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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

GERALD GLEN BOYDEN, et al.,	)	NO. CV 86-1989-HLH(K)
	)	
Plaintiffs,	)	MEMORANDUM OF
	)	UNDERSTANDING
v.	)	
	)	
D. J. MCCARTHY, et al.,	)	
	)	
Defendants.	)	

The parties to the above-entitled class action lawsuit, through their respective counsel, have met and conferred and hereby enter into this Memorandum of Understanding to resolve this lawsuit involving the California Institution for Men (CIM) at Chino, California.

PRELIMINARY STATEMENT

The California Institution for Men is comprised of four facilities: East, Central, West and Minimum. Approximately 6,400 inmates are housed at CIM. Most of them are reception center process cases or parole violators who have been returned

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1 to custody. The remainder are primarily permanent work crew
2 inmates. The instant lawsuit, by virtue of plaintiffs'
3 Pretrial Memorandum re Triable Issues, is limited to conditions
4 of confinement for reception center inmates at CIM-East,
5 excluding the Butte housing area and the Del Norte Project, and
6 CIM-Central, excluding Palm Hall. CIM-West has been dismissed
7 from the litigation, and CIM-Minimum was never at issue.
8 Permanent work crew inmates are not members of the plaintiff
9 class, and conditions of their confinement are not at issue.

10 CIM-CENTRAL.

11 The CIM-Central facility, which is also known as
12 Reception Center-Central, has an inmate population of ap-
13 proximately 1,504. Of this number, approximately 265 inmates
14 are permanent work crew or are housed in Palm Hall, the
15 administrative segregation unit, and are not part of the
16 plaintiff class. The remaining inmates, approximately 1,239 in
17 number, are housed in Birch Hall, Sycamore Hall, Cypress Hall,
18 Madrone Hall, the Gymnasium, the Orientation Room (OR Room) or
19 Room One.

20 CIM-Central inmates receive hot meals at breakfast and
21 dinner and a box lunch at midday. They now have access to
22 outdoor exercise at least three times per week for a total of
23 at least eight hours. In the CIM-Central yard, inmates may use
24 the weight pile, jog, and play handball, basketball and
25 softball. As of September 1, 1988, inmates also have indoor
26 recreation consisting of board games and books. Inmates may
27 check out library books in their housing area for one week by

1 submitting a book request slip to the inmate library clerk.
2 The clerk attempts to match the book to the inmate's request.
3 In addition, inmates may check out dominoes and pinochle cards
4 in their housing areas. The indoor recreation program will be
5 expanded by December 1, 1988, by the purchase of additional
6 board games.

7 Central inmates have the opportunity to go to the law
8 library at least two and one-half hours per week pursuant to a
9 schedule which does not require them to choose between the law
10 library and outdoor exercise. CIM-Central inmates now receive
11 indoor showers three times each week. The clothing of Central
12 inmates is exchanged twice each week. At that time, in
13 addition to the full set of clothes the inmate is wearing, each
14 inmate receives the following clean clothing: one chambray
15 shirt, one pair of denim jeans, two socks, one t-shirt, and
16 two pairs of undershorts.

17 Each housing area at CIM-Central is scheduled for sick
18 call one day per week. Inmates may present themselves for
19 medical attention at the scheduled time. In addition, any
20 inmate may inform custody staff of his need for medical
21 attention during non-scheduled times, and he will be sent to
22 the medical clinic. Routine medical services are available
23 from 6 a.m. to 10 p.m. at CIM-Central. Emergency medical
24 services are available 24 hours each day.

25 Inmates who are brought into the prison from the county
26 jails are brought on buses to Receiving and Release in CIM-
27 Central. There the Receiving and Release sergeant studies the

1 papers which come in with each inmate, usually the commitment
2 information, abstract of judgment, probation report, minute
3 orders, rap sheets, and other information. He reviews the
4 documents for riot or violence potential, homosexuality, arson,
5 escape, gang affiliation, enemies, protective custody needs and
6 pending prosecutions, among other things. In addition, the
7 sergeant interviews each inmate, asking for a brief history
8 which contains information about prior commitments, homosexual
9 tendencies, physical or medical problems, enemies, fears of the
10 prison system, and gang affiliation. The sergeant fills out a
11 form with the answers he receives from the inmate and the
12 information contained in the documents and indicates on the
13 form whether he believes the inmate should be in a cell or in a
14 dormitory setting. When the form is complete the sergeant
15 directs it to the watch commander, and any inmate who has
16 enemies or special needs is directed to the watch commander for
17 a personal interview so that the watch commander can determine
18 where best to house the inmate. The watch commander, in
19 addition to interviewing inmates with unusual needs, reviews
20 all housing assignments made by the Receiving and Release
21 sergeant, consulting old slips on file from prior years for
22 additional data on some inmates with previous commitments and
23 overriding the sergeant's recommendation when appropriate.

