

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

JAAAN LAAMAN, et al.,
Plaintiffs
v.

CIVIL # 75-258

RONALD POWELL, Commissioner
of New Hampshire Department
of Corrections, et al.,
Defendants

- AND -

RAYMOND GUAY, et al.,
Plaintiffs
v.

CIVIL # 77-256

RONALD POWELL, Commissioner
of New Hampshire Department
of Corrections, et al.,
Defendants

- AND -

JOHN J. SULLIVAN, et al.,
Plaintiffs
v.

CIVIL # 87-301-D

MICHAEL J. CUNNINGHAM,
Warden, New Hampshire
State Prison, et al.,
Defendants

CONSENT DECREE

Upon motion of the Plaintiffs and Defendants, it is hereby ordered, adjudged and decreed:

1. On August 4, 1978, this court signed and entered consent decrees in final disposition of the cases of Laaman v. Helgemoe, (Civil Action No. 75-258) and Guay v. Perrin, (Civil Action No. 77-256).

2. On January 23, 1986, inmate Clifford Avery, on behalf of himself and the class of all inmates at the New Hampshire State Prison, filed a "Motion/Petition for Contempt Citation" alleging multiple violations of the Laaman and Guay Decrees.

3. On September 25, 1987, Plaintiffs' counsel filed an Amended Motion for Contempt alleging multiple violations of the Laaman and Guay Decrees.

4. In July, 1987, inmate John Sullivan filed a pro se complaint challenging conditions of confinement in the maximum custody unit which, by order of October 27, 1987, was consolidated with this action.

5. The parties have now agreed to the entry of this Consent Decree, the terms and conditions of which are set forth herein, in full settlement of the claims set forth in Plaintiffs' Amended Motion for Contempt.

6. Defendants, the Commissioner of the New Hampshire Department of Corrections and his agents, employees, successors in office and any others acting in concert with him, agree to be bound by, and are hereby enjoined from failing to fully comply with, each of the requirements set forth in this Consent Decree within the time prescribed.

7. This Consent Decree shall be applicable to all members of the class which is comprised of all inmates who are or will be incarcerated as duly convicted felons at the New Hampshire State Prison and are or will be in the custody of the New Hampshire Department of Corrections or any other

person or agency in the State of New Hampshire who, in the future, may receive custody of any such inmates in lieu of the Department of Corrections.

8. In entering into this Consent Decree, Plaintiffs and Defendants have acknowledged that it is not their intention to provide an extraordinary avenue of access to the courts to bring minute details of the New Hampshire State Prison's day-to-day operations to the courts' constant attention. The parties acknowledge that the size of the prison staff alone and the nature of its operations may lead to minor and isolated instances of noncompliance with provisions of this Consent Decree which may be speedily resolved if brought to the attention of the prison administration. Accordingly, the parties acknowledge that a spirit of reasonableness and cooperation should govern resolution of grievances arising under this Consent Decree. The named Plaintiffs and their counsel agree to consult, where possible in the first instance, with the Commissioner of the Department of Corrections and, thereafter, with the Office of the Attorney General if a problem of noncompliance comes to their attention, and to allow the institution a reasonable amount of time to either remedy the problem to the Plaintiffs' satisfaction or to indicate disagreement with the alleged problem, prior to instigating litigation.

9. This Court shall retain jurisdiction over the Consent Decree until July 1, 1993 for the purpose of assuring compliance with the Decree. Upon further order of

this court, jurisdiction may be extended for whatever time is directed by the court upon a showing that substantial compliance with the provisions of this Decree has not been achieved in a timely manner.

10. It is agreed by the parties that this Consent Decree also constitutes a settlement agreement which survives the termination of this court's jurisdiction over the Decree.

11. This Consent Decree specifically and entirely replaces Sections IV, VII, VIII, IX, XII, and XVII of the Consent Decree in Laaman v. Helgemoe, August 4, 1978 (regarding Food Service, Medical Care, Mental Health Care, Classification, Vocational Training and Miscellaneous issues), as well as the Stipulation in Guay v. Perrin (approved August 4, 1978) in its entirety. All of the sections of the Laaman Consent Decree, except those set forth above, are fully and specifically reincorporated as part of this Consent Decree.

11a. The parties agree that within 14 days of the entry of this Consent Decree, they shall file a joint motion for extension of time for Plaintiffs to file their motion for attorney's fees. By the time such joint motion is filed, Plaintiffs counsel shall submit a request for attorney's fees to the Defendants. Until the time that Plaintiffs are directed to file their motion for attorney's fees in this Court, the parties shall negotiate in good faith over the amount of attorney's fees to which Plaintiffs are entitled.

DEFINITIONS

12. "Plaintiffs" and "Defendants" refer to the parties named as plaintiffs and defendants in the above-entitled action.

13. "Department" or "D.O.C." refers to the New Hampshire Department of Corrections.

14. "Commissioner" refers to the Commissioner of the Department of Corrections.

15. "New Hampshire State Prison" or "prison" or "NHSP" refers to the New Hampshire State Prison located at 281 North Main Street, Concord, New Hampshire, including the Minimum Security Unit and all other units which will, in the future, be built on the grounds of the New Hampshire State Prison, and the Halfway Houses in Manchester or Concord and any other such halfway houses to be established by the Department of Corrections in the future. As used in this Consent Decree, the term "NHSP" does not include the women's facility in Goffstown, New Hampshire.

16. "Inmates" refers to all duly convicted felons who are incarcerated in the New Hampshire State Prison, as defined above, and/or the Secure Psychiatric Unit. As of April 12, 1990, the total inmate count was 1,226, consisting of 1,042 in the main facility, 109 in the minimum security unit, 75 in the halfway houses, and 42 in the Secure Psychiatric Unit. As used in this Consent Decree, the term

"inmates" does not include female felons incarcerated in the women's facility in Goffstown, New Hampshire.

17. "Special Housing Unit" or "SHU" refers to the building which houses maximum custody inmates (inmates classified "C-5" under the Classification Manual) as well as inmates in punitive segregation, administrative segregation, and quarantine (1st phase).

18. "Close Custody Unit" or "CCU" refers to the unit which houses inmates classified as "C-4" under the Classification Manual.

19. "C-5 Inmates" refers to maximum custody inmates so classified under criteria set forth in the Classification Manual.

20. "C-4 Inmates" refers to a classification status that is less restrictive than maximum custody and more restrictive than medium custody, under criteria set forth in the Classification Manual.

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I. HEALTH SERVICES

Definitions

21. "Director" means the Director of the Division of Medical and Forensic Services of the New Hampshire Department of Corrections.

22. "P.P.D." refers to Policy and Procedure Directives duly promulgated by the Department of Corrections governing regular operation of various departments within the NHSP.

23. "Full Time" means employment obligating the employee to provide at least 37.5 hours per week at the NHSP.

24. "Half Time" means employment obligating the employee to provide at least 18.5 hours per week at the NHSP.

25. "Primary Care" refers to diagnosis, treatment, referral (where necessary) and overall clinical management of inmates who seek health care at the prison infirmary. The term does not encompass specific speciality care or consults provided by outside specialists as referred by NHSP physicians, dentists or psychiatrists (i.e. surgery, physical therapy).

26. "SPU" refers to the Secure Psychiatric Unit, which is a mental health facility located on the grounds, but which is not part, of the NHSP.

