needs to be repaired so that all warning lights function.
- 5m ° Standpipes and fire hoses need to be installed at both ends of pipe chase in Cell Blocks A and B.
- 5m ° Cover plates for electrical, fire alarm system, and telephone connection boxes are missing throughout the prison and should be replaced.

Findings of Fact

The defendants have made progress over the past two and a half years; but are not in total compliance with the Agreement regarding feeding, sanitation, clothing, shelter, fire safety and some aspects of personal safety.

The defendants are in compliance with the requirements to promulgate and maintain a fire plan in conformity with State and

local fire codes; have such a fire plan monitored by the State Fire Marshal; and have quarterly inspections of the entire institution in accordance with state and local public health codes and regulations, by the State Public Health Authorities. Both the State Fire Marshal and the State Public Health Sanitarian have noted improvement in the conditions at the Nevada State Prison.

AGREEMENT

Appendix VI - Medical and Psychiatric Care

"Defendants agree to an adequate medical delivery system which meets the day to day and emergency medical needs of inmates. This medical care system shall meet the ACA standards for medical care of inmates."

Discussion

The reader is referred to earlier Progress Reports which related in detail the insufficiency of medical coverage at the prison, and the totally inadequate facility that is utilized as an infirmary. The Auditor, on his most recent visit (September 18, 19 and 20, 1985), found that the conditons had not changed and the medical delivery system does not adequately meet the day to day and emergency medical needs of inmates. This should not in any way reflect on the dedication and commitment of nursing personnel under the supervision of Teri Ignacio, R.N. Within the limited resources available, the deplorable conditions of the infirmary and treatment area, and the almost total absence of a medical doctor to diagnose, prescribe, treat and oversee the health services, the nursing staff has valiantly attempted to meet emergency medical needs and provide daily sick call services.] *

Since the last progress report a second Public Health doctor was assigned to the Department of Prisons and quickly reduced much of the medical backlog for the northern institutions. Unfortunately, the new doctor reimbursed the government for her medical training and went into private practice. This left one Public Health doctor, with no training beyond the internship level, responsible for the medical care of inmates in the Nevada State Prison, Nevada Women's Correctional Center and the Northern Nevada Correctional Center. The work load is beyond the capability of any physician, particularly one just out of medical school. The one physician provides services to the Nevada State Prison one day a week, and handles emergencies by telephone or utilizing

> who was it? will she testify? ✓

specialist services in Carson City on a contractual basis.

Inmates, except under the most extreme emergencies, must wait weeks, if not months, to see the physician. Nurses handle all sick calls and utilize established protocols in response to observed symptoms. Until recently, nursing coverage was provided 16 hours per day with emergency callback procedures on a rotating basis to cover the other eight hours. Since July 1, 1985, there has been some 24 hour nursing coverage at the prison, but total seven day a week coverage has not yet been provided.

Inmate attendants provide services to those confined in the infirmary with little supervision from nursing staff. The nurse's station and treatment areas are located in such a fashion that there is no sight or sound supervision of the patients in the infirmary. ✓

Inmates are most dissatisfied with the level of medical care provided by the prison. Although many of their concerns are magnified by their placement in prison and the generally tight security conditions that govern movement and programs, there are legitimate reasons for some of the unhappiness. Examples of concerns that have been identified and verified by the Auditor are as follows:

- Difficulty for an inmate to see and be examined by a physician.
- Failure of physician to visit locked living units.
- X-Rays taken by inmates; interpretation of readings often made by nurses; when X-Rays are sent to Carson City to a radiologist for a reading the report will often not be returned for several weeks to a month.
- Some direct care services given by inmates, eg., heat, diathermy, filling out charts.
- Inadequate sanitation and a poor medical environment in the infirmary.
- No medical diets provided by kitchen for infirmary patients.
- Padlocks securing the ward sleeping areas in the infirmary.

- Inability for long term infirmity patients to get exercise or sunshine.
- No screens on infirmity windows.
- Failure to sometimes provide medication that has been prescribed.
- Failure to get prescriptions renewed so that pharmacy will fill order on schedule.
- Record keeping reflects gaps in medical information, particularly in follow-up of services performed outside the prison. ✓
- Lack of demonstrated interest in patients' needs by prison physician. ✓
- Failure of physician to follow up on orders issued to assure compliance, eg., diets, specific services, medication, etc.
- Occasional confinement of mentally disordered inmates in the infirmity where no services or trained staff are available. ✓
- Occasional confinement of an inmate in the infirmity by custody staff when no medical order for such placement has been made.
- Six week backlog for specialist consultation at Priority I level. ✓
- EKG machine does not have proper electrodes and suction cups are often missing.

Appendix VI of the Agreement specifically requires that the medical care system at the Nevada State Prison shall meet ACA standards for medical care of inmates. The American Correctional Association has fifty-two standards for medical and health care services. The Auditor reviewed the medical and health care services at the prison using the ACA medical standards and found that the defendants were basically in compliance with the following standards. —? In the case of mental health standards, the current state of compliance is reported in progress reports submitted to the Court in re Taylor v. Wolff.

2-4271		2-4295	
2-4272		2-4296	Mental health
2-4273			Reported in Taylor
2-4275		2-4297	Mental health
2-4279			Reported in Taylor
2-4280		2-4298	Mental health
2-4281 (deleted by ACA			Reported in Taylor
August, 1983)		2-4299	
2-4282		2-4300	
2-4283	Mental health	2-4301	
	Reported in Taylor	2-4310	
2-4284		2-4311	
2-4285		2-4312	
2-4286		2-4313	
2-4287		2-4314	
2-4289		2-4315	
2-4290		2-4316	
2-4291		2-4317	
2-4292		2-4318	
2-4293	Mental health	2-4320	
	Reported in Taylor	2-4321	
2-4294	Mental health	2-2-4322	Mental Health
	Reported in Taylor		Reported in Taylor

The defendants are clearly not in compliance with the following ACA standards:

Standard 2-4276	Require nursing services on a full-time basis, and all inmate/patients within sight or sound of a staff person.
Standard 2-4277	Space, equipment, supplies and materials for health services are provided and maintained as determined by health authority.
Standard 2-4278	First aid kits are available in designated areas of the facility based on need.
Standard 2-4288	Inmates are not to be used for the following duties: performing direct patient care services; handling or having access to health records; and, operating

Standard 2-4302	equipment for which they are not trained. Requires that persons over 50 years of age shall be given an annual examination. All other inmates should receive thorough physical examinations at least biennially.
Standard 2-4303	A program of health education is provided to inmates.
Standard 2-4304	A written individual treatment plan will be developed by physicians which includes directions to health care and other personnel regarding their roles in the care and supervision of patients with special health needs and requiring close medical supervision.
Standard 2-4305	Written policy and procedures make available chronic and convalescent care to inmates.
Standard 2-4306	Written policy and procedures require the gradual detoxification from alcohol, opiates, stimulants, hypnotics, which will be under medical supervision.
Standard 2-4307	Written policy and procedures guide the clinical management of chemically dependent inmates.
Standard 2-4308	Written policy and procedures require that medical and dental prostheses and orthodontic devices are provided when the health of the inmate would otherwise be adversely affected.
Standard 2-4309	Written policy and procedures govern the use of elective surgery.
Standard 2-4319	Written policy and procedures uphold the principle of confidentiality of the health records.

A number of these standards could be met if appropriate written policy and procedures were developed. These are now all in draft status and should be promulgated soon.

Since the Auditor's September inspection information has been relayed to the effect that extensive cleaning and painting have been done in the prison infirmary. Attempts are being made to bring this unit into compliance with basic sanitation standards. However, before the infirmary can meet ACA standards it will be necessary to provide sight and sound supervision by staff, adequate ventilation, heating and cooling, screened windows which can be tightly closed, sanitary floor surface, adequate toilet and washing facilities, acceptable locking devices and necessary acoustical treatment of walls and ceiling.

The Auditor wishes to call attention to the policy decision recently made by the new Director of Prisons. All medical and mental health services are to be contracted to a private vendor who will be responsible to provide services to all inmates which will be in compliance with ACA standards and all Court Orders impacting on services of the Department of Prisons. Bids have been received and a contract should be awarded during the month of October. The new contractor should be able to assume responsibility for medical services within 60 to 90 days after the contract award. The defendants are confident that a competent contractor will be able to provide services at a level that will meet all standards set forth in this Agreement.

Findings of Fact

The defendants are not currently providing an adequate medical delivery system which meets day to day and emergency medical needs of inmates. The medical care system does not meet 13 ACA standards for medical care of inmates.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

Provisions of Part 1.A shall apply equally to the inmates in protective custody.

1. Within ninety (90) days of the Order herein, the institution psychologist will complete a meaningful evaluation of each inmate confined in administrative segregation to determine if there are persons confined there who have serious mental health needs which are not being met. Upon identification of such persons, they will be immediately removed from their living area and confined in appropriate housing where they will have an opportunity to receive all needed mental health care."

Discussion

As has been discussed in previous progress reports, there is only one institution psychologist assigned to the Nevada State Prison. In addition to Nevada State Prison assignments he is the only psychologist for the Nevada Women's Correctional Center. During the past year and a half he has had the additional responsibility of being the Coordinator of Mental Health Services for the Department of Prisons. He has tirelessly worked at these duties, but they collectively far exceed what one professional staff member can accomplish. Within this workload framework, he has "completed a 'meaningful' evaluation of each inmate confined in administrative segregation to determine if there are persons confined there who have serious mental health needs which are not being met".⁶ The evaluations have been made within the timeframes required, and consist of personal observation; administering, scoring and interpreting a C.A.Q. (Clinical Analysis Questionnaire) and a file review. It has been possible to interview only approximately 30 to 35% of the inmates evaluated. It is doubtful that one can qualify this type of evaluation as "meaningful", but it has been successful in identifying those inmates who have serious mental health needs.

The standards further requires that upon identification of inmates with serious mental health needs that "they will be immediately removed from their living area and confined in appropriate

housing where they will have an opportunity to receive all needed mental health care"⁷. The Nevada State Prison has two choices for placement of inmates who are mentally disordered. They can be transferred to the Special Programs Unit located at the Northern Nevada Correctional Center or they can be referred for transfer to Lakes Crossing Center, which is a state operated facility for the mentally disordered offender. Historically, Lakes Crossing has refused to accept most mentally ill inmates and all mentally retarded inmates. It is difficult to understand the rationale for rejection of these cases since the Legislature specifically created this program as a well staffed mental health facility for mentally disordered offenders. Rejection of transfer memorandums include such statements as, "too aggressive", "serious escape risk", "refuses treatment", "mentally retarded" and "psychotic, but in remission". The new Director of the Department of Prisons, using statutory authority, is attempting to transfer offenders "to other appropriate government agencies for psychiatric observation, evaluation or stabilization"⁸. A list of some fifty inmates who are considered to be mentally disordered have been referred for transfer, but as of the writing of this report no cases had been accepted.

— !
at NSP
alone? or
in system?

The other alternative for placement of the mentally disordered inmate is the Special Programs Unit at NNCC. Historically, again, few cases from administrative segregation have been accepted by the S.P.U. because they were seen as critical behavior problems or serious escape risks. Recently, the acceptance rate has improved, although escape risks are still refused admittance. Of greater relevance to this Agreement, however, the S.P.U. does not provide mental health care except for the administering of psychotropic drugs. The program is currently under Court Order, Taylor v. Wolff, CU-R-79-162-ECR, and the Auditor's latest progress report clearly indicates that the S.P.U. is not in compliance with the Stipulated Settlement Agreement⁹.

Findings of Fact

The defendants are providing an evaluation of all inmates confined in Administrative Segregation to determine if there are persons who have serious mental health needs. This evaluation cannot be considered to be "meaningful" in the professional use of that term, but does provide a minimal screening which identifies those inmates who have the most serious mental health needs.

Upon identification, the defendants are unable to move mentally disordered inmates to appropriate housing where they have an opportunity to receive all needed mental health care¹⁰.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

2. By October 1, 1981, any person housed in a living area for more than ten (10) hours a day shall be provided with at least eighty (80) square feet of living space within that area. The defendants, however, shall be permitted to use the existing cells in administrative segregation until said date, provided that they comply with the remaining terms of this Order. In the event that problems occur creating the possibility the defendants may fail to meet the deadline of October 1, 1981, the defendants shall immediately notify counsel for plaintiffs in writing of all the reasons therefor and if the parties are unable to agree upon an extension of time to complete the work necessary to bring the living space into conformity with the size as prescribed in this paragraph, the defendants may petition the Court for additional time to complete the provisions of this paragraph."

*check
on size of
p.c. cells
today
in
Unit IV.*

Discussion

Previous progress reports spelled out in detail the square footage of all administrative segregation cells and adequately demonstrated that all units meet the required standards.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

3. The defendants shall provide lighting throughout the administrative segregation unit of at least thirty foot candles. Additionally, the defendants shall provide task oriented lighting in each cell for reading, writing and other activities. Lighting in the cells shall be both occupant and centrally controlled. Natural lighting shall also be available from a source within twenty (20) feet of each room or cell in the unit."

Discussion

Lighting in all cells is both occupant and centrally controlled. The light levels are within the thirty foot candle range and natural lighting is available within twenty feet of each cell. There is concern on the part of inmates that windows have been covered with a boiler plate cover with $\frac{1}{2}$ " holes for light and ventilation. Although this diminishes outside light, it does not reduce it below requirements of this Agreement. The boiler plate does reduce contraband problems, but this could have been accomplished through the use of a heavy gauge hardware screen.

in this agreement
There is no task oriented lighting. This requirement was to be negotiated between parties. No official action has been taken and the Agreement must be monitored on the basis of existing language. In terms of any possible negotiation, it should be recognized that administrative segregation inmates spend, on the average, approximately 23 hours of each day in their cells. Since much of their time must be occupied in such activities as reading, writing and handicraft projects, the need for task oriented lighting is much greater than for other living units. *★*

Findings of Fact

The defendants are in compliance with light levels and controls, but are not in compliance with the requirement to have task oriented lighting in each cell.