24 CIM-EAST.

25 CIM-East, also known as Reception Center-East, has a
26 population of approximately 1,322 inmates. Of this number
27 approximately 390 inmates are part of the Del Norte Project or

1 the permanent work crew housed in Butte and, as such, are not
2 members of the plaintiff class. The remaining inmates,
3 approximately 932 in number, are housed in Alpine, Colusa, the
4 East Gymnasium and the Education Classrooms.

5 CIM-East inmates receive three hot meals each day.
6 Weather permitting, they are allowed to be on the yard from
7 approximately 7 a.m. until 8:30 p.m. or dark each day,
8 excluding the time required for counts and meals. CIM-East has
9 a recreation coach and offers inmates basketball, softball, a
10 swimming pool, weights, tennis, horseshoes, ping-pong,
11 racquetball and board games. East inmates have access to the
12 law library five days per week, and, because of the essentially
13 full-time availability of the yard, such access does not
14 interfere with their having adequate access to outdoor
15 exercise. East inmates have access to indoor showers for 20 to
16 40 minutes per day. The clothing of East inmates is exchanged
17 once each week. In addition to the full set of clothing worn
18 by the inmate, each inmate receives the following clean
19 clothing: two chambray shirts, two pairs of denim jeans, four
20 socks, two t-shirts, and three pairs of undershorts.

21 Sick call at CIM-East is conducted from 6:15 a.m. to
22 6:45 a.m. Monday through Friday. In addition, any inmate may
23 inform staff of his need for medical attention during non-
24 scheduled times, and he will be sent to the medical clinic,
25 which is open from 6 a.m. to 10 p.m. Emergency medical
26 services are available 24 hours each day.

27 /

RESOLUTION OF ISSUES

The parties agree that the issues raised by the instant lawsuit shall be resolved as follows:

1. There are two dayrooms, one upper and one lower, in the Alpine housing unit at Reception Center-East. Each currently houses approximately 46 inmates and has one toilet, one sink and six showers. By approximately November 14, 1988, there will be three combination toilet/sinks in each of the two Alpine dayrooms. The parties stipulate that the number of shower heads and hours of access currently available to Alpine inmates meet constitutional standards.

2. There are two dayrooms, one upper and one lower, in the Colusa housing unit at Reception Center-East. Each currently houses approximately 46 inmates and has one toilet, one sink and six showers. By approximately December 22, 1988, there will be three combination toilet/sinks in each of the two Colusa dayrooms. The parties stipulate that the number of shower heads and hours of access currently available to Colusa inmates meet constitutional standards.

3. There are two adjacent classrooms which are known as "Education" at Reception Center-East. Each currently houses approximately 30 inmates and has one toilet and one sink. By approximately February 8, 1989, there will be six combination toilet/sinks in Education. Inmates housed in these two classrooms shower in the East Gymnasium.

4. Approximately 186 inmates are housed in the Reception Center-East Gymnasium, which has three toilets, three

1 urinals, four sinks, and 12 showers. By approximately April
2 23, 1989, there will be 14 combination toilet/sinks and 12
3 showers in the East Gymnasium.

4 5. Approximately 42 Reception Center-Central inmates
5 are housed in the Cypress Hall Dayroom, which has one toilet,
6 one sink, and no showers. By approximately January 15, 1989,
7 the Cypress Dayroom will have four combination toilet/sinks and
8 one shower.

9 6. Approximately 46 Reception Center-Central inmates
10 are housed in the Birch Hall Dayroom, which has one toilet, one
11 sink, and no showers. By approximately January 30, 1989, the
12 Birch Dayroom will have four combination toilet/sinks and one
13 shower.