27. "Medical Staff" means Physicians, Physician Assistants, Nurse Practitioners, and Nurses.

28. "Infirmary" refers to the Health Services Center at the NHSP.

Medical Care

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

30. Such medical care shall include the following:

(a) A Comprehensive medical examination conducted by a physician, or physician's assistant or nurse practitioner under the supervision of a physician, within fourteen (14) days of an inmate's commitment, directed to the discovery of physical and mental illness. Said examination shall be conducted in compliance with P.P.D. 2.6.3 IV issued April 28, 1989.

(b) Within three (3) months of an inmate's commitment, he shall receive a complete dental examination. Based on this examination, the dentist shall prescribe any necessary treatment, including referral where indicated.

(c) Each inmate shall be given periodic physical examinations in accordance with the schedule set forth in P.P.D. 2.6.3 IV B 2.

31. The staff of the NHSP infirmary shall consist of a minimum of:

(a) Sufficient number of medical doctors, licensed by the State of New Hampshire, to provide 55 hours per week of primary care to NHSP inmates. If the prison's physician staff is insufficient to provide 55 hours per week of primary care for more than 30 days, Defendants shall make their best efforts to enter into a contract for temporary primary care coverage with a qualified medical doctor(s) to assure that the prison provides the requisite 55 hours per week of direct service to inmates. However, if the prison staff lacks a medical doctor entirely, Defendants must make their best efforts to contract for 55 hours per week of direct service by a physician immediately;

(b) One full-time physician's assistant (P.A.) and/or nurse practitioner who will receive clinical supervision from either the physician or the Director;

(c) Fourteen full-time registered nurses, or the equivalent thereof, including an Assistant Director of Nursing. The nurses shall work under the supervision of the Assistant Director of Nursing. There must be a minimum of one nurse at the prison 24 hours per day, seven days a week. If a nursing position(s) becomes vacant, Defendants shall make their best efforts to fill that position(s) within 30 days of the date the position(s) becomes vacant. If unsuccessful,

Defendants shall contract for services with an agency until they can fill the position; provided however, that a temporary/contract nurse shall not be utilized to conduct rounds in SHU;

(d) One full-time Registered Records Administrator or Senior Qualified Medical Records Technician;

(e) An additional full-time Qualified Medical Records Technician;

(f) One full-time Receptionist;

(g) Two full-time dentists, or their equivalent;

(h) One full-time dental assistant;

(i) One full-time Quality Assurance Director;

(j) One full-time dietician;

(k) One full-time Pharmacist.

32. The Assistant Director of Nursing, under the general direction of the Director or other similarly qualified person designated by the Commissioner of the Department of Corrections, shall be responsible for on-site administrative supervision and coordination of health services.

33. Emergency medical care shall be available on a twenty-four (24) hour basis, seven (7) days a week to include transfers to the Concord Hospital or other medical facilities as medically required.

34. A member of the NHSP medical staff shall be present at the NHSP 24 hours per day, seven days per week.

A Medical Doctor shall be on-site or "on call" 24 hours per day, seven days per week. If a Doctor is not available, Defendants shall rely on the Concord Hospital Emergency Room for services which would otherwise be provided by the physician on call.

35. Inmates shall be referred to accredited hospitals and medical specialists for necessary medical care and services upon approval of the Director or his/her designee.

36. All medical matters, including dental and psychiatric, that involve a medical judgment are the sole province of the physician or dentist respectively. An insufficient budget shall not excuse failure to provide necessary treatment.

37. Sick Call Procedure

(a) A member of the medical staff who is trained in physical assessment and the medical triage procedure shall conduct sick call for the entire prison Monday through Friday and, if necessary, on weekends. A member of the medical staff shall make rounds in SHU seven (7) days per week.

(b) NHSP medical staff shall conduct daily sick call in accordance with sick call protocols developed by the Defendants. Said protocols shall be drafted within sixty (60) days of the signing of this Decree and forwarded to Plaintiffs, who shall be given thirty (30) days to review and respond to said protocols

before they are adopted. Defendants shall consider Plaintiffs' comments prior to finalizing and instituting said protocols.

(c) Defendants shall provide training on the use of the aforementioned sick call protocols to every member of the NHSP medical staff (i.e. physicians, P.A.'s, nurse practitioners, nurses). In addition to training on the aforementioned protocols, every NHSP employee who conducts sick call screening shall attend 40 hours per year of in-service training which shall include subject matter relevant to the provision of medical services as specified by the Defendants. Monthly NHSP medical staff meetings, concerning clinical issues, protocols, policies, individual cases and other relevant matters, shall be held. All medical staff shall be required to be accountable for the information covered in such meetings.

(d) - All inmates, including SHU inmates, who are referred to a NHSP physician for non-emergency care by a member of the sick call staff or SHU nurse shall be examined by the physician/P.A./Nurse Practitioner within three (3) weeks from the date of the referral.

(e) Whenever an inmate presents the same medical complaint to either the SHU nurse or other sick call personnel three (3) times in a thirty (30) day period, the Assistant Director of Nursing shall notify the

Quality Assurance Director pursuant to the NHSP Quality Assurance P.P.D. (described below in paragraph 44).

(f) Each day, prior to the nurse's rounds in SHU, SHU inmates who wish to speak with the nurse shall be asked to complete a Request Form. The nurse will pick up the Request forms, elicit further information as required to adequately assess the inmate's need for medical care, and note his/her recommendation (e.g. referral to doctor, P.A., etc.) in the space provided on said form. In addition, the nurse shall orally announce his/her presence for sick call on each tier and see inmates who were not able, for whatever reason, to turn in a Request Form.

(g) Individual written notice of each NHSP inmate's infirmary/doctor appointment shall be provided to the inmate prior to the actual appointment.

(h) Each day (Monday through Friday) a member of the infirmary staff shall compare the list of inmates who failed to show at their scheduled appointment(s) with the list of inmates who are on Administrative and Punitive Segregation. If an inmate who missed an appointment appears on either the Administrative or Punitive Segregation list, the inmate shall be re-scheduled to see the physician/P.A./Nurse Practitioner the next time she or he is conducting examinations in SHU.

(i) A medical doctor/P.A./Nurse Practitioner shall conduct medical examinations and consults at the Special Housing Unit (SHU) at least once per week.

38. Defendants shall ensure that someone is available to provide translation services to non-English speaking inmates to enable them to acquire necessary medical services.

39. Eve Examinations. Every inmate, including SHU inmates, upon request, shall be entitled to receive eye examinations for corrective lenses. No inmate shall wait more than six (6) months before he receives an eye examination.

40. Medication - Whenever an inmate arrives at the NHSP with a current prescription(s), said prescription(s) shall be continued unless a physician assesses the need for continuing the prescription(s) or an appropriate alternative. In addition, before discontinuing a current prescription(s), a member of the NHSP medical staff will attempt to discuss the inmate's need for the prescription(s) with the prescribing physician.

41. No NHSP Corrections Staff member shall, in any way, inhibit an inmate's ability to request access to a member of the NHSP Medical or Mental Health Staff or to Medical or Mental Health Services.

42. Inmate Tracking and Follow-up System

Within four (4) months of the entry of this Decree Defendants shall develop a system of tracking and following

up the provision of mental and medical care to inmates.