AGREEMENT

Administrative Segregation , General Provisions

"A. Living Conditions

4. Each cell or room in administrative segregation will comply with Section 4143, American Correctional Association's Standards for Adult Correctional Institutions, August, 1977 Edition. The Standards and Comments, Exhibit A, are incorporated herein and a copy attached thereto. The defendants shall also provide adequate heating and cooling to provide temperatures within the normal comfort range. The steps necessary to effectuate the terms of this paragraph shall be completed by October 1, 1981."

Discussion

Standard 4143 of the 1977 Edition of the ACA Standards for Adult Correctional Institutions requires that lighting in administrative segregation cells be at the 20 foot candle level, occupant and centrally controlled; air circulation provide at least 10 cubic feet of fresh or purified air per minute; hot and cold running water; acoustics that insure that noise loads do not interfere with normal human activities; desk; shelf; hook; chair or stool; and natural light.

The defendants are providing 20 foot candles of light, occupant and centrally controlled; natural light; hot and cold water; and acoustics at a tolerable level. The Legislature provided in the 1985-87 Fiscal Year Budget sufficient funds to purchase lockers, hooks, desks, shelves and stools. These items are on order and will be installed in Units I, V, VI and VII as required.

The exchange of air is still at issue, and it would appear that all units have some difficulty in the return air systems - either they are clogged or are not properly working. Tests of air circulation have been requested, but only received on Unit VII, which shows a 15CFM per linear foot reading.

*need to
have
sanitation
for this.*

The defendants are also required to provide adequate heating

and cooling to provide temperatures within the normal comfort range. Thermometers were ordered and placed in the living units only to be broken by the inmates. On the spot temperature readings were requested, but none have been received. From personal observation it would appear that none of the systems work very effectively. In winter the heat levels rise to the point that everyone has to open windows and the units then become drafty and cold. The cooling processes in summer do not bring the temperature levels down to acceptable standards. Much of the problem appears to be in the proper balancing of the systems and effective maintenance thereafter. ✓

Findings of Fact

The defendants are not in compliance with requirements of equipment for each cell, but should be within the next several months. The defendants should have a heating and ventilating engineer review the systems in all administrative segregation units, and follow the recommendations provided. !?

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

5. Every inmate in administrative segregation shall be provided with a sanitary mattress and two (2) sheets, two (2) blankets, a pillow and pillow case. Linen shall be exchanged at least weekly and blankets, pillow and mattress shall be cleaned on a routine basis and maintained in a sanitary condition. Mattress and mattress covers will be disinfected and cleaned before re-issuance."

Discussion

The issuance schedule required by this section is being met with the exceptions that no pillows and only one (1) blanket are issued. The blankets have been washed so many times that some are threadbare and provide little warmth. Linens are not always exchanged on a weekly basis because of laundry equipment breakdowns and insufficient supplies. Often it is necessary to issue a half sheet. The mattress policy is not always followed. Mattresses, including cotton covered ones, are being reissued without being disinfected. Pillows, when they are available, are not being cleaned or disinfected.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

6. All inmates in administrative segregation shall be provided clothing that is properly fitted, climatically suitable, durable, economical, easily laundered and repaired and presentable. The clothing will include outer garments, undergarments, shoes, and socks. Accordingly, all inmates in administrative segregation shall be provided sufficient clothes at least three (3) times per week except for coats, jackets and shoes. ←
Additional clothes may be provided for work and recreation."

Discussion

Clothing that is issued to administrative segregation inmates is minimally adequate in appearance, although often severely shop-worn and not properly sized. The exception to this statement is Unit VII. In that unit an orange coverall is used as an outer garment which might be satisfactory for disciplinary detention, but hardly meets minimum standards for administrative segregation. American Correctional Association standards regarding special management inmates states that they "should be clothed like other inmates".¹¹ Requests to clothe Unit VII inmates similarly to administrative segregation inmates in Unit V and VI have been denied, although there cannot be a sound custodial need for such a practice.

The appearance of clothing leaves much to be desired because of improper sizing of garments and the inability of inmates to have access to irons. As has been mentioned earlier, the clothing inventory is so low that it is seldom possible to outfit an inmate in clothing that meets his size requirements. There is also an acute shortage of shoes to the extent that some administrative segregation inmates do not have shoes except as they are able to have them sent in from the outside. There are also insufficient supplies of clothes to be able to meet the requirement of three (3) exchanges per week.

Inmates do not have jackets or coats for outdoor exercise, although recently some jackets were made available for use when going outdoors. These jackets are community property and cannot be retained in an individual inmate's cell. Inmates strongly object to using another man's jacket, which is often dirty and sweaty, having been used during exercise periods. During cold weather no winter underwear is provided and inmates are not allowed to have hats or gloves. Since exercise is scheduled for periods of 4 to 5 hours, and during the coming months will take place in sub-freezing weather, the lack of adequate clothing becomes a serious health problem.

Findings of Fact

in compliance

The defendants are not providing clothing that is properly fitted, climatically suitable and generally presentable. They are not providing adequate cold weather garments, shoes or clothing sufficient for changes three times per week. ✓

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

7. The storage of clothing, linen, and bedding shall exceed that required for the unit's population. Inmates shall not be left without clothing while clothes are being laundered, cleaned or mended."

Discussion

I spoke to one who wanted have been if he had not kept his clothes + done own laundry.

Inmates are not left without clothing while clothes are being laundered, cleaned or mended, but they do not have sufficient clothing to have an exchange three (3) times per week. There is a need for additional laundry equipment, which was provided by the Legislature in the 1985-87 Fiscal Year Budget and has been ordered by the defendants. There is a greater need for a massive buildup in the clothing, blankets, sheets, pillows and pillow cases inventory, in order that adequate clean, properly fitted clothing and bedding can be provided to the inmate population.

Findings of Fact

The defendants are not in compliance with this section of the Agreement. ✓

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

8. Each inmate shall be provided with adequate amounts of necessary personal hygiene items and two clean towels which are exchanged at least twice per week. Cigarettes and/or tobacco may be provided indigent inmates in administrative segregation, with the use of inmate store funds (ISF) upon approval by the Inmate Committee which administers the use of those funds. Inmates shall also be permitted to purchase cigarettes and/or tobacco with the use of their own funds."

Discussion

Inmates are provided with adequate amounts of necessary personal hygiene items, but do not regularly receive two clean towels. Inmates will launder their own towels rather than send them to the prison laundry where they often get lost. There are not currently enough towels in storeroom supplies to assure that each inmate has two towels. ✓

Some inmates have misunderstood this section of the Agreement, believing that cigarettes and/or tobacco will be provided indigent inmates in administrative segregation. The actual reading is that inmates may be provided such items. Prison administration has decided that inmate store funds will not be used for the purpose of purchasing tobacco for indigent inmates.

this
still
violates
agreement
which requires
Inmate
Committee
decide on
funds.

Findings of Fact

The defendants are in basic compliance with this section of the Agreement, and when the prison's towel inventory is sufficiently raised, they will be in total compliance.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

9. A written routine daily housecleaning plan will be executed which includes at least the areas to be cleaned and each area in maximum housing, the specific person or persons assigned to clean each area, and a procedure for procurement and maintenance of housekeeping equipment and supplies."

Discussion

A written housekeeping plan has been developed, inspections are held, and a procedure has been developed for the procurement of housekeeping equipment and supplies. There continues to be a lack of coordination in the inspection and accountability process, and the general sub-standard state of housekeeping throughout the prison would indicate that the policy may be in place but in practice cleaning is not given a high priority. There also appears to be a shortage of cleaning supplies at the living unit level.

Findings of Fact

The defendants are in compliance with requirements that a plan be developed, but conditions reflect that the plan is not being adequately carried out.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

10. A qualified person familiar with health and safety standards and practices will oversee health and sanitation conditions in the administrative segregation unit."

Discussion

The Health Services Coordinator has been designated as the qualified person to oversee health and sanitation conditions. This responsibility has been delegated to the nurse on duty, who is to make a weekly inspection. Inspection reports were reviewed and found to be a checklist which has been made out identically for weeks on end. Areas which were inspected by the writer and found to be sub-standard were checked by the nurse as being acceptable. It is possible that housekeeping standards could vary that dramatically between the Auditor and the reporting nurse, but it is more probable that the checklist was completed without any careful inspection of the living units. An example may illustrate - segregation units were all checked as having window screens where none exist. This situation is cited only to demonstrate that inspections on paper are of no value if they don't represent actual conditions and have the assurance that there will be administrative follow up.

Findings of Fact

The defendants have developed a policy on health and safety standards and practices, but conditions of the institution reflect that prison policy is not being carried out.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

11. Cleaning activity will be supervised at all times by a particular, assigned civilian staff."

Discussion

The supervision of cleaning activities has now been made a part of the post order for the rotunda officer in each of the administrative segregation living units. Housekeeping of all units except VII were found to be sub-standard, which would indicate that a low priority has been given to cleaning activities.

Findings of Fact

The Agreement is being carried out by the defendants through the specific assignment of cleaning activities to a particular staff position. Unfortunately, a low priority to cleaning efforts, and an absence of management monitoring of this activity, has produced minimal results.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

12. A written checklist will be utilized for a daily inspection to be done of all areas in the administrative segregation unit by a specific employee to ensure that all areas are clean and sanitary. The employee will sign the document certifying that he/she conducted the inspections and that the report is accurate."

Discussion

A written checklist was developed and the requirement of a daily inspection was set forth in a memorandum to staff by the Warden dated August 30, 1984. Once again, there appears to be a breakdown in the documentation process. Few of the units had any record of these daily inspections. General housekeeping conditions were found to be sub-standard, which would indicate that the inspections are not taking place on a regular basis. There is no indication that supervisory or management staff are monitoring practices to assure that prison policy is being carried out.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

13. Screens will be maintained on all windows, window panes will be continually maintained in all areas. Structural defects which allow rodents to enter the unit will be cured and an effective vermin and pest control program will be implemented by October 1, 1981."

Discussion

Window screens have been installed on Unit I and materials are available to install similar screens on the remaining units. The repair of broken windows has received a high priority from maintenance staff, but cracked and broken windows still exist in cells and most control rooms. There does not appear to be a vermin or pest control problem in the administrative segregation units, but there were indications that an infestation of ants, spiders and cockroaches existed in the disciplinary detention unit.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

14. By December 15, 1980, a comprehensive written maintenance manual and inspection checklist for the inspection and maintenance of equipment systems within the administrative segregation unit, will be prepared and utilized."

Discussion

A written maintenance manual and checklist for inspections was completed during the month of August, 1984, and is currently being used. It would appear from a review of the document that the manual clearly meets the requirements of this Agreement. Because of a shortage of staff and resources, maintenance repairs are behind schedule. Maintenance staff should accompany administrators when they make regular inspections in order that priorities can be set on specific projects.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

A comprehensive fire safety plan will be drafted for the maximum housing unit by October 1, 1980. The plan shall include specific provisions for adequate fire protection services, the specific equipment, such as extinguishers and fire hoses, to be located at specific appropriate places within the institution and inspection and preventative maintenance schedules for said equipment, the specific training to be given staff and prisoners in fire safety. The plan shall be certified by the State Fire Marshal or other qualified authority as adequately providing for the safety of inmates in the administrative segregation unit. Further, the necessary equipment to ensure compliance with the plan shall be purchased and deployed by a date set by the parties."

Discussion

The Department has developed a comprehensive fire safety plan that has been approved by the State Fire Marshal's Division and the Carson City Fire Department. Additionally, the Department has issued a fire safety and evacuation policy (Administrative Regulation #440) that gives policy and procedural support to the fire safety plan. All equipment has been purchased, but the defendants have not yet installed standpipes and hoses at both ends of the plumbing chase of A and B Cell Block. ✓

Findings of Fact

The defendants have made a good faith effort to comply with this section of the Agreement, and will have done so totally when they comply with the State Fire Marshal's most recent report.
(Appendix A)

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

16. An inspection of the administrative segregation unit shall be conducted on a regular and periodic basis by the safety committee, or its designate, to ensure that the unit meets fire safety and prevention standards including those provided by the Life Safety Code (1976, National Fire Protection Association Document No. 101, or any superseding standards promulgated by the Association)."

Discussion

As was set forth in the last progress report, a safety committee has been appointed by the Warden, and is conducting monthly inspections of all administrative segregation units. Although these inspections use Nevada Life Safety Codes as guidelines, there is no indication that the National Fire Protection Association Document #101 or any superseding standards have been used. The Nevada State Fire Marshal assured the Auditor that all National Fire Protection Life Safety Codes have been incorporated into Nevada standards and codes.

Is
this
true?

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

17. The unit will be inspected at least twice a year by the State Fire Marshal or other qualified fire safety expert who shall prepare a written report of the fire safety inspection including any findings and recommendations or corrections. If the unit in any way does not meet the fire safety standards or the standards of the Life Safety Code, curative actions shall be immediately taken."

Discussion

The State Fire Marshal is inspecting the prison at least twice a year and oftener when "complaint inspections" are required. The last inspection was performed August 30, 1985, using as standards the Life Safety Code, the Uniform Fire Code, and the Regulations of the State Fire Marshal. (Appendix A) The defendants have promptly addressed most deficiencies noted in the reports except when capital outlay expenditures are required. In such cases, an emergency request is made to the interim legislative committee requesting additional funding.