14 7. Approximately 213 inmates are housed in the
15 Reception Center-Central Gymnasium, which has two sinks, four
16 toilets, two urinals, and eight showers. By approximately
17 April 30, 1989, the Central Gymnasium will have 16 toilet/sink
18 combinations and 16 showers.

19 8. Approximately 30 Reception Center-Central inmates
20 are housed in the Orientation or "OR" Room, which has one
21 toilet, one sink and no showers. By approximately June 1,
22 1989, the OR Room will have two combination toilet/sinks.
23 Because of the size of the OR Room it would be structurally
24 impractical to add showers. OR Room inmates are showered on a
25 regularly scheduled basis in the CIM-Central Gymnasium's
26 shower facilities.

27 /

7.

1 9. Approximately 16 Reception Center-Central inmates
2 are housed in Room One, which has one toilet, one sink and no
3 showers. By approximately June 15, 1989, Room One will have
4 two combination toilet/sinks. Because of the size of Room One
5 it would be structurally impractical to add showers. Room One
6 inmates are showered on a regularly scheduled basis in the
7 CIM-Central Gymnasium's shower facilities.

8 10. Approximately 42 Reception Center-Central inmates
9 are housed in the Sycamore Hall Dayroom, which has one toilet,
10 one sink, and no showers. By approximately July 5, 1989, the
11 Sycamore Hall Dayroom will have four combination toilet/sinks
12 and one shower.

13 11. Approximately 42 Reception Center-Central inmates
14 are housed in the Madrone Hall Dayroom, which has one toilet,
15 one sink and no showers. By approximately July 30, 1989, the
16 Madrone Dayroom will have four combination toilet/sinks and one
17 shower.

18 12. Asbestos removal is required before any plumbing
19 work can be done at CIM-Central. Removal work commenced under
20 an existing contract on September 6, 1988, and is expected to
21 be completed by December 15, 1988. Asbestos removal is
22 anticipated to be necessary in some portions of CIM-East before
23 plumbing can be done. A new contract is being prepared for the
24 asbestos removal work required at CIM-East and any additional
25 asbestos removal work required at CIM-Central. Under its terms
26 the contractor will be prepared to commence removal work on 24-
27 hour notice if additional asbestos is found at either East or

1 Central. To the extent that such additional removal is
2 required, defendants anticipate a day-for-day delay in
3 completion of these projects, based on the time it takes the
4 contractor to isolate and encapsulate the asbestos.

5 13. The foregoing construction schedule is dependent
6 on the Department of Corrections' being able to obtain
7 emergency procurements of materials from the Department of
8 General Services. Delays in the procurement process may delay
9 completion of the plumbing projects on schedule.

10 14. Because the scheduled completion of this
11 construction depends on the Department's being able to remove
12 inmates from the work areas, the schedule may also be adversely
13 affected by unusually high inmate intake, which could cause
14 more than day-for-day delays.

15 15. Counsel for defendants will notify counsel for
16 plaintiffs of any problems or circumstances which threaten a
17 substantial delay of the scheduled construction.

18 16. The parties agree that due to changed
19 circumstances or unforeseen problems it may be necessary,
20 useful or appropriate in the future to modify the terms and
21 conditions of this Memorandum of Understanding. Therefore, the
22 parties, through their undersigned counsel, agree to meet and
23 confer in good faith to consider changes to this Memorandum of
24 Understanding upon the request of either party.

25 17. Within ten days of the date when the Memorandum of
26 Understanding has been filed with the Court, the defendants
27 shall post copies of this Memorandum of Understanding in each

1 affected housing area and in the law libraries of CIM-Central
2 and CIM-East. Thereafter, staff will make reasonable, good
3 faith efforts to maintain the posting of the Memorandum of
4 Understanding in those areas until the Memorandum of
5 Understanding expires, either on the granting of plaintiffs'
6 motion to dismiss the action or on further order of this Court.