Said system shall, at a minimum, ensure that:

(a) The NHSP physician reads and considers the discharge summary and recommendations of any outside consulting physician;

(b) The NHSP medical staff consults with an inmate's prior treating physician where appropriate;

(c) Chronic care clinics are scheduled in a timely manner;

(d) Periodic medical examinations are scheduled in a timely manner;

(e) Inmates receive the ongoing care, in a timely manner, which is recommended by the NHSP physician;

(f) Relevant mental health records are reflected in the inmate's medical record and vice versa; and

(g) Inmates' prescriptions are renewed in a timely manner.

When Defendants have completed a Tracking and Follow-Up System plan, they shall forward said plan to Plaintiffs who shall have thirty (30) days to review and comment on the planned system before it is revised and implemented. Defendants shall consider Plaintiffs' comments prior to finalizing and instituting the system. The system shall be implemented no later than six months after the signing of this decree.

43. Medical Records/Inmate Death

Medical Records pertaining to inmates who die at the NHSP shall include, at a minimum, notations concerning: (a) when an autopsy was conducted and where the autopsy report is located; and (b) the location of the Death Certificate, Internal Investigation Report, State Police investigation, and report, if any, from the hospital where the inmate was last treated for the illness or injury which caused his death.

44. Quality Assurance Program

The Defendants shall implement and maintain a Quality Assurance Program, under the direction of a full-time Quality Assurance Director, which shall at a minimum:

(a) Document the monitoring and evaluation process;

(b) Undertake the following Quality Assurance activities:

i. Medical Records

A quarterly review of 5% of available medical records, but not more than 50, shall be monitored and evaluated to assess quality, content and completeness of documentation.

ii. Routine On-Site Patient Care Services

A quarterly review of the quality and appropriateness of 5% of each of the following

services, but not more than 50 cases in each service, shall be conducted:

- (1) Sick Call
- (2) Chronic Care Clinics
- (3) Pharmacy Services/Medication Usage
- (4) Therapeutic Diets
- (5) Ancillary Services - Laboratory,
X-Ray
- (6) Dental Care
- (7) Non-Emergency Mental Health
Services
- (8) On-site speciality care clinics
when provided.

iii. Other On-Site Services.

A quarterly review of the quality and appropriateness of the following services:

- (1) 100% of all cases in which the inmate is declared in need of Involuntary Psychiatric Treatment;
- (2) 100% of all transfers from the NHSP to SPU pursuant to RSA 623:1;
- (3) a representative sample of all acute psychiatric interventions requiring an assessment by a member of the core Mental Health Staff; and

- (4) 100% of in-patient infirmary care cases.

iv. Patient Satisfaction

A quarterly review of a representative sample of medical, dental and mental health complaints/grievances by inmates, family members, lawyers, etc. shall be conducted to determine client satisfaction and quality of care.

v. Infection Control

A monthly review of the quality and appropriateness of 100% of the following cases shall be conducted:

- (1) Isolation Cases
- (2) Communicable Disease Cases Reported to New Hampshire Department of Public Health.

vi. Mortality

A review of 100% of mortality cases shall be conducted, within 90 days of the inmate's death. In conducting such reviews, the Quality Assurance Director shall read the following documents and report the information contained therein to the Quality Assurance Committee for review:

- (1) Autopsy Report
- (2) Death Certificate
- (3) DOC Investigation

- (4) State Police Investigation
- (5) Hospital Record of the hospital, if any, where the inmate was last treated for the illness or injury which caused his death.

vii. Off-Site Patient Care Services

- (1) A quarterly review of the quality and appropriateness of care of 50% of the following cases shall be conducted:

- (a) Emergency Room Visits
- (b) Emergency Admissions to acute care facilities

- (2) A quarterly review of the quality and appropriateness of care of 5%, but not less than one or more than 50, consultations/referrals/X-rays/hospitalizations

viii. Health Care Staff Development

An annual review of 100% of health care staff training shall be conducted to ensure completion of:

- (1) Pre-service Training
- (2) In-service Training
- (3) CPR/First-Aid Certification

ix. Credentials

An annual review of 100% of all professional credentials of licensed health care staff shall be conducted. More frequent reviews shall be conducted if problems are identified.

x. Internal/External Audit findings

A review of 100% of all American Correctional Association (A.C.A.) and the State of New Hampshire, Health and Human Services Department, Public Health Services Division audit findings shall be conducted by the month following the receipt of the audit findings.

45. Infirmiry Admissions

Defendants shall adopt written policies and procedures for operation of the infirmiry at the NHSP which shall, at minimum, provide as follows:

(a) All in-patient admissions to an infirmiry must be authorized by a licensed physician, dentist or psychiatrist. If the order is given by telephone, the order must be countersigned by the admitting physician/dentist, by the end of the next duty day. Registered Nurses shall be authorized to admit inmates for observation with follow-up and discharge by the Physician/Dentist.

(b) An admission note must be written in the medical record for all admissions by the admitting

nurse and by the ordering physician, dentist or psychiatrist.

i. The nursing note shall be made upon admission.

ii. The admission note by the ordering physician, psychiatrist, or dentist shall be made within 36 hours of the admission and shall include the reason for admission, admitting diagnosis and diagnostic and therapeutic plans.

(c) All acute care patients admitted to the infirmary shall:

i. Be seen at least every 72 hours by either a physician, P.A. or Nurse Practitioner provided, however, that the physician shall see all acute care patients at least once weekly. The physician visits must be documented by a progress note in the medical record written by the physician each time the patient is seen.

ii. Have their vital signs (temperature, pulse, respiration, and blood pressure) recorded at least daily and more often as determined medically necessary.

iii. Have a clinical note written by a member of the Medical Staff no less than daily and more often as determined medically necessary.

(d) If an individual is admitted to the infirmary for health related issues other than acute illness,

their vital signs (temperature, pulse, respiration, blood pressure) must be recorded at least weekly, and a progress note must be written by the physician no less than weekly. A nursing note must also be recorded no less than weekly. Weekly health care professional notes shall not be required in those cases where the Admission and/or therapeutic plan indicates that the purpose of the admission is long term or mid-term convalescent care, or in other cases in which there is no clinical need for weekly monitoring.

(e) Only a physician, psychiatrist or dentist may discharge inmates who have been admitted to the infirmary. Discharge orders and a note must be signed in the medical record by the physician, psychiatrist or dentist when discharging a patient from the infirmary. This discharge note shall include a summary of the reason for admission, the course in the infirmary, and the discharge diagnosis and plans.

(f) Physicians, psychiatrists, nurses, P.A.s, nurse practitioners, and dentists should sign each note with a "MD," "RN," "LPN," "PA", "NP," or "DDS" after their name. Psychologists should sign with their degree after their name (e.g., M.A., Ph.D., Psy.D., etc.).

46. Records

Defendants agree to abide by the Policy and Procedure Directive #2.6.43 (issued March 8, 1989) with the addition of the following provisions:

(a) Progress notes shall be completed as follows:

(1) All medical encounters shall be recorded on the same day as the medical encounter.

(2) Each entry on the progress notes shall include the date, time, signature and title of the person making the entry.

(3) A medical records format which shall, at minimum, delineate assessments, findings, and plan for each entry.

(4) All recordings shall be made in dark ink and shall be legible.

(5) Only abbreviations identified in health care directives may be used.

(b) Physical examination forms or documentation that the inmate refused the examination shall be completed.

(c) Medical records will be maintained in accordance with accepted Medical Records Standards.