The Fire Marshal noted only minor deficiencies in the administrative segregation units in his last report.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

18. Regular fire drills will be conducted at least once every six (6) months involving all staff assigned to the unit. A written handbook shall be provided the inmates containing explicit instructions approved by the State Fire Marshal for prompt evacuation of the unit in the event of fire or other catastrophe. Each inmate shall have explained to him the contents of the handbook and evacuation routes shall be painted on the floor of the cellhouse. Prison officials shall develop an evacuation plan which will establish as its goal, the prompt evacuation of the unit in a safe manner."

Discussion

Regular fire drills are being conducted at least once every six months. Inmates are concerned that they have not participated in any fire drills. Evacuation procedures are generally simulated when a fire drill is held on a locked living unit. This is a standard and acceptable practice. A written handbook was developed for inmates explaining fire safety and evacuation procedures. Evacuation routes have been painted on the walls near the floor level as approved by the State Fire Marshal.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

19. Exposed electrical wiring and water leakage problems will be forthwith cured. In addition, the unit shall meet the standards required by state and local law and the Underwriter's Electrical Code."

Discussion

At the most recent inspection (August 30, 1985) the units used for the assignment of administrative segregation cases had no exposed electrical wiring or water leakage problems. Previous problems with water leakage in the pipe chases of "C" Block appear to have been adequately addressed.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

20. Mattresses and trash containers will be made of materials which meet fire safety standards."

Discussion

The State Fire Marshal has officially reported that mattresses throughout the facility are constructed at the prison using State Fire Marshal approved materials. Trash containers which are accessible to the prisoners are of a plastic material which is under a waiver from the State Fire Marshal's Office. It is generally not good policy to use plastic trash containers in a prison as they are easily ignitable and produce a toxic exhaust fume. Although the institution has a waiver from the Fire Marshal to utilize such containers, they should have an independent opinion to ascertain if gas released by the burning of such plastic garbage cans would be toxic. ✓

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"A. Living Conditions

21. No cross-connections will exist between the potable and non-potable water systems."

Discussion

There are no cross-connections between potable and non-potable water in any of the administrative segregation units. All plumbing chases have been personally checked by the Auditor.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

1. Administrative segregation classification is used when inmates require closer supervision and separate housing from the general population. Every effort shall be made to return administrative segregation inmates to the general population as soon as practical, but some inmates may spend relatively extensive periods of time in this status. Administrative segregation classification is not for the purpose of punishment. This policy statement has no application to those inmates confined in disciplinary segregation."

Discussion

The defendants incorporated the principles of this Agreement in their revised Institution Procedure #8, issued on July 10, 1985. (Appendix C).

Prison policy requires that administrative segregation shall not be used for the purpose of punishment and that every effort shall be made to return administrative segregation inmates to the general population as soon as practical. Practice does not appear to follow policy. The Department of Prisons, by policy, has limited its use of Disciplinary Detention to 14 days. For more serious violations of conduct regulations the prison has developed a classification called Disciplinary Segregation. This type of segregation requires a disciplinary committee decision and follows the rigidly imposed rules of the code of Penal Discipline, and placement cannot exceed 180 days. The limitation on the length of Disciplinary Detention and Disciplinary Segregation are policy matters and could be changed. Apparently, as the result of a relatively short period of confinement allowed in Disciplinary Segregation (180 days), the practice of moving an inmate from Disciplinary Segregation to Administrative Segregation has become commonplace. Once approved by classification committee action for placement in Administrative Segregation, the inmate can be kept there for years without having committed any new offense. A spot

review of files of inmates who are currently assigned to Administrative Segregation shows that the majority had completed sentences in Disciplinary Segregation and were immediately transferred to Administrative Segregation without an opportunity to return to the general population.

Conditions of confinement, rules and regulations, program opportunities, feeding, exercise, access to legal assistance and visiting are the same for administrative segregation as they are for disciplinary segregation. In fact, conditions are tighter from a security standpoint with fewer privileges in Unit VII (Administrative Segregation) than in Unit V, which is a combined Administrative Segregation and Disciplinary Segregation facility. One cannot avoid the conclusion, then, that inmates assigned to Administrative Segregation are there for punishment - or, at least - they are punished as much or more than those inmates who are placed in Disciplinary Segregation who are supposed to be there for punishment!

Although the defendants have done an excellent job of developing procedures governing the placement of inmates in administrative segregation, the regular review of such cases, and a process for their eventual return to the general population, the practice of these procedures makes a mockery of the principle set forth in their own policy to "make every effort to return administrative segregation inmates to the general population as soon as practical"¹².

It is clearly understood that some inmates are so dangerous, and this dangerousness has been demonstrated since they have arrived in the prison, that it is responsible to assign them to an administrative segregation program for a long period of time. But even with these prisoners, a clear set of goals should be established which is within a timeframe that leaves some hope for the inmate that with good conduct he can be returned to the general population. Good behavior for three, five, seven and even ten years is not a realistic goal. For the majority of inmates

placed in administrative segregation, a relatively short period of clear conduct behavior (60 to 90 days) coupled with active participation in a planned program should justify a return to general population. We must not forget that Nevada State Prison is a maximum security penitentiary and is expected to work with inmates who by both their crimes and behavior are dangerous individuals - if they aren't they should be transferred to medium or minimum institutions!

The prison currently has approximately 110 inmates assigned to administrative segregation out of a population of nearly 600. This is a rather high ratio on the basis of comparing with other maximum security prisons across the nation. The high number appears to result from the extremely long period of time that some remain in segregation, coupled with the fact that large numbers of inmates are actually there to serve longer punishments for serious offenses committed in prison, which is not allowed under the current Code of Penal Discipline.

The reasons for placement in administrative segregation are sometimes nebulous, and often dependent upon confidential information that is not in the inmate's file. One can't help but be concerned about the number of inmates who are placed in administrative segregation and kept there for long periods of time on the basis of confidential information. It is recognized that for the safety of staff and inmates, some anonymous information has to be used and provisions exist for such practices in Nevada's Administrative Regulations. There are, however, a large number of inmates currently in Administrative Segregation on the basis of information which is never shared - cannot be refuted - and it is therefore impossible for the inmates to demonstrate that they have changed sufficiently to justify a return to general population.

An inmate who committed a murder and was sentenced to prison can be assigned to the general population even though he might commit another murder. A burglar, on the basis of a confidential informant that he (the burglar) is a former gang member, can be

placed in administrative segregation indefinitely!

On the basis of current practices the defendants are in some cases using administrative segregation for punishment, and do not appear to be making every effort to return inmates to the general population.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

2. The defendants hereby adopt Standard 4201 from the Manual "Standards for Adult Correctional Institutions", August, 1977 Edition, and the Comments thereto. A copy of the Standard and Comments, Exhibit B, are attached hereto and incorporated herein by reference as if set forth fully below."

Discussion

Standard 4201 has basically been incorporated into Departmental Regulations and Institution Procedure #8. The standard is quoted here in its entirety because of its importance to the compliance process:

"Written policy and procedure provide for administrative segregation for inmates with serious behavior problems and for inmates requiring protective custody. (Essential)

Discussion: Administrative segregation is used when inmates require close supervision and segregation from the general inmate population, often for relatively extensive periods of time. Administrative segregation may be used to ensure the safety and security of the institution, the inmate, the staff or the general inmate population. Prior to placing an inmate in administrative segregation, a determination should be made of the inmate's potential for causing problems or need for protection and should explore alternatives other than specialized housing, e.g., transfer to another institution, camp or farm. If an inmate is placed in administrative segregation, the inmate should be housed in an individual room that provides safety and comfort and should be allowed to participate in all institution programs. Each case should be reviewed frequently with the goal of terminating the separate housing assignment as soon as possible. Care should be taken to ensure that inmates do not see placement in protective custody as desirable."

In practice the following concerns regarding conformity with this standard have been observed:

- ° Prior to placement in administrative segregation there is no recorded determination as to the inmate's potential for causing problems or need for protection, and no listing of alternative placements that were considered and rejected.

- Inmates are not allowed to participate in all institution programs; in fact, they are allowed to participate in almost no programs.
- Each case is reviewed frequently, but it is perfunctory in nature, and there is little indication that efforts are being made to terminate the separate housing assignment as soon as possible.

The defendants have made extensive efforts to review cases of those placed in administrative segregation and such hearings are generally on schedule and duly recorded. The rationale behind standards and the Agreement that requires such reviews appears to be lost in the paper processing. The elements of due process simply do not exist in the hearings; an effort to develop some other alternatives to administrative segregation is not a part of the decision making formula; and efforts to return an inmate to general population is determined by an arbitrary continuance date, and not on a planned program of reintegration.

Findings of Fact

Although the defendants have made progress in this area, they are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

3. Consistent with Section 4377 of the Manual of Standards for Adult Correctional Institutions of the American Correctional Association, August, 1977 Edition, the defendants shall submit by August 1, 1980, Defendants' written plan for classification. Said plan shall set forth all the criteria which may result in the transfer of inmates to administrative segregation. Said criteria shall be drafted with sufficient specificity to give inmates forewarning of all conduct or behavior which could result in such a transfer."

Discussion

As has been set forth in previous progress reports, the defendants developed a written plan for classification which was in conformity with Section 4377 of the ACA Manual of Standards for Adult Institutions (1977 Edition). As was required in this Agreement, the defendants have also revised their classification program to be in conformity with the NIC Model. The procedures for classification of an inmate to administrative segregation are set forth in D.O.P. Information Bulletin #84-20, which has been made a part of prison policy, and has been made part of their Institution Procedure #8, reissued on July 10, 1985. (Appendix C) Audits made of the classification process and file reviews indicated that the policies and procedures of the Department are generally being followed.

Procedural areas which require continued monitoring and closer supervision are:

- ° Inmates are sometimes placed directly in administrative segregation without a hearing when no emergency exists.
- ° Inmates are sometimes placed in administrative segregation when no finding has been made by a disciplinary committee of a new offense
- ° Twenty-four hour "notice of classification hearing" is not always provided.
- ° Inmates are sometimes not allowed witnesses at their

hearings even though their presence would not be unduly hazardous.

- Inmates are sometimes not given the assistance of a staff member in preparation for a hearing.
- There is no written indication that the Warden regularly reviews all confidential files on cases which considered information from an anonymous source.
- No notice is posted or available to inmates which clearly sets forth conduct which could cause placement in administrative segregation.

Findings of Fact

The defendants have made a good faith effort to comply with this section of the Agreement and with increased monitoring should be in total compliance.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

4. Sections II and III of Administrative Segregation Model, the Model Correctional Rules and Regulations of the American Correctional Association Correctional Project, revised edition October, 1979, shall hereby be adopted and followed by the defendants. A copy of said procedures, Exhibit "C", is attached hereto and fully incorporated herein by reference."

Discussion

As has been set forth in previous progress reports, the policies and procedures set forth in the ACA Administrative Segregation Model (revised edition Oct., 1979) have been generally adopted by the defendants and are set forth in D.O.P. Information Bulletin #84-20 and N.S.P. Procedure Bulletin #8. The defendants have made a good faith effort through formalized training programs and supervision to assure that the procedures are carried out according to policy. There continue to be, however, violations of the procedures and program requirements that need additional administrative attention. Case file reviews and observations indicate that:

- ° Inmates are sometimes placed in administrative segregation without notice or a hearing when there is no documented evidence that reasonable cause existed to believe that they were an immediate danger to themselves or to others or the security of the institution.
- ° Inmates are sometimes placed in administrative segregation when no finding has been made by a Disciplinary Committee that an offense has been committed.
- ° Inmates are sometimes placed in administrative segregation on an emergency basis, but are not reviewed by the classification committee within three (3) working days. If extensions to the three (3) day rule have been given there is no documented evidence to that fact in the file as required.

- Continued use of anonymous informants where there is no documentation in the file that the necessary review has been made by the Director.
- The requirement that a file review be made by the Director of the use of anonymous informants has been delegated to the Warden, which does not appear to be in conformity with the Model Act.
- Administrative Segregation inmates are found guilty of a rule infraction and will lose privileges such as T.V., radio, exercise, canteen privileges for 90 days, when Penal Discipline Code sets a 15 day limit.
- Inmates are not always allowed to present witnesses even when it would not be unduly hazardous to do so.
- Inmates do not always have the assistance of a staff member in preparing for a hearing.
- Classification Committee decisions are sometimes reversed by the Deputy Warden without including a written justification for the file and a copy for the inmate.
- Classification Committee actions are sometimes made at "Friday meetings" in the Deputy Warden's office when staff who were not present at the hearing vote and help determine the outcome.
- Inmates are not provided the opportunity to exercise outside of their cells at least one hour a day, five days a week.
- A physician does not make rounds in the segregation units at least once a week.
- Inmates are not allowed to possess the same types and amounts of personal property, including clothing, as are available to persons in the general population.
- Segregation units do not contain a minimal collection of law materials sufficient to allow an inmate to make intelligent use of the prison's law library.
- Inmates in Unit VII are not afforded visiting privileges equal to those available in general population or in other administrative segregation units.
- No emphasis is placed on making rehabilitative programming

available which has as its goal the return of inmates to the general population.

- ° Inmates do not have access to a telephone to a degree substantially equivalent to that available to the general population.
- ° Immediate restrictions of a particular item or activity are not approved in advance by the Warden or the chief security officer.
- ° Inmates are placed in stripped cells without a disciplinary hearing.
- ° Staff assigned to administrative segregation are not given special orientation and training as to the function of the unit, rules governing its operation, and the needs and problems typical of inmates in the unit.

Once again, much progress has been made by the defendants, and some of the above material is redundant, having been reported earlier. However, the defendants agreed to comply with all of the rules and regulations set forth in Administrative Segregation Model developed by the American Correctional Association (revised Edition October, 1979) and there are clearly many examples where this has not yet been accomplished.