7 18. When the construction identified in paragraphs one
8 through 12 has been completed, counsel for plaintiffs and
9 defendants will jointly interview Reception Center-Central and
10 Reception Center-East inmates. These inmate interviews will
11 take place on one calendar day and will be scheduled at the
12 discretion of CIM staff and at the convenience of counsel. The
13 interviews will not delay or otherwise interfere with the
14 prompt filing of plaintiffs' motion to dismiss the action with
15 prejudice so long as it is determined that: a) the toilets,
16 sinks and showers identified in paragraphs one through 11 above
17 have been installed; b) Reception Center-Central inmates
18 continue to have access to outdoor exercise at least three
19 times per week; c) Reception Center-Central inmates continue
20 to have indoor recreation in the form of games and books; d)
21 Reception Center-Central inmates continue to have access to the
22 law library pursuant to a schedule which does not require them
23 to forego outdoor exercise; e) Reception Center-Central
24 inmates receive at least three showers per week; f) the
25 clothing of Reception Center-Central inmates is exchanged at
26 least once a week and each inmate receives at least two
27 chambray shirts, two pairs of denim jeans, four socks, two t-

1 shirts and three pairs of undershorts as his weekly allotment
2 of clean clothing.

3 19. Upon completion by the defendants of the
4 construction projects outlined above in the numbered paragraphs
5 which comprise the section entitled "Resolution of Issues" and
6 by counsel for both parties of the inmate interviews, counsel
7 for plaintiffs will move the Court to dismiss this action with
8 prejudice. Upon the Court's granting of the motion to dismiss
9 the action, the Memorandum of Understanding will expire.

10 20. The dismissal with prejudice of this action shall
11 not be construed to prevent new litigation on constitutional
12 claims alleged to be in existence following the date of
13 dismissal.

14 21. Defendants' entering into this Memorandum of
15 Understanding shall not be construed as an admission by
16 defendants that plaintiffs are entitled to any relief in the
17 instant lawsuit. Defendants have entered into this Memorandum
18 of Understanding for the purpose of settling disputed
19 contentions and controversies arising from this action.
20 Performance by the parties of the terms and conditions set
21 forth in the section entitled "Resolution of Issues" in this
22 Memorandum of Understanding fully resolves the allegations and
23 contentions of the instant lawsuit.

24 22. Counsel for plaintiffs and defendants have
25 identified, based on contemporaneous records kept and submitted
26 by plaintiffs, an attorneys' fees award amount, to wit forty-
27 four thousand dollars (\$44,000.00), to which defendants do not

1 object and which plaintiffs accept in full satisfaction of this
2 claim. Payment, pursuant to court order issued at the time of
3 the filing of the Memorandum of Understanding, of twenty-two
4 thousand dollars (\$22,000.00) to the ACLU Foundation of
5 Southern California will constitute partial satisfaction of
6 plaintiffs' attorneys' fees claim. Payment, pursuant to court
7 order issued after the grant of plaintiffs' motion to dismiss
8 this action with prejudice, of the balance, to wit, twenty-two
9 thousand dollars (\$22,000.00), to the ACLU Foundation of
10 Southern California will resolve all remaining attorneys' fees
11 issues between the parties. Each party shall bear its own
12 costs.

13
14 JOHN K. VAN DE KAMP, Attorney General
15 of the State of California

16 DATED: 9/28/88

17 By Carol Slater Frederick
18 CAROL SLATER FREDERICK
19 Supervising Deputy Attorney General
20 Attorneys for Defendants

21 ACLU FOUNDATION OF SOUTHERN CALIFORNIA

22
23 DATED: 9/28/88

24 By John H. Hagar, Jr.
25 JOHN H. HAGAR, JR.

26 Attorneys for Plaintiffs
27

DECLARATION OF SERVICE BY MAIL

GERALD GLEN BOYDEN, et al.,
Re: D. J. McCARTHY, et al. No. CV 86-1989 HLH(K)

I am over 18 years of age, and not a party to the within cause; my business address is 3580 Wilshire Boulevard, Los Angeles, California 90010; I served a copy of the attached

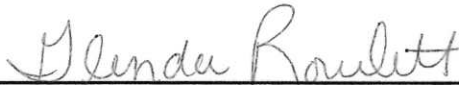
MEMORANDUM OF UNDERSTANDING

a copy of the attached MEMORANDUM OF UNDERSTANDING on each of the following by causing to be personally delivered by messenger as follows:

John H. Hagar, Jr.
Rebecca Jurado
ACLU FOUNDATION OF SOUTHERN CALIFORNIA
633 South Shatto Place
Los Angeles, CA 90005

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 29, 1988 at Los Angeles, California.



Declarant
GLENDA ROWLETT

9/29/88
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