47. The infirmary shall have basic life support capacity, including oxygen. All physicians, dentists, physician's assistants, nurses, and certified medical technicians shall be given annual in-service training in the use of basic life support equipment.

48. The Director or his designee shall establish a written procedure for responding to medical emergencies. Emergency response drills shall be conducted on each shift at least annually.

49. All correctional personnel shall receive such training as is directed in P.P.D. 2.6.44 IV C issued January 24, 1989.

50. Chronic Care Clinics

The Defendants shall establish chronic care clinics which ensure that inmates who have the chronic illnesses set forth below are seen by health care personnel at regular intervals:

(a) Diabetes:

Diabetic patients shall be seen by a physician, nurse practitioner, physician's assistant or Registered Nurse pursuant to protocol at least every three months or more frequently, as determined medically necessary by a physician.

(b) Asthma:

Asthmatic patients shall be seen by a physician, nurse practitioner, physician's assistant or Registered Nurse pursuant to protocols at least every four months, or more frequently as determined medically necessary by a physician.

(c) Hypertension:

Hypertensive patients shall be seen by a physician, Nurse Practitioner, physician's assistant or

Registered Nurse pursuant to protocols at least every four months, or more frequently as determined medically necessary by a physician.

(d) Seizure Disorder:

Seizure patients shall be seen by a physician, Nurse Practitioner, physician's assistant, or Registered Nurse pursuant to protocol when seizures occur, and at least every four months, or more frequently as determined medically necessary by a physician.

(e) Chronic Pain Syndrome:

Inmates suffering from chronic pain syndrome shall be seen by a physician, nurse practitioner, physician's assistant or Registered Nurse pursuant to protocol at intervals deemed appropriate by the physician, but at least every 90 days, unless the physician determines that a different interval is clinically appropriate. All decisions to schedule inmates at intervals greater than 90 days shall be reflected in the inmate's medical record.

5I. Medication

All inmate medications shall be handled in accordance with P.P.D. 2.6.42 (issued March 8, 1989) in addition to the following provisions:

(a) The physician shall conduct a monthly medication review on each inmate, unless such review is

not clinically indicated in which case a review shall be held at a maximum of 90-day intervals.

(b) All inmates who receive psychotropic drugs will be assessed within 30 days after the discontinuance of such drugs.

52. Dental Care

Defendants shall provide each inmate with routine and emergency dental care in accordance with the provisions of P.P.D. 2.6.28 (effective April 9, 1990), and the following:

(a) All new inmates shall be given a complete dental examination within three (3) months of their entry into the prison.

(b) Requests by inmates for dental care shall be prioritized according to the "American Public Health Association Based Categorization of Dental Patients." (attached hereto as Exhibit A).

(c) Any inmate experiencing a dental emergency, i.e. a condition which falls within category I or II of the American Public Health Association's priorities, shall receive an examination by the dentist no later than the next working day after the emergency occurs.

(d) Any inmate requesting dental care whose condition falls within category III of the American Public Health Association's priorities will be seen within thirty (30) days of their request.

52A. Training

All personnel who work in the infirmary shall receive training in all of the P.P.D.'s pertaining to health services at the NHSP.

Mental Health

53. Defendants shall provide all inmates access to a comprehensive mental health program based on their individual needs as determined by qualified NHSP Mental Health Staff and/or consultants. Defendants shall examine, diagnose and refer for treatment all inmates who have significant mental illness.

54. Where clinically indicated treatment cannot be provided by the NHSP staff, Defendants shall refer inmates to outside specialists or facilities which can provide the required services.

55. Defendants shall ensure that:

(a) Any time a correctional officer or other staff person observes an inmate exhibiting possible symptoms of mental illness that person shall contact the unit correctional counselor/case manager, or on-call counselor who shall evaluate the inmate for referral to other mental health specialists for diagnosis and/or treatment as indicated.

(b) Upon referral from a correctional officer or other staff person, a mental health worker shall interview the inmate to assess the need for referral to

the psychiatrist, psychologist, or such other mental health resources as is clinically indicated. This assessment shall be conducted within a time period as appears clinically appropriate from the nature of the referral, but in no case more than fourteen (14) days from the date of the referral.

(c) NHSP Mental Health Staff shall respond to any request by an inmate for mental health assessment and/or treatment in a manner that is clinically appropriate given the nature of the information provided in the request.

(d) When a member of NHSP staff has determined that individual and/or group therapy is appropriate for an inmate, such inmate will be provided such therapy within a timeframe that is deemed clinically appropriate by the Chief of Mental Health Services for the Department of Corrections.

56. When there are no immediate openings for inmates who are deemed appropriate for: alcohol and/or drug addiction, sex offenders or family training groups, priority for participation shall be given to those inmates who both:

(a) have been specifically referred to such programs by the sentencing judge, Classification Board or Parole Board; and

(b) who are closest to their minimum release date.

57. When a significant number of inmates manifest a particular mental health need which is appropriate for group therapy, Defendants shall provide additional programs deemed appropriate to meet such needs by the Chief of Mental Health, Administrator of Programs or the Director of Forensic and Medical Services.

58. Defendants shall develop a plan to conduct tracking and follow-up of inmate treatment and progress. Such plan shall be described in writing and provided to Plaintiffs' counsel at least 30 days prior to its implementation. Defendants shall formally implement said tracking and follow-up plan within six (6) months of the entry of this order.

59. Defendants shall implement a system to assure that all Mental Health staff members receive regular formalized clinical supervision and attend regular periodic staff meetings.

60. Defendants shall ensure that all unit counselor/case managers receive, as part of the pre-service and in-service training required by P.F.D. 2.4.1 (issued December 16, 1988), training on:

(a) behavior indicative of mental or emotional disturbance; and

(b) the criteria and process to be employed in referring inmates for evaluation by a mental health professional (i.e. psychologist, psychiatrist, therapist, etc.).

61. Defendants shall implement the suicide prevention and intervention policy set forth in P.P.D. 2.6.10 (issued May 16, 1989) with the following modifications:

(a) The Officer in Charge shall, in every case where it is the opinion of any staff member that an inmate is in danger of suicide or self-inflicted serious bodily injury, immediately inform either the Unit Counselor/Case Manager or a mental health clinician (or, in the absence of both, the on-duty nurse).

(b) Defendants shall implement a policy of conducting follow-up evaluations of inmates identified pursuant to paragraph (a) (above) where deemed clinically appropriate by the Chief of Mental Health Services. All decisions pertaining to follow-up, including a decision not to follow-up, shall be reflected in the inmate's mental health record.

62. Those inmates who are returned to the NHSP from SPU after having been transferred pursuant to RSA 623 shall be monitored and treated as deemed clinically necessary. In all cases, such inmates shall be seen at least one time by a member of the NHSP clinical staff within thirty (30) days of their discharge from SPU.

63. Defendants shall maintain a staff which includes, at a minimum:

(a) One full-time Ph.D. Psychologist who shall be the on-site clinical and administrative Chief of the

NHSP Mental Health Unit in coordination with the
Director;

(b) As of July 1, 1990: Three (3) Master Degree Level Psychologists and four (4) Social Workers, or their equivalent in terms of education and/or experience; and sixteen (16) additional counselors. The above staff members shall provide Mental Health and Case Management Services to inmates on a full-time basis.

(c) Defendants will make their best efforts to maintain a ratio of one case manager for every eighty (80) inmates.