Findings of Fact

The defendants are not yet in compliance with all of the requirements set forth in this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

5. The institution's psychologist shall sit on and be a member of each classification hearing involving a transfer or a review of status in administrative segregation."

Discussion

The institution psychologist is a member of the classification committee and regularly sits on hearings which involve a transfer or review of status in the administrative segregation units.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

6. The classification committee shall reach a decision based upon information presented at the meeting and shall provide the inmate with a written decision which states the reasons and basis for the committee's decision and which summarizes the information presented to and considered by the committee. The decision shall be based on substantial, credible information which demonstrates the necessity for segregation. The decision shall also state the reasons for the committee's decision excluding the testimony of any witness offered by the inmate."

Discussion

Decisions are reached upon information which has been presented at the classification committee meeting, although much of it is of an anonymous nature with little or no documentation. Inmates are provided with a written summary of the committee's actions, usually in the form of a checklist response. Review of these forms indicates that little information is given to the inmates that would demonstrate the necessity for segregation. The defendants have diligently worked towards compliance with this section, but must continue to refine their documentation which supports their actions. General statements such as "inmate is a danger", "he is an escape risk" are not justifications in themselves for segregation, unless documentation exists to support the statement, and the magnitude of the charge requires segregation as the only safe and responsible action. Many inmates who are placed in administrative segregation are assigned there as an additional penalty beyond what is currently allowed as a punishment in Disciplinary Segregation. No new offenses have occurred while the inmate was in Disciplinary Segregation to justify continued restricted confinement.

Findings of Fact

The defendants are to be commended for the progress they

have made with this section and encouraged to further refine and document the reasons for their classification decisions. The defendants are not in total compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

7. A classification committee shall review the status of each inmate at least every seven (7) days for the first two months and at least every thirty (30) days thereafter. More frequent reviews may be scheduled based on the request of the case manager or the inmate. At each review, the classification committee shall determine whether there is substantial evidence to indicate that the initial reasons for classification into administrative segregation still exist. If they do not, the inmate shall be reclassified out of administrative segregation status. The inmate shall be permitted to appear before the classification committee at each review and make a statement. In cases where the inmate refuses to appear, the committee chairman shall sign the classification sheet and the specific reasons for the inmate's absence and make an evaluation for the inmate's classification/institutional file."

Discussion

Departmental and prison policies and procedures require that the classification committee review the status of each inmate at least every seven (7) days for the first two (2) months and at least every thirty (30) days thereafter. Case file reviews indicate that these hearings are taking place regularly.

The defendants have made a good faith effort to develop some goals and objectives for those inmates assigned to administrative segregation. At each review the classification committee has the responsibility to determine whether there is substantial evidence to indicate that the initial reasons for placement into administrative segregation still exist. It would appear, from observation and case file reviews, that once an inmate is placed in segregation he will remain there for a set period of time. Scheduled reviews appear to be a paperwork requirement that is faithfully carried out rather than a careful redetermination as to the need for continued segregation. The hearings have become perfunctory in nature and inmates often see no reason to attend, only to be told that their goal is "five years of clear record". The committee apparently makes no effort to reevaluate whether

the evidence supporting the original decision to place in administrative segregation still exists. Some inmates have been told that they will never get out of administrative segregation, and others have been told that they will serve all the time set forth in their "goal" regardless of their good behavior. Unfortunately, for many inmates the classification review process is a compliance with a procedural requirement, not a careful evaluation of the inmate's current state of dangerousness.

Findings of Fact

The defendants are technically in compliance with the review process required, but in many cases are not using, or at least not documenting, that substantial evidence continues to exist to justify retention in the administrative segregation program.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classificaiton Procedures

8. In each case of an inmate classified to administrative segregation involuntarily for over sixty (60) days, the classification committee will establish a set schedule of personal and program objectives involving gradual reintegration into the general population, the completion of which shall result in the inmate's reclassification from administrative segregation within an additional sixty (60) days. However, if the classification committee documents substantial evidence that reclassification from administrative segregation would produce serious injury to the inmate or others or substantially threaten the security of the institution, then reintegration is not required."

Discussion

Current practices appear to utilize the first sixty days as a holding period in which nothing takes place, even though the classification committee has decided that a long period of time will pass before the inmate can return to the general population. The purpose of the weekly reviews during the first sixty days is to determine whether release to the general population can safely be made. If it is the intention of the committee to retain the inmate in administrative segregation for an extensive time period, then personal and program goals should be established immediately.

The defendants have been setting "goals or objectives" for all inmates in administrative segregation after a sixty day period. In most cases these goals relate only to a "clean record" and a specific number of months or years that have to be served. When the committee utilizes time as the only goal for release, one can only deduce that an inmate is being punished by placement in administrative segregation. The Auditor does not object to specific time requirements of demonstrated good behavior as an objective to be met for release from administrative segregation, but when it is the only objective, and the times established are often exorbitant in length, one cannot see any difference from the punitive programs established for disciplinary segregation.

Examples have been given in previous progress reports of hypothetical personal and program objectives which involve gradual reintegration into the general population, but similar programs have not been developed for inmates in administrative segregation. It would be hoped that the defendants could revise their punishment code and establish a separate disciplinary segregation unit where inmates would be punished by serving a required period of time for a specific offense. This would then allow them to operate an administrative segregation unit which would not be used for punishment. The defendants could then refine their administrative segregation program to ensure that no inmate would remain longer than it is necessary to protect the safety and security of the institution, staff members and other inmates.

Findings of Fact

The defendants have made progress in their classification of administrative segregation inmates, but are not in total compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

9. Paragraph IX of the Administrative Segregation section of the Model Correctional Project, American Correctional Association, revised edition October, 1979, are adopted and shall be followed with the additional following amendments:

- (a) Paragraph IX B shall require that the institution and segregation units disciplinary rules shall be in writing;
- (b) For Paragraph IX B, the term "substantial" shall be deleted;
- (c) An additional paragraph to Section IX shall be as follows:
C. whenever property is removed from the inmates, the removal will be documented in writing and the property will be stored in a safe place and an inventory maintained to ensure its return to the inmate. Where property shall be removed for a long period of time, arrangements will be made for the inmate to ship the property out of the institution."

Discussion

The defendants have incorporated into D.O.P. Information Bulletin #84-20 and the revised Institution Procedures Bulletin #8, all of the principles and procedures set forth in this Agreement. As has been related in previous progress reports there continue to be examples of staff not closely adhering to these procedures. For example:

- ° Restriction of rights, privileges and amenities are not always approved in advance by the Warden or his chief of security.
- ° Restrictions of T.V., radio, exercise and commissary sometimes exceed the limits set by the Penal Discipline Code.
- ° Written records are not always made of restrictions.
- ° Significant restrictions are not always reported within twenty-four (24) hours to the prison psychologist.
- ° Restrictions are imposed without a disciplinary hearing.
- ° When an inmate is moved to administrative segregation his property is often not inventoried or placed in safe keeping.

Findings of Fact

The defendants' policies and procedures are in total compliance with this section. There continues to be, however, a practice of not closely adhering to these procedures, which causes the defendants to not be in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

10. Prisoners classified to administrative segregation may be denied or removed from programs, jobs, activities, including hobby craft, canteen privileges and activities in accordance with the provisions in Paragraph 8 and 9, above. Notwithstanding those provisions, however, every inmate in administrative segregation shall receive an opportunity for educational opportunities including a GED degree, high school classes, and a high school diploma. College correspondence courses shall be made available at the inmate's expense. The inmates in administrative segregation shall also be provided the opportunity for vocational development consistent with their status in administrative segregation, according to a plan to be developed by the defendants herein.

Inmates shall be afforded the opportunity for work within the administrative segregation unit. The defendants shall develop a written plan providing for such work opportunities within the confines of the administrative segregation unit. In the interim, good faith efforts will be made to provide additional, programmed activities including educational, vocational, and employment opportunities for the inmates housed in the administrative segregation unit."

Discussion

The principles enumerated in this section have been totally incorporated into Departmental and Prison policies. In practice, closed circuit T.V. was recently installed in all administrative segregation units and currently broadcasts a general GED program approximately four hours per day, five days a week, and entertainment video is made available 2 hours per night and 19 hours on weekends. As of September, there were 50 inmates participating in this program. There are no other educational programs. There are a few inmates who have porter duties, which is the only work program. There are no vocational development activities, congregate religious worship activities or physical education programs. Inmates are allowed to exercise in small fenced areas for approximately four to five hours every fourth day. Outside of some weights, most of which are too heavy for the average inmate, there is no recreation equipment available. No provision is made for any other type of recreational activity (eg., games,

music, hobby crafts, etc.).

The defendants are to be commended for instituting the T.V. educational program. Continued efforts must be made to broaden education, recreation, physical education and work opportunities if compliance is to be reached.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

11. Inmates in administrative segregation shall be provided a minimum of eight (8) hours per week of outdoor exercise, absent inclement weather, with ten (10) hours of outdoor exercise per week established as a goal."

Discussion

As was indicated in previous reports, the defendants continue to meet the minimum hourly requirements for outdoor exercise. The current scheduling of outdoor exercise allows for only one exercise period every fourth day. The American Correctional Association standard calls for a minimum of 1 hour per day, five days per week. The requirement established by the A.C.A. Administrative Segregation Model, and specifically established as the standard to which the defendants must comply, calls for "an opportunity to exercise outside of their cells at least one hour a day, four days a week¹². The current practice of utilizing long periods of exercise with little in the way of recreation equipment, no toilet, no drinking water, no bench to sit on, muddy ground in the winter and no shade during hot summer weather is contrary to good correctional and public health practices. If an inmate has to go to the bathroom he has the choice of doing it in the exercise pen (odor would indicate this is the option normally chosen) or request a return to his cell (which then terminates his exercise activity for that four day period).

The Legislature provided, in the 1985-87 Fiscal Year Budget, funds to increase the size of exercise yards and provide sanitary facilities. Although planning for this construction is underway, conditions remain as described above. If inmates are going to be required to eat meals in the exercise area a table and bench should be provided. For winter use the surface of the exercise yard should be blacktopped or graveled to reduce the standing

water and mud.

Findings of Fact

Although the current schedule provides four hours of every fourth day, it does not meet the requirements set forth in the Agreement that require one hour per day, five days a week.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

12. A reasonable amount of recreational equipment shall be made available in each exercise area. At the time the renovation of the cellhouse is completed, the defendants shall have expanded the exercise area to provide that each exercise area shall be at least 50 feet by 50 feet."

Discussion

The Legislature, in the 1985-87 Fiscal Year Budget provided sufficient funds to enlarge all exercise areas to a required minimum of 2500 square feet. Necessary planning or ordering of materials has been done and construction should soon get underway. It would be hoped that this project will also include sanitary facilities, tables and benches and some treatment of the ground to eliminate the serious mud problems.

A reasonable amount of recreational equipment has not been made available. The only equipment currently provided are several very heavy weights that the average inmate cannot lift. The prison recreation specialist should study the exercise areas and recommend a variety of recreation-type pieces of equipment that can be safely used.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

13. Sections 4223 through 4236 of the Manual of Standards for Adult Correctional Institutions, American Correctional Association, August 1977 Edition, and the Comments thereto are hereby adopted as minimum standards for compliance. Further, whenever, in the Standards and Comments, terms such as can, should or may, and the like are used, each must be read as "shall" and, thus, the term "shall" is to be substituted therefor in each instance. A copy of Exhibit "E" of the Standards and Comments are attached hereto and fully incorporated herein."

Discussion

All principles set forth in the ACA Standards 4223 through 4236 have been incorporated in the Department's and Prison Food Service Manuals. A review of all standards was made. The prison was basically in compliance with all standards but the following:

Standard 4227 - Therapeutic diets have not been adequately developed and food served to those on medical diets seldom meet prescriptive requirements.

Standard 4228 - Accurate records of actual meals served could not be found.

Standard 4230 - There is more than 14 hours between the evening meal and breakfast, although a fruit and sandwich are now served as an evening snack.

Standard 4232 - Food served to inmates in locked units is not always served at appropriate temperatures. New hot food carts have been received and experiments are now being carried out in Unit VII. Hot food in bulk containers is being delivered to the unit and reheated before it is served. If this experiment is successful it will allow for the evening meal to be served later, which addresses Standardd #4230.

Standard 4233 - All meals are eaten in cells with no stool and, in most cases, no table. Noon lunches served to inmates in exercise pens must be eaten sitting on the ground, which is often wet and muddy.

Standard 4234 - Administrative and medical personnel are not making weekly inspections.

Standard 4235 - State Health Inspector recommends replacement of all food service equipment. The majority of this equipment has been provided by the Legislature in the 1985-87 Fiscal Year Budget, and already ordered by the prison.

standard 4236 - Food handlers in locked units are often correctional officers who do not always wear hats and gloves when serving food.

The defendants continue to make progress towards compliance, but must yet address the following issues:

- Replace current outmoded and damaged food service equipment.
- Resurface all kitchen and serving area floors with materials that can be sanitarily maintained.
- Resurface and properly drain the kitchen garbage area.
- Clothe food service workers in some type of clean garments.
- Use electric hot carts for transportation of food to locked units or reheat food before serving to inmates.
- Shorten period to acceptable standards between dinner and breakfast.
- Drain water in the dishwasher after every 200 trays.
- Install screen doors and wind curtains on all kitchen/dining room entrances.
- Insist that all food servers (inmates and staff) use plastic gloves and wear hats or hair nets.
- Comply with all remaining ACA feeding standards.
- Comply with all recommendations made by the Public Health Sanitarian.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

14. Inmates in administrative segregation shall also be provided the following:

- a. Correspondence as provided to the general population;
- b. Showers and shaving five (5) times per week;
- c. Hair grooming and barbering;
- d. A minimum of two (2) hours visitation per week;
- e. Access to legal counsel shall be the same as for inmates in the general population. Access to other legal resources for the inmates in administrative segregation will be provided similar to the access accorded inmates in the general population:
 - (1) There shall be a law clerk assigned to the maximum housing unit who shall visit the unit four (4) times per week, to assist inmates and make law books and legal supplies available to them upon request."

Discussion

Inmates in administrative segregation are provided the following conditions:

- (a) Correspondence as provided to the general population.
- (b) Showers and shaving five times per week.
- (c) Hair grooming and barbering.
- (d) A minimum of two (2) hours visitation per week.
- (e) Access to legal counsel which is the same as for inmates in general population.

As has been set forth in previous progress reports the Auditor continues to feel that administrative segregation inmates do not have access to other legal resources similar to the access accorded inmates in the general population. Granted there is an untrained "law clerk" assigned to each administrative segregation unit who visits the unit four times per week to assist inmates and make law books and legal supplies available to them upon request. General population inmates, however, have direct access to the law library and are therefore able to perform their own research. This is a decided difference and cannot be ignored.

Administrative segregation inmates have no direct access to the law library, have no reference material in their locked units that could assist them in determining what information is available and are unable to obtain assistance in this respect from a person trained in the law. The fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law.

The Honorable Bruce R. thompson, U.S. District Judge, stated in his memorandum opinion in the case of Craig vs. Hocker: "The law is that the state must provide a prisoner with reasonable access to adequate legal reference materials. The state's interest in curtailing expense is not an excuse." Craig, Supra; p.668.¹³

It is completely unrealistic to expect inmates confined in administrative segregation to know the names of the law books they will need for research on a legal problem so that they can request them from the "law clerk". Such a "paging" system has been found by the Fourth Circuit to constitute insufficient access unless the jail or prison also gives inmates assistance from legal professionals. Williams v. Leeke, 583 F2d 1336.

Since the inmates in administrative segregation do not have any personal access to the law library they are dependant upon the services of inmate "law clerks". Unfortunately, although the majority of the current "law clerks" wish to render adequate service to inmates in administrative segregation, they do not have the education, background or training to perform these tasks. At best they provide good messenger service, but all too often they recommend the wrong course of action, improperly prepare legal papers and bring irrelevant reference material to the inmates' cells.

To meet the conditions of this section of the Agreement the defendants must more adequately address the issue of access to legal resources. The following suggestions have previously been

made and if adopted would bring the defendants into compliance:

1. Providing "mini law libraries" in each of the administrative segregation units. These libraries would include basic reference documents, the U.S. and Federal Shepard's Citations, Prisoner Self-Help Litigation Manual, Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, Descriptive Word Index, and appropriate State of Nevada reference material. This proposal has received serious consideration by the defendants and they are in the process of establishing mini law libraries in all segregation units.
2. Inmates should not be appointed as "law clerks" unless their education and general intelligence will allow them to learn the intricacies of para-legal assignments.
3. Law clerks should receive basic training in the para-legal matters before attempting to help other inmates. In-service training should also be provided all law clerks on a regular basis. An attorney should be available at least by phone to answer law clerk's technical questions.
4. Law clerks should be allowed to remain in the law library on an "out count" basis in order that they will have sufficient time to carry out their research.
5. Law clerks should not work on their own legal matters during the regular work week. The library should be open on weekends and evenings for the use of law clerks to do their own legal work.
6. At least one day a week the law library should be reserved for protective custody inmates.
7. Copy charges of 20 cents per page is prohibitively expensive and should be reduced to actual costs.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation , General Provisions

"B. Classification Procedures

15. Provision will be made for prisoners in administrative segregation status to have access to the general library or a library cart to check out as many as five (5) books at least every seven (7) days."

Discussion

The prison has established a general library. It is located in the academic school quarters, and only those students attending school have access to it. Library carts have been constructed and are available for the transportation of books to the locked units. There is some concern that books are not being replaced on a regular basis and that inmates do not have access to the library carts on a set schedule. Some person should be assigned the responsibility of making the library cart system work.

Findings of Fact

The defendants are not currently in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

16. Inmates in administrative segregation status will be allowed to retain in their personal living area a minimum of five (5) law books and all legal papers."

Discussion

From a policy standpoint this Agreement is covered in Administrative Regulation and Institution Procedure #10. In practice it would appear that the policy is being carried out and no greivances have been submitted regarding retention of legal materials. Great care should be taken of legal papers when physical moves are made from one living unit to another or a "shakedown" is held. Inmates have expressed concern that legal materials have been lost or destroyed.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

17. A caseworker or counselor shall be assigned to the administrative segregation unit of the prison who will visit the unit five (5) days per week and will be available to help each inmate who desires assistance or information."

Discussion

A counselor has been assigned to each of the administrative segregation units and prison policy calls for visits to the units five days per week. The logs maintained in the units still do not reflect daily visits. In fact, most visits appear to correspond with meetings of the classification committee or disciplinary committee. Inmates feel they have great difficulty talking to their counselors except at meetings. Letters from inmates to their counselor are often not answered and there does not appear to be any routine contact between the counselor and his/her caseload. Of greater concern is the fact that most inmates see their counselors as disciplinarians and paper processors, not individuals who inform and assist.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

18. A representative of the medical staff, e.g., at least at the level of licensed practical nurse, shall make rounds through the administrative segregation unit on a daily basis. A physician shall conduct sick call in the administrative segregation unit, at least once a week. A record of all visits by medical personnel shall be maintained. Should an inmate in administrative segregation complain of or exhibit an apparent medical/dental or psychological problem at times other than the medical staff member's visit, the officer in charge of the administrative segregation unit shall be notified and shall immediately notify the medical staff. Such notifications and actions shall be recorded."

Discussion

One of the nursing staff makes daily rounds through all of the administrative segregation units. Because there is currently only one medical doctor for all of the prison facilities in northern Nevada a physician has not conducted sick calls in the administrative segregation units. An inmate wishing to see a physician has great difficulty doing so. Nurses rigidly screen inmate requests to see a physician. When a request to see a physician is approved the appointment is often delayed because there are insufficient officers available to escort the inmate in chains to the infirmary.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

19. A qualified clinical psychologist or psychiatrist shall interview in person and complete a meaningful evaluation of the status of each person classified to administrative segregation within thirty (30) days of assignment to that unit. Thereafter, said evaluation shall be completed for the inmates every ninety (90) days."

Discussion

The issue of completing "a meaningful evaluation" was addressed earlier in this report and will not be repeated here. An evaluation of all inmates confined in administrative segregation is made by the institution psychologist within 30 days of the inmate's assignment to the unit. The Agreement further calls for an evaluation every ninety days thereafter. The psychologist does not have time to make a further evaluation which requires any testing or interviews. He does observe all inmates at regular classification committee hearings and sets forth his clinical impressions based on the committee interview. It is the writer's opinion that the observation/interview is sufficient to spot any serious, mental or emotional problems which would require additional evaluation. However, the 90 day routine evaluation is not being carried out.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

20. Visitation by religious personnel to inmates assigned to administrative segregation will be encouraged and allowed."

Discussion

Visitation by religious personnel is allowed and currently Father Dave, contract Chaplain from St. Teresa of Avila Church, has been encouraging the participation of more volunteers.

Findings of Fact

The defendants are in compliance with the visitation requirements of this Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Classification Procedures

21. Correctional officers assigned to the administrative segregation unit of the prison should be tolerant and trained to meet the needs of inmates so classified. Each supervisor will supervise and evaluate the on-the-job performance of employees assigned to the administrative segregation unit of the prison."

Discussion

There is no special selection or training of officers assigned to administrative segregation. All correctional officers during the past year received special training in conflict resolution, emergency procedures and the requirements of existing Court Orders. Officers reporting to duty in a segregation living unit are instructed to read post orders. Ongoing supervision and evaluation of all employees is required by Departmental personnel policies.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Protective Custody, Classification Policies and Procedures

1. This classification is used when inmates require removal from the general population of the prison because of the threat confinement in the general population poses to the health and safety of the inmate which requires prison officials to protect the inmate from the environment and pressures of the general population. This situation may result from many reasons including the size, age, intelligence, disability, and infirmity of the inmate, or the inmate, with or without fault, is faced with an enemy situation in the general population requiring protection."

Discussion

Protective custody classification is used by the Nevada State Prison, and the necessary policies and procedures are clearly outlined in Administrative Regulation #733.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Protective Custody, Classification Policies and Procedures

2. Every effort shall be made, however, to return the inmate to the general population as soon as practical, but some inmates may spend relatively extensive periods of time in this status. The assignment to protective custody is not for the purpose of punishment."

Discussion

The principles set forth in this Agreement are incorporated in the Department's Administrative Regulation #733, and the procedures there outlined are carried out in practice. Currently, only Unit I is operated as a Protective Custody unit.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Protective Custody, Classification Policies and Procedures

3. An inmate may be placed in this section of the prison on a voluntary basis if the inmate believes that housing in the general population places the inmate in jeopardy of serious bodily harm and requests placement in protective custody. Inmates requesting assignment to protective custody may be required to sign a written request slip, stating their desire for assignment to such housing or classification. Inmates requesting assignment to protective custody may be placed therein, immediately without waiting for any formal hearing before a classification committee."

Discussion

The principles and procedures required by this Agreement are incorporated into the Department's policy and set forth in Administrative Regulation #733. On the basis of a file review practice conforms to policy. Inmates are not required to sign a written statement when they request assignment to protective custody.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Protective Custody, Classification Policy and Procedures

4. Any inmate who has voluntarily placed himself in protective custody will be classified within five (5) working days of a request to be reclassified. Upon reviewing a reclassification request, the inmate may be required to remain in protective custody in accordance with the procedures and standards, below.

5. Where an inmate is involuntarily placed or retained under protective custody, the procedural safeguards prescribed for the transfer or classification of inmates to administrative segregation shall be followed. Where an inmate is involuntarily transferred in the first instance into protective custody, the classification committee shall make a finding based upon clear and convincing evidence that an inmate is a victim of a violent act and there is clear and convincing evidence that if he remains in the general population he will be subjected to an additional violent act or the inmate's safety is jeopardized by an immediate life-threatening conflict with other inmates in the general population requiring temporary separation from the general population because he cannot otherwise be provided with adequate protection. Where an inmate is being required to remain in protective custody only upon a finding by the classification committee based upon a preponderance of the evidence, that the inmate will be subjected to additional violent acts or the inmate's safety will otherwise be jeopardized by an immediate life-threatening conflict with other inmates in the general population requiring continued separation from the general population because the inmate cannot otherwise be provided with adequate protection if he were returned to the general population."

Discussion

Case file review gave no indication that this Agreement was not being met. Few, if any, inmates are placed in protective custody on an involuntary basis.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Administrative Segregation, General Provisions

"B. Protective Custody, Classification Policy and Procedures

6. Generally, the policies and practices of protective custody build upon those in administrative segregation set forth in Paragraph I.B., above. Consistent with those policies and procedures set forth in that section and in addition thereto, conditions in protective custody must include:

- a. At least eight (8) hours minimally of outdoor exercise, weather permitting, with a goal of ten (10) hours per week of outdoor exercise. In the event of inclement weather, a good faith effort shall be made to provide inmates with alternative indoor exercise.
- b. Educational, vocational, hobby craft, recreational and employment opportunities similar to that in the general population must be made available to inmates in the protective custody unit.
- c. Opportunity to shower and shave, as in the general population.
- d. Correspondence identical to the general population.
- e. Visitation identical to that provided to the general population unless security dictates other provision be made, i.e., a different time, place, etc.
- f. Access to legal resources and legal counsel identical to the general population, unless security dictates other provisions be made, i.e., other time, place, etc.
- g. Inmates classified protective custody may retain their personal property as permitted in the general population.
- h. As a general rule in all other respects conditions in protective custody shall approximate a replication of conditions and policies in the general population of the prison."

Discussion

Protective custody cases are now all assigned to Unit I. They are able to attend school, have limited work assignments, utilize the gymnasium, eat in the dining room, have contact visits, participate in religious services, recreate in a large exercise area, and generally experience conditions of confinement similar to those of the general population. Exceptions to the similarity to the general population are that protective custody inmates do not have direct access to the law library and employment opportunities are not similar to that in the general population. Work experience currently is limited to culinary clean-up assignments.

Findings of Fact

The defendants are not in compliance with this section of the Agreement.

AGREEMENT

Inmate Correspondence

"A. Policies and Procedures Governing Inmate Correspondence

1. The defendants' mail regulations, a copy, Exhibit "F", of which is attached hereto, are to be amended as described below. Any mail regulations which the defendants might adopt in the future must also include the following:

- a. Paragraph 2(e)(1) shall be amended as follows: Censorship of mail includes the reading of mail, excepting that which is seen during the course of the inspection of mail;
 - b. Paragraph 2(d) shall be amended as follows: Inspection refers to the checking of the outside of an envelope for proper return address and name and addressee and opening of mail for contraband as set forth in a written list prepared of all contraband. Items in the mail may be removed and observed to the minimum extent possible to ascertain the character of the enclosures;
 - c. Paragraph 4 of the defendants' regulation shall read as follows: 'Incoming general correspondence may be censored if it is found that the contents, taken as a whole or in significant part, fall into one of the following categories:'
 - d. Paragraph 7(b) of the defendants' mail regulation shall be deleted. In its place shall be adopted the II B.I. of the Correspondence Model of the Model Correctional Rules and Regulations, American Correctional Association, revised edition, October, 1979. A copy, Exhibit "G" of the Rule is attached hereto and incorporated herein fully by reference;
 - e. The defendants shall add the following paragraph as 7(d) to their mail regulation: 'reading, opening or inspecting of outgoing mail from inmates shall be prohibited unless prison officials have probable cause documented in writing and submitted to the superintendent of the institution that the letter contains evidence of a crime.'
 - f. Paragraph 8(c) of the defendants' regulations shall be amended to provide that neither the Superintendent nor Director shall have been involved in the initial decision to censor the correspondence;
 - g. A new section shall be added as 8(d) of the defendants' mail regulations. This addition is as follows: If a letter is censored, a written notice, signed by the official authorizing the censorship, and stating the reason(s) for censorship shall be given the inmate, advising also, of the right to appeal the censorship decision.
 - h. Paragraph 11(a) of the defendants regulations shall be amended to provide that publications received through the U.S. Mail or from an approved vendor, may be excluded only where they present a clear and present danger to the security of the institution, or would cause severe psychiatric or emotional disturbance to the inmate as certified by a psychiatrist or psychologist;
- Paragraph 2(a)(5) shall be amended by substituting 'a' for the word 'the' so that the phrase reads 'a state bar association'."