(d) Defendants shall make their best efforts to secure the services of post-graduate level student interns who shall work under the supervision of the Director of Mental Health Services at the NHSP.

(e) A Psychiatrist will be available at the NHSP a minimum of eight (8) days each month to provide counselling to inmates, consultation with the mental health and medical staff, and to prescribe medication in coordination with the physician.

Health Care Services Evaluator

64. The parties agree that a mutually agreed upon physician shall be appointed "evaluator" to promote and evaluate Defendants' compliance with section I. of this consent decree. The parties shall notify the Court of the

identity of the evaluator by July 1, 1990. If the parties cannot agree, each party shall submit the name and resume of its nominee to the Court which shall choose the evaluator.

65. The evaluator shall perform an annual survey and evaluation of the health services department at the NHSP and file a report with counsel for both parties within 30 days of completion thereof. The annual survey shall be conducted over such period as the evaluator deems necessary to perform his duties up to a maximum of five days per year. These five days of evaluation shall occur at any time within the months of October or November, and need not be consecutive. At least twenty-four (24) hours advance notice of any visit by the evaluator shall be required.

66. The evaluator shall have the following powers:

(a) To have unlimited access to any of the medical, dental and mental health facilities covered by the terms of the Consent Decree.

(b) To have unlimited access to the records, files, and papers maintained by the Department of Corrections or its contractors to the extent that such access is related to determining compliance with the Consent Decree except as to matters covered by the attorney-client privilege and the work product doctrine. Such access shall include all departmental, institutional, and inmate records, including, but not limited to, medical, mental health and dental records. He may obtain copies of all such relevant records,

files and papers; provided that he shall not be permitted to testify as to an inmate's medical, dental or mental health record in unrelated litigation. The Defendants shall not be liable for the release of any records to the evaluator pursuant to the terms of this order.

(c) To conduct confidential interviews with all staff members, employees, and contractors of the Department of Corrections. In addition, he may engage in informal conferences with such staff members, employees, and contractors. Such persons shall cooperate with the evaluator and respond to all inquiries and requests related to the implementation of the Consent Decree in this case. The Evaluator may require compilation and communication of oral or written information relevant to such implementation.

(d) To conduct confidential interviews and meetings with any inmates or group of inmates at the NHSP.

67. The Evaluator shall be compensated at the rate of one hundred dollars (\$100.00) per hour for services performed in accordance with this Consent Decree. All reasonable expenses incurred by the evaluator in the course of the performance of his duties including, but not limited to, long-distance telephone calls, photocopying, printing, travel, data processing, and postage shall be reimbursed. However, during the total three-year period during which he

performs services as an evaluator, he shall not incur total expenses, including his hourly fee, in excess of \$30,000 without prior approval of the Defendants or the Court.

68. All costs associated with the Evaluator shall be borne by the Defendants.

69. If, upon receipt of the Evaluator's report, the Plaintiffs believe that there are serious issues of non-compliance with this section of the decree, they shall (absent an imminent threat to the health of an inmate), attempt to resolve the issues with the Defendants. If the parties cannot resolve the issues within 30 days of the time Plaintiffs notify Defendants of the alleged noncompliance, the Plaintiffs may move for such further relief as is appropriate from this Court.

70. For the purpose of this section of the Consent Decree only, the jurisdiction of this Court shall not terminate until 90 days after the submission to the parties of the evaluator's third annual report, provided however, that if within said 90-day period, Plaintiffs move this Court for further relief, jurisdiction shall be extended until the Court acts upon Plaintiffs' request. The evaluator shall notify the Court of the date he submits his report to the parties.

Non Waiver

71. Nothing in this agreement shall be construed to waive or in any way limit or affect any claim which an

individual member of the Plaintiff class may have, or may in the future have, against the Defendants, their agents or employees arising out of health care (including dental and mental health) provided or not provided to the class member.

II. CLASSIFICATION

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

(a) Due consideration to the age; offense; prior criminal record; vocational, educational and work needs; and physical and mental health care requirements of each inmate;

(b) Methods of identifying aged, infirm and psychologically handicapped or physically disabled inmates who require transfer to a more appropriate facility, or who require special treatment within the institution;

(c) Educational, vocational, rehabilitation, training, religious, recreational and work programs specifically designed to meet the needs of the classification system; and

(d) Methods of identifying those inmates for whom pre-release, work release or school release are appropriate.

73. The prison's Classification Manual (as amended May 15, 1990), which is attached hereto as Exhibit B, is fully

incorporated herein as part of this decree. Plaintiffs agree that compliance with said manual as well as other relevant provisions of this Consent Decree will satisfy the requirements set forth in paragraph 72 above.

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

75. Defendants shall, as part of the reception cycle for new inmates, inform such inmates in writing of the procedures and standards of the Classification System. In addition, Defendants shall provide all new inmates as well as current inmates with reasonable access to a copy of the Classification Manual. As part of the settlement of this case, Defendants will distribute to each inmate a written summary or description of the Classification Manual as amended May 15, 1990.

76. Defendants agree to allow Plaintiffs' counsel to inspect individual inmate files, which contain all of the material and decisions relative to each inmate's classification. The purpose of such an inspection is to provide a method to ensure that the matters and decisions relative to classification are being made consistent with the Classification Plan as set forth in the Manual.

77. Until the opening of the new diagnostic unit in 1991, quarantine status for the purpose of reception, admission, orientation and classification shall not exceed 10 days in the reception unit, and 21 days in the housing unit to which the inmate will initially be assigned. While in the SHU quarantine, such inmates shall be entitled to one hour of outdoor exercise (weather permitting) and at least one hour of tier time in addition to any other time spent out of their cells for any other purpose. During the 21 day phase, such inmates shall enjoy the same rights and privileges as the other inmates in the unit except that they need not be provided work or education opportunities.

78. After the opening of the new diagnostic unit, the maximum quarantine period shall be 31 days. During this period, inmates shall be entitled to all necessary health care (including mental health and dental) as well as reasonable access to attorneys, visitors, mail, exercise and/or recreation (indoor and outdoor).

III. WORK AND PROGRAMS FOR SHU AND CCU INMATES

79. Inmates in the Close Custody Unit shall be eligible to participate in the following programs:

- (a) N.H. Correctional industries.
- (b) Vocational Training
- (c) Education (full and part time)
- (d) Hobbycraft
- (e) Weight Room

80. Although CCU inmates as a class are eligible for such programs, the suitability of any particular inmate for such programs shall be determined on a case-by-case basis, contingent on the interest, motivation and behavior of the inmate.

81. As vacancies in the programs set forth in paragraph 79 above arise, suitable CCU inmates shall be given priority until 20% of slots in each program are occupied by CCU inmates. As new units open, the Defendants shall make their best efforts to set aside for CCU inmates a percentage of the total capacity of each program which is equal to the percentage of the total inmate population in the main facility that is comprised of CCU inmates. (For example, if the percentage of CCU inmates in the population of the main facility rises to 30%, the Defendants would attempt to have 30% of the slots in the programs listed in paragraph 79 filled by CCU inmates).

82. Both before and after the termination of this Court's jurisdiction, changes which Defendants wish to make in the Classification Manual (Exhibit "B") shall be forwarded to Plaintiffs' counsel prior to the effective date thereof.

83. All C-5 (maximum custody) inmates in the New Hampshire State Prison who are willing and able to participate, will be afforded the opportunity to engage in useful jobs, education, vocational training, counselling, recreational programs, or other provisions and activities in

the Special Housing Unit (SHU), in addition to the one hour of outdoor exercise to which they are entitled under Guay v. Perrin (Order p.2).

84. Defendants will make their best efforts to provide a minimum of five hours of such programming, as outlined in paragraph 83 above, five days a week to each C-5 inmate who is willing and able to participate.

85. Defendants recognize that inmates confined in the maximum custody unit for more than six consecutive months need and benefit from a greater variety of work and vocational education opportunities within SHU than may be available to inmates confined in the maximum custody unit for shorter periods of time. In recognition of this principle, Defendants:

(a) have created a tailor program which has the capacity for 16 inmates, and a computer education program for 8 inmates;

(b) agree that as openings arise in such programs, they will fill them with C-5 inmates who have resided in SHU for longer than six months, provided that they are willing and able to participate; and

(c) agree that by August 1, 1991, they will make their best effort to create additional work and/or vocational education program(s) which will be reserved for 16 C-5 inmates with priority for those who have resided in SHU for longer than six months.

86. Defendants shall make their best effort to create and maintain the programs set forth in paragraph 85 at a level which enables the participants to work and/or train five hours per day, five days per week..

87. The job assignments in SHU shall be reviewed by the Classification Board.

88. A list of all books and magazines available in the main library shall be maintained in SHU and provided to SHU inmates upon request. SHU inmates will have access to the reading materials on said list by submitting an inmate request slip to the librarian. SHU inmates shall be entitled to exchange at least two books/periodicals per week, which shall be delivered within five days of the receipt of the inmate request.

89. All SHU inmates shall be offered the full range of items to purchase from the canteen as are general population inmates, except for items which pose a bona fide threat to the security of the unit.

(90.) SHU inmates shall have access to the canteen twice per month, or with the same frequency as is provided to medium custody inmates.

IV. VOCATIONAL TRAINING

Definitions

91. "Vocational Training Program" means one of the following NHSP programs only: Post-Secondary Vocational Education Program; State-Certified Vocational Education

Program; Industrial Arts Program; TIE Program; or Pre-Vocational Education.

92. "Post-Secondary Vocational Education Program" means a to-be-established Associate's Degree program in Vocational Education, jointly sponsored by the NHSP and New Hampshire Vocational College System.

93. "State-Certified Vocational Education Programs" means NHSP Vocational Education Programs certified by the State of New Hampshire Department of Education.

94. "Industrial Arts Program" means a to-be-established NHSP program that, in consultation with the New Hampshire Department of Education, provides introductory Vocational Education course offerings to inmate/students.

95. "TIE (Training, Industries and Education) Programs" means NHSP inmate work programs that teach marketable skills and provide competency-based vocational training and instruction, on the job, to inmate/students through the NHSP Adult Vocational Training Center.

96. "Pre-Vocational Education" means an academic course of study to assist inmates in attaining career goals and provided to inmates who meet the following criteria: 1) They intend to participate in a NHSP Vocational Training Program or, if the inmate's minimum release date is less than 24 months from his entry into the NHSP, in a post-release Vocational Training program, and such intention is specifically recorded in the inmate's Individual Voc/Ed Plan; and 2) They are currently enrolled in basic NHSP

Education course(s) specified in the inmate's Individual Voc/Ed Plan; and 3) They require said basic Education course(s) in order to meaningfully participate in NHSP or post-release Vocational Training.

97. "Individual Voc/Ed Plan" means the Vocational Training and Education plan formulated by and for each individual NHSP inmate, as specified in writing in the inmate's Education file.

98. "E-Score" means the NHSP Education Department's rating of an individual inmate's educational level, as reflected in writing in the inmate's Education file.

99. "Marketable Skills" means employment skills that are marketable in the State of New Hampshire.

100. "Competency-Based Training" means the Vocational Training model to be employed by all NHSP TIE Programs, and that has the following characteristics: course content is primarily focused upon the mastery of specific tasks by the inmate/student; inmate/student performance objectives are specified in advance of instruction; inmate/student achievement is based upon demonstrated performance of skills (competencies); instruction, supervision, and evaluation are individualized; the inmate/student is evaluated according to pre-determined performance standards; learning is directed by feedback.

101. "Training Profile" means a written record that documents an individual inmate/student's demonstrated performance of skills (competencies) in a particular TIE

Program job, and that specifies the following: job description/ task overview; materials, equipment and supplies utilized for teaching and learning; performance objectives; competencies; and work habits.

102. "Eligible Inmate Population", for purposes of Vocational Training, means all NHSP inmates except those in the following statuses: Community Corrections, Quarantine, Punitive Segregation, Pending Administrative Review, Transit, Pre-Trial Detention, Shock Incarceration, and the Secure Psychiatric Unit.

103. "Vocational Training Evaluator" means the individual agreed on by the parties to evaluate Defendants' compliance with the Vocational Training section of this Consent Decree.

Purpose

104. It is the purpose of the Vocational Training section of this Consent Decree to ensure that a maximum number of NHSP inmates are afforded the opportunity to learn vocational skills that will equip them for successful employment in the State of New Hampshire upon their release from prison.

Post-Secondary Vocational Education Program

105. Defendants, in cooperation with the New Hampshire Vocational College System (NHVC), shall make their best efforts to establish and make operational a Post-Secondary Vocational Education Program, with a minimum enrollment capacity of 15 inmate/students, by November 1, 1990. An inmate/student who participates in the NHSP Post-Secondary Vocational Education Program will earn credits toward an Associate's Degree from a New Hampshire Vocational College.

106. Establishment and maintenance of the Post-Secondary Vocational Education Program is contingent on participating inmates obtaining Pell grants or similar government loan/subsidies to pay tuition for the program. Defendants shall assist inmates in contacting appropriate agencies and applying for government grants and/or loans to pay program tuition.

State-Certified Vocational Education Programs

107. By November 1, 1990, and thereafter, NHSP State-Certified Vocational Education Programs shall have the following minimum enrollment capacities:

| | |
|-------------------------------|-----|
| * Business office Occupations | 68 |
| Auto Mechanics | 25 |
| Small Engine Repair | 20 |
| Auto Body | 24 |
| Building Trades | 24 |
| ** Culinary Arts | 6 |
| TOTAL | 167 |

108. Specific NHSP Vocational Education Programs may be changed based on changes in the job market, as well as changes in the skills and abilities of the inmate population, but the total minimum enrollment capacity of the NHSP State-Certified Vocational Education Programs shall remain at 167.

109. The Defendants shall make their best efforts to have the Culinary Arts Program certified by the State of New Hampshire Department of Education (D.O.E.) by July 1, 1991.

* The NHSP Business Office Occupations Program enrollment capacity includes that of the Computer Education Program in SHU.

** The NHSP Culinary Arts Program is pending certification by the State Department of Education.

110. The Defendants shall make their best efforts to ensure ongoing re-certification of the NHSP Vocational Education Programs by the State of New Hampshire D.O.E..

Industrial Arts Program

111. By November 1, 1990, Defendants shall establish and make operational an Industrial Arts Program with an enrollment capacity of at least 30 inmate/students.

TIE Programs

112. By May 1, 1991, and thereafter, Defendants shall conduct on-the-job Vocational Training (OJT) in the following work programs, to be known as TIE Programs:

Print Shop
Data Processing
Sign Shop
Metal (Plate) Shop
Food Service
Tailor Shop (SHU)
Wood Shop
Electronics Shop (CCU)

113. By May 1, 1991, and thereafter, all of the NHSP TIE Programs shall have an operational education component, teach marketable skills, provide competency-based training and instruction, and utilize training profiles.