Discussion

The principles and procedures required by this section of the Agreement were basically incorporated into the Department's Administrative Regulation #750. Early review by the Auditor of compliance with this regulation found no grievances filed by inmates. However, more recently a number of concerns have been expressed which need to be carefully evaluated:

- ° Standard II, B.I. of the Correspondence Model of the Model Correctional Rules and Regulations, American Correctional Association, revised edition, October 1979, reads as follows:

"Inmates shall be allowed to send letters to whom-ever they wish, including inmates at other institutions, except when clear evidence related to institutional security, order, or rehabilitation exists to justify a limit."

Current mail procedure #60 requires that inmates must get approval before writing to an inmate in another prison.

- ° Exhibit "F" of the Craig vs. Hocker Consent Decree required that the following standard be used in all of the defendants' future regulations.

"There shall be no limit on the amount of incoming correspondence an inmate may receive subject to limitations contained in this procedure" (Department of Prisons Procedure Manual #333).

Current mail procedure #60 restricts what may be received in letters such as the amount or number of stamps, news articles, religious literature and other pamphlets, which does not appear to be in harmony with the basic standard for incoming mail.

- ° Mail is sometimes returned without notification to the inmate that it is being returned, or providing the opportunity to appeal such action to the Warden.
- ° Outgoing mail is sometimes being returned if an indigent inmate has no stamps, although regulations allow postage and stationery for two letters of general correspondence

- per week for indigent inmates and unlimited legal mail.
- Incoming legal mail is often being opened before being given to an inmate.
 - Greeting cards and pictures are sometimes cut and/or stapled in the letter opening process.
 - The recent requirement that allows only one package each month does not appear to conform with the ACA Model Correspondence Regulations.

Findings of Fact

Analysis of current mail regulations should be made with standards established in the original consent decree to determine whether compliance has been reached.

AGREEMENT

Access to the Judicial Process

"A. Written Policies and Procedures

1. Section 4280 of the Manual of Standards for Adult Correctional Institutions and Comments thereto, of the American Correctional Association, August 1977 edition, shall hereby be adopted. The term 'should' in the Comments, however, shall be deleted and the term 'shall' substituted therefor. A copy, Exhibit "H" of the Standard and Comments are attached hereto and incorporated herein by reference."

Discussion

The defendants have incorporated Section 4280 of the Manual of Standards for Adult Correctional Institutions and Comments thereto (August 1977 edition) in its entirety in their Administrative Regulation #720. They have also substituted the term "shall" for "should" in their policy statement. This policy now reads as follows:

"Inmates shall have the right to present any issue, including challenging the legality of their conviction or confinement; seeking redress for illegal conditions or treatment while under correctional control; pursuing remedies in connection with civil legal problems; and, asserting against correctional or other government authority any other rights protected by Constitutional or statutory provision or common law."

Concern continues to exist in the minds of many inmates that acts of retaliation will follow any aggressive legal activity which addresses conditions of confinement at the Nevada State Prison. There has been an exceedingly high turnover of law clerks, particularly those who are capable and knowledgeable about civil rights actions, but in each case there appears to have been a legitimate reason for some disciplinary action.

Finding of Fact

The defendants are in compliance with this section of the Agreement.

AGREEMENT

Access to the Judicial Process

"A. Written Policies and Procedures

2. The defendants' rules and regulations on legal services shall be further amended, as per below. Said regulations, exhibit "I" are attached hereto.

a. Paragraph 2 and Paragraph 5(a) of the regulations, and in all other appropriate places, said regulations shall be amended to add the term 'para-legal' as a part of the definition of an attorney's authorized representative(s).

b. Paragraph 5(c) of the defendants regulations shall be amended as follows: 'An attorney shall be required to furnish proper identification for visits by presenting evidence he/she is a member of a state bar. If prior to the initial meeting between an attorney and inmate, prison officials, for some articulable and justifiable reason, believe that the visit by said attorney was not requested by the inmate, his/her family, or a person acting for and on behalf of the inmate, prison officials may require a showing that the visit was so requested. Any of the following will be deemed sufficient to make a showing:

1. A written confirmation by the inmate of the request.
2. Production of the part of a written document of the inmate making the request for the visit.
3. Any other credible information which would establish that the attorney has responded to a request for visit by the inmate, his or her family, a person acting for the inmate and on his behalf.'

c. Paragraph 5(e) of defendants' regulations shall be amended by deleting the phrase, 'so far as possible'.

d. Section 5 of the defendants regulations on legal services shall be amended by adding a new section, 5(f) which shall read as follows: 'Any inmate has the right to consult with an attorney of his or her own choosing under reasonable regulations providing for the security of the institution and the safety of the inmate population and staff'.

e. Whenever the term 'attorney' is used in the defendants' legal services regulations or the provisions herein, the term shall be read as including the attorney's authorized representative(s).

f. The defendants' legal services regulation shall be amended to add the following paragraph: 'It shall be the decision of the inmate whether or not to conduct an attorney/client interview.

Where an attorney and/or the attorney's authorized representative or agent requests to see an inmate and an inmate refuses the attorney/client interview, that fact will be communicated to the attorney and/or authorized representative or agent in writing, signed by the inmate, immediately upon the refusal, upon a form provided by prison officials which shall include an indication that the inmate was aware that an attorney/client interview had been requested, that he understood, by name, the person requesting the attorney/client interview with the inmate, and a statement that the inmate refused the visit.'"

Discussion

The defendants policy, rules and regulations on legal services were amended as required by this Agreement, and the changes were totally incorporated in A.R. #720. The writer has found nothing to indicate that the regulations are not being carried out.

Findings of Fact

The defendants are in compliance with this section of the Agreement.

CONCLUSION

Although the defendants are not in total compliance with many sections of the Agreement, the reader should be careful not to intepret from these findings that progress has not been made. Progress has, and continues to be made, and with extra effort there is no reason why total compliance cannot be reached. One only needs to measure the improvements at the Nevada State Prison over the past two years to fully recognize the actual progress made.

During the past year Warden Sumner was given the additional responsibility of Assistant Director, which caused him to spend large amounts of time attending duties away from the prison. In early summer, George Sumner was appointed by the Governor as Director of the Department, and has since been fully occupied in a multitude of legislative, budgetary and administrative issues. Consequently the Nevada State Prison was without a Warden for a number of months and only recently has the new, well qualified, and experienced Harold Whitley moved from Oregon to assume this responsibility. As a result of these changes there has been an understandable leadership void which tends to dilute efforts toward the many changes required by this Agreement.

Mention should be made of the strong legislative support that was given to the Governor's budget, and which resulted in increased appropriations for the Department of Prisons for the 1985-87 Fiscal Year. These funds will allow the department to address the majority of non-compliance agreements that required capital outlay expenditures to accomplish.

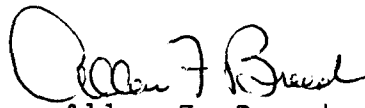
It is apparent that even with continued commitment on the part of the defendants they will be unable to totally comply with all Agreements by December 19, 1985. It would be hoped that parties could constructively negotiate timelines and unresolved issues in order that the Court will not be required to consider sanctions for non-compliance. The Auditor will be happy to participate as a neutral in any negotiation process, should such a role be considered helpful.

The writer wishes to again commend the efforts of Mary Stewart, who has recently been appointed Departmental Court Compliance Coordinator; and Myles Long, who continues in a similar role for the Nevada State Prison. Their loyalty to the agency is unquestioned, and their commitment to successful compliance is untiring.

A final, brief report will be issued prior to December 19, 1985, with primary attention being given to the following areas which are considered most critical:

- Medical issues
- Sanitation issues
- Clothing issues
- Classification issues

Respectfully submitted,


Allen F. Breed
Court Auditor

October 10, 1985

NOTES

1. Shapley v. O'Callaghan, Order, August 22, 1983
2. Shapley v. O'Callaghan, Order, February 8, 1984
3. Shapley v. O'Callaghan, Stipulation, March 18, 1984
4. Craig v. Hocker (CU-R-2662-BRT) Consent Decree, July 18, 1980
5. Nevada State Public Works Board, Capital Improvement Program, 1985-1987
6. Shapley v. O'Callaghan, Order, August 22, 1983
7. Ibid.
8. Nevada Revised Statute, Section 209.321. Transfer of offenders for psychiatric observation or treatment.
9. Taylor v. Wolff. Auditor's Third Progress Report, October 1, 1985
10. Shapley v. O'Callaghan, Order, August 22, 1983
11. American Correctional Association Standards for Adult Correctional Institutions, Second edition, 1981
12. American Correctional Association, Administrative Segregation Model, revised edition, October 1979
13. Craig v. Hocker (CU-R-2662-BRT) Memorandum Opinion, July 18, 1980



STATE OF NEVADA
DEPARTMENT OF COMMERCE

STATE FIRE MARSHAL DIVISION
Capitol Complex
Carson City, Nevada 89710

RICHARD H. BRYAN
Governor

LARRY D. STRUVE, Director
Department of Commerce

T. J. HUDDLESTON, Fire Marshal
State Fire Marshal Division
(702) 885-4290

September 9, 1985 —

John Ignacio, Associate Warden
Nevada State Prison--Maximum Security
P. O. Box 607
Carson City, Nevada 89702

Dear Mr. Ignacio:

A required semiannual fire and life safety inspection was conducted at the Maximum Security Prison on August 30, 1985, by the State Fire Marshal Division. The following is a list of deficiencies noted during that inspection.

Library

This area requires a second exit.

Discontinue use of extension cords.

Replace cover plates missing from electrical junction boxes on the ceiling.

Wall penetrations by the Education Office should be sealed.

Store

Multiple electrical plug adapters should not be used.

Remove all adapters and extension cords. Replace with permanent wiring.

John Ignacio, Associate Warden
September 9, 1985
Page 2

Mattress Factory

Electrical panel in interior wall space by the mixing area needs a cover.

The exposed wood framing in this concealed space should be covered with 5/8" Type "X" sheetrock or treated with fire-retardant paint.

Cell Blocks (A & B)

Exposed wiring and uncovered electrical panels in shaftways should be corrected.

Standpipes for 1 1/2" fire hose should be installed at both ends of shaftway and preconnected with fire hose.

Hobby Shop

An exhaust fan should be installed in the window above the spray booth and should be wired into the compressor switch so both will operate at the same time.

Culinary

Remove excess garbage on rear loading dock.

Replace missing electrical cover plates throughout the building.

Heat detectors are required in the kitchen area.

CMU

Seal all penetrations in boiler room.

Book Binding/Print Shop

Discontinue use of extension cords.

Only metal garbage cans with covers may be used. Remove all others and replace lids.

John Ignacio, Associate Warden
September 9, 1985
Page 3

Unit 1

A key lock button or other device to allow front door hold-open must be installed to allow the officer to escape through the entrance door in case of fire.

Unit 7

Replace burned out lights on control panel.

Replace any burned out fuses on control panel.

Please thank your staff for their cooperation during this inspection. If we can be of further assistance, please contact this office.

Sincerely,



E. L. Williams
Assistant State Fire Marshal

ELW:ljo

cc: Vernon G. Housewright, Director, Department of Prisons,
P. O. Box 7011, Carson City, NV 89702
✓ Mr. Allen Breed, P. O. Box 220, San Andreas, CA 95249



STATE OF NEVADA
DEPARTMENT OF HUMAN RESOURCES

HEALTH DIVISION

505 East King Street
Carson City, Nevada 89710

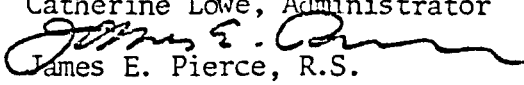
RICHARD H. BRYAN
Governor

JERRY GRIEPENTROG
Director

July 9, 1985

MEMORANDUM

TO: Catherine Lowe, Administrator

FROM: 
James E. Pierce, R.S.
Public Health Sanitarian III

SUBJECT: INSPECTION OF THE MAXIMUM SECURITY PRISON

An inspection was made of the Maximum Security Prison on July 8, 1985. I was accompanied by Sgt. Stufflebeam.

CULINARY AREA

1. A door latch is on order for the reachin on the front line.
2. Ceiling paint needed repair - front area.
3. Hose bib vacuum breakers were needed for hose bib in cooking line.
4. The walls and ceiling needed cleaning near hood.
5. Some light shields were needed (missing).
6. Walkin: Floor needed cleaning
Food was uncovered
Ceiling was dirty
7. Some mouse droppings were observed on shelves and floor - sweep floor.
8. Back dock area: The trash needed to be picked up and the area scrubbed down.
9. Noted some work tables and walk boards cracked - needed repair.

MAX UNIT (CMU & LOCKUP)

1. Chaseway was clean and neat.
2. First Floor: Showers needed cleaning, plastic tableware was uncovered.

July 9, 1985
Inspection of Maximum Prison
Page Two

3. Second Floor: Several windows were broken; one swamp cooler needed repair, and the floor and sink in the utility room needed cleaning.