114. By May 1, 1991, and thereafter, all NHSP TIE Program supervisor/instructors will successfully complete a training course on how to be an OJT/Vocational instructor,

the mechanics of competency-based training and instruction, and the use of training profiles as an educational tool.

115. Thereafter, in the event a TIE Program supervisor/instructor leaves employment or retires, or a new TIE Program is initiated, the new TIE supervisor/instructor must complete the same, or a substantially similar, instructor training course within six months of his employment start-up date.

116. By May 1, 1991, and thereafter, the NHSP TIE Programs shall have the following minimum enrollment capacities:

| | |
|-------------------------------|-----------|
| Print Shop | 50 |
| Data Processing | 22 |
| Sign Shop | 30 |
| Metal (Plate) Shop | 40 |
| Food Service | 20 |
| Tailor Shop (SHU) | 16 |
| Wood Shop | 30 |
| <u>Electronics Shop (CCU)</u> | <u>12</u> |
| TOTAL | 220 |

117. Specific NHSP TIE Programs may be changed based on changes in the job market, as well as changes in the skills and abilities of the inmate population, but the total minimum enrollment capacity of the NHSP TIE Programs shall remain at 220.

Pre-Vocational Education

118. NHSP inmates enrolled in basic Education courses may be counted toward satisfying the 50% capacity

requirement set forth below, provided the inmate/students meet the following Pre-Vocational Education criteria:

(a) They intend to be enrolled in a NHSP Vocational Training Program or, if the inmate's minimum release date is less than two years from his entry into the NHSP, a post-release Vocational Training program, and such intention is specifically recorded in their Individual Voc/Ed Plan; and

(b) They are currently enrolled in basic NHSP Education course(s) specified in their Individual Voc/Ed Plan; and

(c) They require said Education course or courses in order to meaningfully participate in Vocational Training.

50% Capacity Requirement

119. By May 1, 1991, and by May 1 of each year thereafter, the NHSP shall have a total Vocational Training Program capacity greater than or equal to 50% of the eligible inmate population on May 1 of the preceding year.

NHSP Vocational Reports

120. Defendants shall generate the following annual reports, together or separately, copies of which shall be provided to Plaintiffs' counsel and to the Vocational Training Evaluator..

Inmate Population Report

121. On May 1 of each year, beginning May 1, 1991, the Defendants shall generate an Inmate Population Report. The report will specify the following:

(a) The total number of NHSP inmates on the reporting date;

(b) The number of NHSP inmates, on the reporting date, in each of the following statuses: Community Corrections, Quarantine, Punitive Segregation, Pending Administrative Review, Transit, Pre-Trial Detention, SPU, and Shock Incarceration; and

(c) The number of NHSP inmates for purposes of determining compliance, one year hence, with the 50% capacity requirement (a minus b) -

122. The Inmate Population Report shall also specify the following:

(a) The total number of NHSP inmates one year prior to the reporting date;

(b) The number of NHSP inmates, one year prior to the reporting date, in each of the following statuses: Community Corrections, Quarantine, Punitive Segregation, Pending Administrative Review, Transit, Pre-Trial Detention, Shock Incarceration and SPU;

(c) The number of NHSP inmates for purposes of determining current compliance with the 50% capacity requirement (a minus b).

State-Certified Vocational Education Program Report

123. On May 1 of each year, beginning May 1, 1991, Defendants shall generate a State-Certified Vocational Education Program Report. The report will list the operational NHSP State-Certified Vocational Education Programs and, for each program, will specify the following:

- (a) The enrollment capacity per shift;
- (b) The number of shifts;
- (c) The total enrollment capacity;
- (d) The current number of inmate/students actually enrolled on each shift; and
- (e) The current total number of inmate/students actually enrolled.

124. The report shall also list the name(s) of any operational Vocational Education Program(s) the NHSP intends to have certified by the State, but which have not yet been certified, and, for each such program, shall specify:

- (a) The anticipated date of State certification;
- (b) The current enrollment capacity; and
- (c) The current number of inmate/students actually enrolled.

125. The NHSP State-Certified Vocational Education Program Report shall specify the name and enrollment capacity of any NHSP Vocational Education Program de-certified by the State D.O.E., or discontinued, during the prior year.

126. The NHSP State-Certified Vocational Education Program Report shall also specify the name and enrollment capacity of any operational NHSP Post-Secondary Vocational Education Program, and of any NHSP Post-Secondary Education Program discontinued during the prior year.

TIE Program Report

127. On May 1 of each year, beginning May 1, 1991, Defendants shall generate a TIE Program report. The report shall list the name of each operational TIE Program and, for each program, shall specify the following:

- (a) the enrollment capacity on each shift;
- (b) The number of shifts;
- (c) The total enrollment capacity;
- (d) The current number of inmate/students actually enrolled on each shift;
- (e) The current total number of inmate/students actually enrolled;
- (f) The number of supervisor/instructors;
- (g) Whether or not the supervisor/instructors have completed instructor training;
- (h) Whether or not the supervisor/instructors have implemented, and are using, training profiles; and
- (i) Whether or not the supervisor/instructors are providing competency-based training.

128. The TIE Program Report shall specify any TIE program that has been discontinued during the prior year.

129. The TIE Program Report shall also specify the name and enrollment capacity of any operational NHSP Industrial Arts Program, and of any NHSP Industrial Arts Program discontinued during the prior year.

Training Profiles

130. On May 1, 1991, for every TIE Program job, Defendants shall submit, with the TIE Program report, a sample Training Profile to Plaintiffs' counsel and to the Vocational Training Evaluator. Thereafter, in the event a new TIE Program is created, a new Training Profile initiated or an old Training Profile revised, the Defendants will provide, with the subsequent TIE Program report, a copy of each of said profiles to Plaintiffs' counsel and to the Vocational Training Evaluator.

131. All NHSP Training Profiles shall contain a D.O.T. (Dictionary of Occupational Titles) or O.E.S. (Occupational Employment Statistics) code number corresponding to the employment skills being taught in said job.

Instructor Training Documentation

132. On May 1, 1991, Defendants shall submit, with the TIE Program Report, a list of the names of all TIE Program supervisor/instructors, and, for each such supervisor/instructor, shall specify the TIE Program s/he

supervises/instructs, and whether or not s/he has successfully completed instructor training.

133. Thereafter, in the event a TIE Program supervisor/instructor leaves employment or retires, or a new TIE Program is initiated, Defendants shall submit, with the subsequent TIE Program Report, a list of the names of all new TIE Program supervisor/instructors and, for each such new supervisor/instructor, shall specify:

- (a) The TIE Program s/he supervises/instructs;
- (b) His/her employment start-up date; and
- (c) Whether or not s/he has successfully

completed instructor training.

134. In the event any TIE Program supervisor/instructor has not completed instructor training by the date of the subsequent TIE Program Report (be it the May 1, 1991 report or thereafter), for each such supervisor/instructor, Defendants shall continue to submit, with each subsequent TIE Program Report, the documentation required in paragraph 133 above until successful completion of the required training is documented.

135. In all instances, Defendants shall also submit, with the subsequent TIE Program Report, a complete written description of the instructor training course(s), including the total number of hours of instruction, completed by TIE Program supervisor/instructors.