LAUNDRY

1. Shower curtain needed cleaning and replacement.
2. Wall behind washer needed repainting.

INFIRMARY

1. Note: One person in quarantine for suspected hepatitis.

LIVING UNIT

Unit I

1. Wing A: Shower ceiling had a crack in it; shower walls needed cleaning.
2. Wing B: Shower walls needed cleaning.
3. Wing C: Shower ceiling had a crack in it and it leaks when it rains; Shower walls needed cleaning.
4. Wing D: One light out - replace bulb.
5. Officers area: Ceiling leaks through crack when it rains.
6. Utility area: Ceiling leaks through crack when it rains.

UNIT 4

1. Wing M: O.K.
2. Wing N: Shower walls needed cleaning.
3. Wing O: Shower walls needed cleaning.
4. Wing P: O.K.

UNIT 5

1. Wing Q: Shower walls needed cleaning.
2. Wing R: Shower walls needed cleaning.
3. Wing S: Shower ceiling was cracked.
4. Wing T: Repair peeling shower wall paint, noted crack in shower ceiling.
5. Leaking water faucet in utility room need repair.

July 9, 1985
Inspection of Maximum Prison
Page Three

UNIT 7

1. O.K. - looks fine; noted some plastic covering ceiling vents to divert cool air to cells.

CELL HOUSE

FIRST FLOOR

1. Chaseway: Few leaks observed as well as litter. No evidence of rodents or insects.
2. Showers on 1 A West - Walls needed repair.
3. Craft area: O.K.
4. Officers station: O.K.

SOAP/MATTRESS FACTORY

1. Remove hanging ceiling plaster

SECOND FLOOR

1. O.K.

OTHER COMMENTS

1. Repair ventilation (ceiling) next to control area needed repair.
2. Cable will be installed for the whole prison starting at CMU.
3. Commissary was closed this date - no inspection.
4. Educational area was used for court this date - no inspection.
5. A new water tank is planned for the prison as well as water pumps.

cc: George Sumner
John Ignacio
Allen Breed
Mary Stewart

STATE OF NEVADA
DEPARTMENT OF PRISONS

BOARD OF PRISON COMMISSIONERS

RICHARD BRYAN, GOVERNOR

BRIAN MCKAY, ATTORNEY GENERAL

WM. D. SWACKHAMER, SECRETARY OF STATE



George W. Sumner
DIRECTOR
ADMINISTRATIVE OFFICE
P.O. BOX 7000
CARSON CITY, NEVADA 89701
PHONE (702) 862-9202

Issue Date: July 10, 1985

NEVADA STATE PRISON

I. NUMBER: 8 - REVISED
TITLE: ADMINISTRATIVE SEGREGATION INMATES

II. PURPOSE

To provide guidelines for the placement, retention and reintegration of inmates in Administrative Segregation.

III. REFERENCE

Administrative Segregation Model, the Model Correctional Rules and Regulations of the American Correctional Association Correctional Project

IV. APPROVAL AND REVIEW

The Warden and Associate Wardens shall review and approve all institutional procedures. These procedures shall be reviewed at least annually.

V. RESPONSIBILITY

It is the responsibility of the Associate Warden Programs and the Associate Warden Operations to ensure that no inmate is arbitrarily placed in Administrative Segregation. It is also their responsibility to ensure that no inmate remains in Administrative Segregation longer than it is necessary to protect the safety and security of the institution, staff members and other inmates.

VI. METHODS

A. Placement in Administrative Segregation

1. Administrative Segregation is designated when inmates require closer supervision and separate housing from the general population. Every effort shall be made to return administrative segregation inmates to the general population as soon as practical, but some inmates may spend relatively extensive periods of time in this status. Administrative Segregation is not for the purpose of punishment. This section has no application to those inmates confined to disciplinary detention or disciplinary segregation.
2. Prior to placing an inmate in administrative segregation, a determination shall be made of the inmate's potential for causing problems or need for protection and other alternatives

to specialized housing shall be explored.

3. If an inmate is placed in Administrative Segregation, the inmate will be housed in an individual room that provides safety and comfort as deemed necessary. Units 5, 6, and 7 are designated as administrative segregation units. To the extent possible, inmates shall be allowed to participate in institutional programs.
4. Inmates shall be advised of the conduct or behavior which could result in a transfer to Administrative Segregation housing.
5. An inmate shall not be placed in Administrative Segregation status except pursuant to a decision by the classification committee reached as a result of a meeting conducted according to the following procedures. The only exception to this is if the Warden, Associate Warden Operations or Shift Lieutenant has reasonable cause to believe an inmate is an immediate danger to himself or to others or to the security of the institution, he may place the inmate in Administrative Segregation prior to an Administrative Segregation meeting. In such an event, the meeting shall be held within three working days after the inmate is placed in segregation. This period may be extended by special approval of the Warden. The inmate shall be notified in writing of any such extension and the reasons therefore.

a. Notice

At least twenty-four (24) hours prior to the Administrative Segregation meeting, an inmate shall be given a "Notice of Classification Hearing" which includes a statement of the reason(s) why he is being considered for placement in Administrative Segregation, the date, time and place of the Administrative Segregation meeting, and a list of the following rights which the inmate has regarding the hearing:

1. The inmate may present witnesses and written statements to the committee and may ask questions of persons participating in the meeting unless doing so would be unduly hazardous to the institutional safety or correctional goals. Witnesses also may be excluded if their testimony is irrelevant, redundant or otherwise unnecessary.
2. The inmate may have the assistance of a staff member in preparing for the meeting. The staff assistant shall attend the meeting with the inmate. Inmates shall be expected to be responsible for their own presentation except in those situations where assistance is necessary to an adequate presentation of the inmate's case due to the inmate's illiteracy, complexity of the issues involved, or other reasons deemed sufficient to the committee. In all cases, a staff assistant may ask questions of the persons participating in the meeting.
3. In the event that the meeting is concerned with an inmate's alleged involvement in an incident for which he could face criminal charges, the inmate has a right to remain silent at the meeting and to know that anything he does say at the meeting may be used against

in criminal prosecution.

4. The notice shall also indicate that in addition to the specific reasons for which the meeting is being conducted, the committee may consider the inmate's past and present institutional attitude, adjustment and record, and criminal record.
- b. The Administrative Segregation meeting shall be held by the classification committee or a subcommittee thereof composed of not less than three members. Any member of the committee with direct involvement in an incident giving rise to the meeting or who may be otherwise prejudiced shall disqualify themselves or may be disqualified by the committee chairman.
- c. The inmate shall be present at all stages of the meeting except for decisional deliberations by the committee and discussion of information from anonymous sources when such disclosure would create a substantial risk to the safety of the informant.
- d. Additional Information

The committee may require staff and/or inmates to appear at an Administrative Segregation meeting to present relevant information. The committee may temporarily adjourn a meeting in order that such information be obtained.

6. Anonymous Information

The decision to place someone in Administrative Segregation may be based upon information from a source whose identity is not disclosed to the inmate at the meeting when disclosure would create a substantial risk to the safety of the informant. Such information may be presented to the committee either verbally or in writing.

- a. The substance of any information from an anonymous source shall be shared with the inmate at the meeting to the extent that this may be done without creating a substantial risk to the safety of the informant.
- b. When the committee considers information from an anonymous source, the name of the source and all details of such information shall be given to the committee out of the presence of the inmate unless nondisclosure of the name and/or details has been previously approved by a staff member designated by the Warden. Such approval shall constitute the approving official's verification that the source and the information are, in his judgement, reliable and may properly be considered in deciding whether to place an inmate in Administrative Segregation and that nondisclosure of the informant's identity to the committee was necessary to obtain the information and/or to preserve the informant's identity.
- c. In all cases in which the committee considers information from an anonymous source, a confidential record shall be maintained which indicates the details of such information and the identity of the informant and the degree of the committee's familiarity (or that of the official approving

nondisclosure of the informant's identity to the committee) with the informant's reliability. Such records shall be available only to the Warden, the Director and their specific designees.

- d. The Warden shall review the complete record of all decisions in which the identity of an anonymous informant was withheld from the committee. Such reviews should be completed within two weeks of the conclusion of proceedings at the institution level, if not otherwise appealed by the inmate, in which case the time guidelines for appeal shall apply. The Warden shall review or cause to be reviewed the confidential file maintained on all cases which considered information from an anonymous source at least every ninety (90) days.

7. The institutional psychologist shall sit on and be a member of each classification hearing involving a transfer or a review of status in Administrative Segregation.

B. Classification of Administrative Segregation Inmates

1. The classification committee shall reach a decision based upon information presented at the meeting and shall provide the inmate with a written decision which states the reasons and basis for the committee's decision and which summarizes the information presented to and considered by the committee. (Refer to Administrative Segregation Classification form attached).

The decision shall be based on substantial, credible information which demonstrates the necessity for segregation such as: testimony from victims of monetary and sexual coercion, extortion and assault; physical assault; "Aryan Warrior" or "Black Mafia" organized gang activities such as trafficking drugs or extorting another inmate's prescription drugs; threatening or engaging in strikes, disturbances, or riots; forcing other inmates to give up their property or money for "protection" by threat of physical injury or abuse; utilizing or assigning organized gang members to carry out "disciplinary measures" against other inmates who refuse to pay blackmail; promoting to various levels of hierarchy by awarding of tattoos, such as lightning bolts and Viking Horns, etc.

The decision shall also state the reasons for the committee's decision excluding the testimony of any witness offered by the inmate.

2. A classification committee shall review the status of each inmate at least every seven (7) days for the first two months and at least every thirty (30) days thereafter. More frequent reviews may be scheduled based on the request of the counselor or the inmate. At each review, the classification committee shall determine whether there is substantial evidence to indicate that the initial reasons for classification into administrative segregation still exist. If they do not, the inmate shall be reclassified out of administrative segregation status. The inmate shall be permitted to appear before the classification committee at each review and make a statement.

In cases where the inmate refuses to appear, the committee

chairman shall sign the classification sheet and the specific reasons for the inmate's absence and make an evaluation for the inmate's institutional file.

C. 60 Day Plan (if applicable)

1. In each case where an inmate is classified to Administrative Segregation involuntarily for over sixty (60) days, the classification committee shall establish a set schedule of personal and program objectives involving gradual reintegration into the general population, the completion of which shall result in the inmate's reclassification from administrative segregation within an additional sixty (60) days. However, if the classification committee documents substantial evidence that reclassification from administrative segregation would produce serious injury to the inmate or others or substantially threaten the security of the institution, then reintegration is not required.
2. If re-integration to the general population is possible, the sixty (60) day plan shall be based on individual inmate needs and individual case histories. The classification committee may set objectives and conditions which must be met by the inmate in order for the plan to eventually result in re-integration. These conditions, if any, must be in compliance with all institutional rules, accepted correctional practices, and common sense. The classification committee shall not set objectives or conditions for re-integration which cannot be met by the inmate. The classification committee shall not set re-integration conditions which would be unrealistic.
3. The following are samples of conditions and objectives which can be considered. This is only a partial list of examples and does not constitute all of the possible conditions available.
 - a. The inmate shall not have been found guilty of a minor rule violation for thirty (30) days.
 - b. The inmate shall not have been found guilty of a general rule violation for ninety (90) days.
 - c. The inmate shall not have been found guilty of a major rule violation for one hundred and eighty (180) days.
 - d. The inmate must not associate in groups with known prison gang members.
 - e. The inmate must be tested for narcotics use every thirty (30) days.
4. If re-integration is applicable and a sixty (60) day plan is set, the form on the reverse side of the Ad/Seg Form 2 shall be used.

D. Protracted Goals and Objectives

1. All cases of Administrative Segregation are reviewed frequently with the goal of terminating the separate housing as soon as practical. However, due to the severity of misconduct involved

in some cases, inmates may spend relatively extensive periods of time in Administrative Segregation. In these cases, where inmates are not immediately eligible for the sixty (60) day plan, protracted goals shall be documented on Ad/Seg Form 2A, in the appropriate place.

2. Protracted goals are defined as long range projections on when a specific Ad Seg inmate can re-integrate to the general population. Therefore, a set of personal and program objectives should be set for all inmates in Ad/Seg regardless of how long they may have to stay.
3. The protracted goals are based on the individual case history of the inmate, the severity of the inmate's conduct and the behavior of the inmate while housed in Ad Seg.
4. The classification committee, in setting protracted goals, shall be guided by the need to be equitable in setting time limits. Similar cases should receive similar protracted goals. Severity of conduct should determine the relative length of the protracted goals. Prison murder conviction should carry more weight than prison assaults. Prison hostage takers should be weighed more heavily than drug dealers. Inmates with one serious misconduct phase should be rated less serious than chronic or multiple misconduct offenders.
5. Be directed by the general guidelines set forth above.
6. Serious misconduct which occurs during time spent in administrative segregation will cause the protracted plans to be extended or modified.

E. Restrictions in Conditions of Confinement

1. Non-disciplinary restrictions on the rights, privileges, and amenities available to persons in segregation may be imposed when such restrictions are necessary to prevent the destruction of property, maintain the health and/or safety of any person and/or otherwise to maintain the security of the institution. Such restrictions shall be imposed on an inmate, on an individual basis if possible, and only on the basis of substantial information justifying such restriction(s).
 - a. Unless the immediate restriction of a particular item is necessary, restrictions must be approved in advance by the warden or designee. Emergency restrictions shall be reviewed and approved/disapproved by the same official as soon as is reasonably possible following the imposition of such restriction. A written record shall be maintained of all restrictions approved and the reasons therefore.
 - b. Restrictions shall be maintained no longer than necessary. The segregation unit log shall state the continuing justification and the unit supervisor's approval for the continuation of such restrictions at least every other day. Restrictions imposed on individuals shall also be reviewed at thirty (30) day administrative segregation classification review meetings.

- c. Any inmate for whom a significant restriction of basic cell furnishings, personal hygiene implements (except razors), food, bedding, or standard institutional issue clothing is imposed shall be referred to the psychologist within twenty-four (24) hours of the Warden/designee approval of such restriction and the medical and/or mental health effects of such restriction on the inmate shall be reviewed by an appropriate member of the institution's medical staff at least on a twice weekly basis.
2. Rights, privileges, or amenities pertaining to exercise, personal property (not including basic cell furnishings, personal hygiene implements, food, bedding, or standard institutional issue clothing), library access, and commissary access may be reduced or withdrawn for limited periods of time as a sanction for violating written institution or segregation unit disciplinary rules. Rights, privileges, or amenities pertaining to correspondence, visiting, and telephone usage may be reduced or withdrawn as a sanction for violating written institution or segregation unit disciplinary rules where the violation is directly related to the item restricted, i.e., refusal to terminate a visit at the end of a visiting period may warrant the loss of visiting privileges for a limited period of time.
 - a. Restrictions imposed as a result of a violation of a written institution or unit disciplinary rule shall be imposed only as a result of a disciplinary hearing conducted in compliance with the general institutional disciplinary procedure.
3. Whenever property is removed from the inmates, the removal will be documented, in writing, and the property will be stored in a safe place and an inventory maintained to insure its return to the inmate. Where property shall be removed for a long period of time, arrangements will be made for the inmate to ship the property out of the institution.

F. Living Conditions

1. Inmates shall be provided with adequate living space within the Administrative Segregation Unit.
2. Appropriate lighting and heating and cooling systems shall be provided.
3. Inmates shall be provided with suitable clothing as well as a sanitary mattress and pillow, and an adequate amount of linen and blankets. Linen shall be exchanged at least weekly and blankets, pillow and mattress cleaned on a routine basis and maintained.
4. Adequate amounts of personal hygiene items and two clean towels shall be provided. Towels shall be exchanged at least twice per week.
5. Inmates shall be permitted to purchase cigarettes and/or tobacco products with the use of their own funds as per institutional procedures.

6. A written housekeeping plan will be maintained which includes the areas to be cleaned and the procedure for cleaning said areas, the frequency of cleaning each area, the person or persons assigned to clean each area and a procedure for procurement and maintenance of housekeeping equipment and supplies.
7. A qualified person familiar with health and safety standards and practices will oversee health and sanitation conditions in the administrative segregation unit.
8. Cleaning activities shall be supervised at all times by the rotunda/wing officer.
9. A written checklist shall be utilized for a daily inspection of all areas in the administrative segregation unit by the unit Sergeant to ensure that all areas are clean and sanitary. The Sergeant will sign the document certifying that he/she conducted the inspection and the report is accurate.
10. An effective vermin and pest control program will be maintained.
11. A comprehensive written maintenance manual and inspection check list shall be utilized for the inspection and maintenance of equipment systems within the administrative segregation unit.
12. A comprehensive fire safety plan is provided which includes specific provisions for adequate fire protection services, and the specific equipment, such as extinguishers and fire hoses. This plan is located in specific areas within the institution and includes inspections and preventive maintenance schedules for said equipment, the specific responsibilities of staff and inmates in the event of fire and the training to be given staff and inmates in fire safety. This plan is certified by the State Fire Marshal as adequate to provide for the safety of inmates.
13. An inspection of the administrative segregation unit shall be conducted on a regular and periodic basis by the safety committee or designate to ensure that the unit meets safety and prevention standards. (Refer to Institutional Procedure #17).
14. The unit will be inspected at least twice a year by the State Fire Marshal or other qualified fire safety expert who shall prepare a written report of the fire safety inspection including any findings and recommendations for corrections. Corrective actions shall be taken immediately if necessary.
15. Regular fire drills will be conducted at least every six months involving all staff assigned to the unit. A written handbook shall be provided for the inmates containing explicit instructions approved by the fire marshal for prompt evacuation if necessary. Each inmate shall have explained to him the contents of the handbook and evacuation routes are painted in the appropriate places.
16. All standards required by state and local law and the Underwriter's Electrical Code shall be followed.
17. Mattresses and trash containers will be made of materials

which meet fire safety standards.

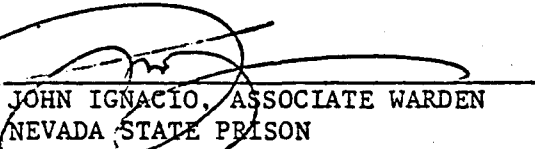
18. No cross connections will exist between the potable and non-potable water systems.

G. General Provisions

1. Inmates classified to administrative segregation may be denied or removed from programs, jobs, activities, including hobbycraft, canteen privileges, and activities as outlined above. However, every inmate in administrative segregation shall be provided educational opportunities, including a GED degree, high school classes and a high school diploma. College correspondence courses shall be made available to the inmate, at the inmate's expense and upon approval. Inmates in administrative segregation shall also be provided the opportunity for vocational development consistent with their status in administrative segregation.
2. Inmates shall be afforded the opportunity to work within the administrative segregation unit as deemed appropriate.
3. Inmates in administrative segregation shall be provided a minimum of eight hours per week of outdoor exercise, absent inclement weather, with ten hours of outdoor exercise per week established as a goal.
4. A reasonable amount of recreational equipment shall be available in the exercise area.
5. All Administrative Regulations pertaining to Food Service operations within the Department shall apply to the Administrative Segregation units.
6. The same correspondence privileges as provided to the general population shall apply to inmates in Administrative Segregation.
7. Inmates in Administrative Segregation shall be provided showers and shaving five times per week, as well as access, as determined appropriate, for hair grooming and barbering.
8. Inmates in Administrative Segregation shall have a minimum of two hours per week visitation privileges, unless restricted as outlined in Section E above.
9. A law clerk shall be assigned who shall visit the unit, four times per week, to assist inmates and make law books and legal supplies available to them upon request.
10. Inmates shall have access to library carts and may check out as many as five books at least every seven days.
11. Inmates will be allowed to retain in their personal living area a maximum of five law books and all legal papers.
12. A counselor is assigned to the administrative segregation unit and will be available five days per week and will be available to help each inmate who desires assistance or information.
13. A representative of the medical staff, at least at the level of a Licensed Practical Nurse, shall make rounds through the

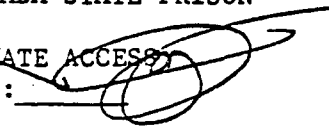
Administrative Segregation unit on a daily basis. A physician shall conduct sick call in the unit at least once a week. A record of all visits by medical personnel shall be maintained in the unit log. Should an inmate in administrative segregation complain of or exhibit an apparent medical/dental or psychological problem, at times other than the medical staff members visits, the officer in charge of the administrative segregation unit shall be notified and shall immediately notify the medical staff. Such notifications and actions shall be documented.

14. The psychologist/psychiatrist shall interview in person and complete a meaningful evaluation of the status of each person classified to administrative segregation within thirty (30) days of assignment to that unit. Thereafter, said evaluations shall be completed for the inmates every ninety (90) days.
15. Visitation by religious personnel to inmates assigned to administrative segregation will be encouraged and allowed per institutional procedures.
16. Correctional officers assigned to the administrative segregation unit should be tolerant and trained to meet the needs of the inmates so classified. Every officer assigned to the Administrative Segregation Unit shall receive a copy of this Institutional Procedure and shall acknowledge receipt thereof by signing the log in the Associate Warden Operations' office. Officers assigned to Administrative Segregation Units shall also read and review the Post Orders for that Unit and sign the Post Order Sign-In Log which is kept in the Post Order book in the Unit. Each supervisor will supervise and evaluate the on-the-job performance of the employees assigned to the administrative segregation unit.
17. The Warden will designate an official who shall be responsible for the administration and operation of the administrative segregation unit and who will monitor and evaluate the entire program in the area as often as necessary to ensure compliance with all applicable policy statements.
18. A systematic record system will be maintained on all inmates assigned to the administrative segregation unit. A general activity log will be maintained for inmates and activities within such areas. In addition, a log will be maintained for all personnel entering for inspection and treatment of each inmate.


JOHN IGNACIO, ASSOCIATE WARDEN
NEVADA STATE PRISON


STEVE KOON, ACTING ASSOCIATE WARDEN
NEVADA STATE PRISON

INMATE ACCESS:

YES: 

NO: _____

Allen F. Breed
Criminal Justice Consultant

P.O. Box 698
San Andreas, CA 95249

Telephone
209-754-1352

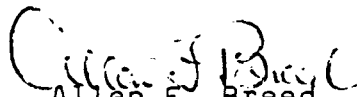
October 10, 1985

The Honorable Edward C. Reed
Judge, United States District Court
300 Booth Street, Room 5003
Reno, Nevada 89509

Dear Judge Reed,

Enclosed find the Fourth Progress Report on the state of compliance in the case of Shapley vs. O'Callaghan, CU-R-221-ECR. If you have any questions about the report or the defendants' current status of compliance with the Stipulated Agreement, please call me.

Sincerely yours,


Allen F. Breed
Court Auditor

AFB/vb

ADMINISTRATIVE SEGREGATION FORM #1

ADMINISTRATIVE SEGREGATION
NOTICE OF CLASSIFICATION HEARING

INMATES'S NAME: _____ NUMBER: _____ DATE: _____

You have been moved to a "Maximum Lock-up" Unit. You will appear before an Administrative Segregation classification committee on:

DATE _____ APPROXIMATE TIME _____ LOCATION _____

REASON: _____

PROVISIONS:

1. You may present witnesses and written statements to the Committee and you may ask questions of persons participating in the meeting unless doing so would be unduly hazardous to institutional safety or Correctional goals. Witnesses may be excluded if their testimony is irrelevant, redundant, or otherwise unnecessary, or would jeopardize security.

WITNESSES REQUESTED YES ☐ NO ☐

NAMES: _____

2. You may have the assistance of a staff member in preparing for the meeting. The staff assistant shall attend the meeting with you. You shall be expected to be responsible for your own presentation except in those situations where assistance is necessary to an adequate presentation of your case due to the (inmate's) illiteracy, complexity of the issues involved, or other reason deemed sufficient to the Committee. In all cases, a staff assistant may ask questions of persons participating in the meeting.

STAFF ASSISTANT REQUESTED YES ☐ NO ☐

NAME: _____

3. In the event that the Committee is concerned with your alleged involvement in an incident for which you could face criminal charges, you have the right to remain silent at the meeting and to know that anything you say at the meeting may be used against you in a criminal prosecution.
4. In addition to the specific reasons for which the meeting is being conducted, the Committee may consider your past and present institutional attitude, adjustment and record and criminal record.
5. This notice is only required at the initial Administrative Classification Committee Hearing. Subsequent hearings, if required, are set forth by a weekly and/or monthly schedule.
6. If the Warden or his designee has reasonable cause to believe that you are an immediate danger to yourself or to others or to the security of the institution, he may place you in Administrative Segregation prior to an Administrative Segregation meeting. In such an event, the meeting shall be held within three (3) working days after you are placed in Segregation. This period may be extended by special approval of the Warden. You shall be notified, in writing, of any such extensions and the reasons therefor.

CORRECTIONAL CLASSIFICATION COUNSELOR

CC: I-FILE
C-FILE

ADMINISTRATIVE SEGREGATION FORM #2A

STATE OF NEVADA

DEPARTMENT OF PRISONS

NSP ADMINISTRATIVE SEGREGATION

TO:

DATE:

FROM: NSP CLASSIFICATION COMMITTEE

SUBJECT: ADMINISTRATIVE SEGREGATION CLASSIFICATION RESULTS NOTICE

Your request to be classified from Administrative Segregation to General Population at NSP has been considered with the following results:

1. Your request has been approved.
 - a. Re-integration can take place now.
 - b. Re-integration is subject to 60 day plan. See reverse side.
2. Your request has been disapproved based upon the following consideration(s). See reverse side for protracted goals.
 - a. History of repetitive institutional Violence, Assaults, Fights.
 - b. Repetitive involvement in Controlled Substance abuse.
 - c. Sexually assaultive behavior.
 - d. Escape or recent attempted escape.
 - e. Prison gang affiliation.
 - f. Other.

Explanation of above (required):

-
3. Your request has been deferred for days, for the following reason(s):

Your next review before the Classification Committee is

This decision may be appealed to the Director, in writing, within (10) ten days of your receipt of this document.

ASSOCIATE WARDEN OF OPERATIONS

ASSOCIATE WARDEN OF PROGRAMS

CC: INMATE
I-FILE
C-FILE

DOP-2107 (12/84)

ADMINISTRATIVE SEGREGATION FORM #2B

STATE OF NEVADA

DEPARTMENT OF PRISONS

ADMINISTRATIVE SEGREGATION 60-DAY RE-INTEGRATION PLAN/LONG RANGE GOALS

NAME: _____ NUMBER: _____ DATE: _____

I. Your request to be classified from Administrative Segregation to General Population at MSP has been approved. This re-integration is subject to the successful completion of a 60 day plan. The objectives and conditions of the 60 day plan are outlined below. If 60 day plan is not established, see Protracted Goals, Section II.

1. The 60 day re-integration plan begins on this date: _____

2. The 60 day re-integration plan ends on this date: _____

3. If the 60 day plan is successfully completed, you will be classified for General Population on this date: _____

4. To successfully complete the 60 day plan you must meet the following requirements:

a. _____

b. _____

c. _____

d. _____

e. _____

5. COMMENTS: _____

II. PROTRACTED GOALS AND PLAN: _____

ASSOCIATE WARDEN OF OPERATIONS

ASSOCIATE WARDEN OF PROGRAMS

CC: INMATE
I-FILE
C-FILE