Pre-Vocational Education Report

136. At the mid-point of each academic semester, Defendants shall generate a Pre-Vocational Education report. The report will list the names of all NHSP inmates who meet the following criteria:

(a) They intend to be enrolled in a NHSP Vocational Training Program or, if their minimum release date is less than two years from their date of entry into the NHSP, in a post-release vocational training program, and such intention is specifically recorded in their Individual Voc/Ed Plan; and

(b) They are currently enrolled in basic NHSP Education course(s) specified in their Individual Voc/Ed Plan; and

(c) They require said Education course(s) in order to meaningfully participate in Vocational Training.

137. For each inmate who meets the criteria listed above, the report shall specify the following:

(a) The Education course(s) he is currently enrolled in;

(b) His "E-score";

(c) Whether or not his minimum release date is less than two years from his date of entry into the NHSP;

(d) The specific Vocational Training Program he intends to participate in; and

(e) Whether said Program is NHSP or post-release Vocational Training.

The report shall also specify the total number of NHSP inmates who satisfy the Pre-Vocational Education criteria.

Vocational Training Evaluator

138. The parties shall make a good faith effort to agree upon a Vocational Training Evaluator, and shall inform the Court of the person chosen. If, by July 1, 1990, they cannot agree, each party shall submit to the Court the name and resume of the person they believe should be chosen, and the court shall decide between them.

139. All costs and fees associated with the performance of the Evaluator's duties as set forth in this Consent Decree shall be paid by the Defendants.

140. The Vocational Training Evaluator will examine each of Defendants' Vocational Reports and, by June 1 of each year, beginning with June 1, 1991, will conduct a follow-up on-site inspection of Defendants' Vocational Programs, to evaluate Defendants' compliance with the requirements set forth in this Consent Decree.

141. Specifically, the Vocational Training Evaluator shall verify Defendants' compliance or non-compliance with the following:

(a) The specific enrollment capacity numerical requirements, and respective implementation deadlines, for all of Defendants' Vocational Programs;

(b) The 50% capacity requirement;

(c) The specific qualitative requirements of the NHSP TIE Programs:

- i. Supervisor/instructor completion of a Training course on how to be a TIE Vocational instructor;
- ii. competency-based training and instruction;
- iii. Use of Training Profiles;
- iv. Teaching vocational skills that are being used in the New Hampshire economy.

142. During the Vocational Training Evaluator's annual inspections, the Evaluator shall be given the opportunity to speak with TIE Program supervisor/instructors and inmate/students to make the requisite qualitative assessments.

143. The Vocational Training Evaluator shall determine the marketability of skills being taught in the TIE Programs only. The Evaluator will make such a determination by examining:

(a) The NHSP TIE Report(s);

(b) The NHSP sample Training Profiles for each job in the TIE Program;

(c) New Hampshire employment skills marketability data gathered, analyzed and published by the State Occupational Information Coordinating Committee (SOICC) of New Hampshire;

(d) The TIE programs themselves, during the Evaluator's annual inspections.

144. By June 15 of each year, beginning June 15, 1991, the Vocational Training Evaluator shall write an annual Vocational Training Evaluator Report on Defendants' compliance and/or non-compliance with the provisions of the Vocational Training section of this Consent Decree. Copies of the annual Vocational Training Evaluator Report shall be provided to Plaintiffs' counsel, to Defendants' counsel and to Defendants.

V. LAW LIBRARY

145. SHU inmates requesting law library access shall be provided with access to the SHU Satellite Law Library, on an appointment basis and for a sufficient number of hours per week, to meet their legal needs.

146. The parties acknowledge that currently the SHU Law Library is open to SHU inmates eight hours per day and agree that such amount is currently adequate to meet the need.

147. Defendants agree to create a part-time position (20 hours per week) for a SHU inmate to serve as a library assistant. The SHU library assistant will perform such duties in the SHU library as are directed by the librarian.

The librarian will ensure that the SHU library assistant is knowledgeable in the area of legal research. The librarian and/or the inmate attorney will be available to respond to SHU inmates' requests for assistance with legal research and writing.

148. The SHU Law Library shall contain, at minimum, such digests, handbooks, and research aids as shall enable inmates to determine what cases to request from the Main Law Library. In addition, said library shall include, at minimum, the Statutes, Case Reporters and other materials set forth in Exhibit C, attached hereto.

149. The Defendants shall maintain a general law library to which all inmates (except quarantine and C-5 inmates) shall have reasonable access. Said library shall be managed by a full-time librarian and staffed by an inmate assistant(s) who will work under the direction of the librarian.

150. The parties acknowledge that, at this time, PPD's 2.7.20 (effective April 9, 1990), 2.7.22 (issued April 28, 1989), and 2.7.40 (issued February 10, 1989), pertaining to the Law Library and its operation, and the provisions set forth in this Consent Decree, are adequate to address the Plaintiffs' right to legal materials.

VI. FOOD SERVICE

151. Every inmate is entitled to three wholesome and nutritious meals per day served with proper eating and

drinking utensils. Defendants will make their best efforts to ensure that food which is supposed to be served hot will be served hot and all food which is supposed to be served cold will be served cold. All inmates, regardless of their custody and disciplinary status, will be served the same quality of food in a quantity sufficient to meet their nutritional needs. Availability of special diets will not be dependent upon custodial or disciplinary status. Defendants shall implement a menu which will provide for a regular variety in dinner meals.

152. Defendants shall provide food service in full compliance with the requirements of New Hampshire Department of Corrections (DOC) P.P.D. #2.8.10 issued September 13, 1989.

153. All special diets (medical/religious/vegetarian), and inmate requests for special diets, shall be handled in full compliance with the requirements of New Hampshire DOC PPD.2.7.1 issued April 9, 1990.

154. Defendants shall provide pre-job assignment medical examinations to all NHSP staff and inmates whose assignments involve the preparation and/or handling of food, to determine their suitability for such work.

VII. MISCELLANEOUS

155. The parties agree that all of the P.P.D.s which have been incorporated by reference in this Consent Decree are binding on the Defendants in substance. In recognition

of the myriad of details contained therein, Defendants shall have the right to make modifications provided, however, that all such changes shall be provided to Plaintiffs' counsel prior to the implementation of such changes.

156. No inmate shall be subject to punishment, harassment, or any adverse treatment because of his involvement in this action.

157. No inmate shall be deemed to have waived any claim or action which he may have on his own behalf against the Defendants, their agents, or their employees to remedy violation(s) of his legal rights.

158. Counsel for Plaintiffs shall distribute copies of this Consent Decree to representatives of the Plaintiff class. Defendants shall reimburse Plaintiffs' counsel for the cost of reproducing and mailing forty-five (45) copies of this Decree to such representatives.

C.75-258-D
C.77-256-D
C.87-301-D

NHLst.

159. Defendants shall provide copies of this Consent Decree to all Unit Managers, including MSU and the halfway houses, and make them available, upon request, to inmates as well as employees of the NHSP.

Ronald L. Powell Elliott Berry

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May 16, 1990
Date

May 15, 1990
Date

SO ORDERED

May 22, 1990
Date

J. Dewe
Judge, United States
District Court

8/28/90 ATE
cc: Elliott Berry, Esq.
Daniel J. Mullen, Esq.

RECEIVED

AUG 30 1990
N.H. Legal Assistance