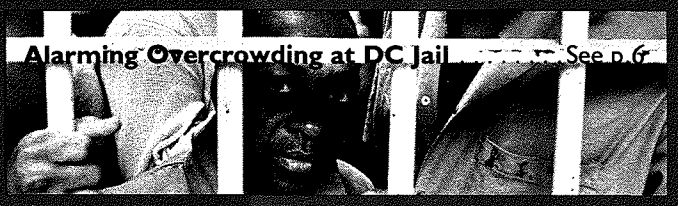
JOURNAL
THE NATIONAL PRISON PROJECT



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The editor welcomes comments from readers on material presented in the JOURNAL, or on the topic of prisoners' rights in general.

ISSN 0748-2655 **NUMBER 5, FALL, 1985**

South Carolina Settlement Limits Population, Enforces Standards

Mark Kluger

On August 9, 1985, U.S. District Court Judge C. Weston Houck provisionally approved a consent decree negotiated between South Carolina and attorneys representing approximately 9,000 state prisoners. The agreement, awaiting court approval since January 8 when the parties came to terms, covers all twenty-eight state prisons and ends two years of negotiations.

South Carolina now joins approximately thirty-eight states under court order and it is one of the few states in which a decree covers all prisons including work release centers and minimum security facilities.

"If we defended the state prison system before the federal court and lost, the state would have lost its constitutionality and its sovereignty."

The court order requires an end to triple-celling and most double-celling, increased funding for health care, the closing of two overcrowded and deteriorated prisons, implementation of contact visiting for most prisoners held in segregation units, and the provision of more full time, meaningful work and program assignments. It will require single-celling for all inmates in any type of segregation status. Most importantly the settlement promises to put an end to chronic overcrowding by setting a population ceiling on each institution.

The order is unique in that it resulted from a cooperative process which began shortly after the lawsuit was filed. "By entering into this settlement, the state has commendably recognized that it has serious problems and shown a willingness to take steps necessary to rectify them," said National Prison Project Chief Staff Counsel Steven Ney. To their credit South Carolina officials chose the most efficient remedy of negotiation so as to rapidly implement change in the overcrowded and overwhelmed prison system.

William Leeke, Commissioner for the Department of Corrections, said: "We decided it was better to negotiate a settlement, and a lot less expensive. If we defended the state prison system before the federal court and lost, the state would have lost its constitutionality and its sovereignty."

The original lawsuit, filed in federal court in 1981 by inmate Gary Nelson, alleged that overcrowding fostered suicides, rapes, assaults and routine violence among prisoners. The system, designed to house 7,000, currently holds 8,500 inmates. During the negotiations attorneys for the plaintiff class focused

—continued on page 9.

A lone figure stands in the center of the tiered cellblocks at the Central Correctional Institution in Columbia, South Carolina.

Don Sturkey—The Charlotte Observer.

Be A Friend: Join Prisoner Visitation and Support

Prisoner Visitation and Support (PVS), a nationwide assistance program for prisoners in U.S. federal and military prisons, is seeking additional volunteers.

PVS tries to meet the needs of prisoners through an alternative, interfaith ministry which is separate from the official prison structure. The focus is on those prisoners who have acute need for contact: prisoners serving long sentences, those in solitary confinement, those without other visits, inmates of maximum security prisons, and those who are frequently transferred across country from prison to prison.

For over 1,000 men and women each year, PVS is the only trusted link with the outside world. PVS visitors offer friendship and help in many ways: visiting regularly, obtaining study materials, communicating with prisoners' families, making legal referrals, or writing letters of recommendation to the parole commission. A special "suffering fund" is available for small gifts to prisoners such as books, art supplies, stamps, and grants to families enabling them to travel across the country to visit prisoners. PVS is a unique ministry in many ways, not the least of which is that they do not impose their philosophy or religion on the prisoners they see.

Prisoners' letters sum up PVS' work: "I owe you much thanks for sending the local visitor to see me. . . . PVS is wonderful to me, who like hundreds of others is too far away to receive visits. Before he came here, I had received one visit in over three years."

"I want to thank you for the wonderful hours I spent talking with you. Those times are the things I will remember about this place, and it is because of people like you that some of us in here will be able to live in a free society and not go out hating everyone else."

If you are interested in becoming a PVS visitor, or know of someone who might be, please contact the PVS national office: 1501 Cherry Street, Philadelphia, PA 19102, (215) 241-7117. PVS visitors are all volunteers and are expected to visit at least once a month and follow up on prisoner needs.

PVS makes regular visits to: Ashland, KY*; Atlanta, GA; Butner, NC; Big Spring, TX*; Bastrop, TX: Chicago, IL; Danbury, CT; El Reno, OK*; Eglin AFB, FL; Englewood, CO; Leavenworth, KS*; Lewisburg, PA; Lompoc, CA; Lexington, KY; La Tuna (El Paso), TX; Marion, IL; Morgantown, WV; Maxwell AFB (Montgomery), AL; Memphis, TN; Norfolk, VA*; New York, NY; Otisville, NY; Petersburg, VA; Ray Brook (Lake Placid), NY; Safford, AZ; Sandstone, MN; Springfield, MO; Seagoville, TX; Terre Haute, IN; Talladega, AL*; Texarkana, TX; Terminal Island, CA; Boron, CA; Ft. Worth, TX; Phoenix, AZ; Rochester, MN; Camp Pendleton, CA.

*Special need for volunteers.

In Memory

The NPP mourns the recent death of Judith Magid, a courageous and creative fighter for prisoners' rights. Although she had long been engaged in important prison litigation, Judith was perhaps best known for her innovative work in obtaining constitutional rights for women inmates, in the influential case of *Glover v. Johnson*.

Judith, a Detroit lawyer and longtime colleague of ours, will be missed by all of us at the NPP. The following letter to her family from her clients in the *Glover* case speaks eloquently of Judith and her work:

> Dear Neal, Kate, Mrs. Dorothy Magid & family:
>
> No floral arrangement could ever be designed to exemplify the color and fragrance that Judith brought into the lives of her sisters in bondage. Her persistent work instilled hope in those who had been forgotten and a new sense of pride in those who had been scorned.
>
> Though Judith's physical being has left this world, her triumphant spirit lives each time a woman prisoner is given access to a prison law library, each time a woman prisoner is allowed to earn a college degree, and each time a woman prisoner is permitted to be trained for a nontraditional female occupation.
>
> We are deeply sorrowed by Judith's premature passing, yet in her few years with us she left behind a legacy which can never be surpassed.
>
> We have decided that as a token of our appreciation we will finance the painting of a portrait of our beloved Judith to be hung in the Huron Valley Women's Facility law library.
>
> Yours truly,
>
> Georgia D. Manzie
> Mary A. Butler
> Charmaine L. Cornish
> Zarifa Shahid (Essie Henderson)
> Marjorie Parsons
> Lynn Gates ■

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The National Prison Project is a tax-exempt foundation-funded project of the ACLU Foundation which seeks to strengthen and protect the rights of adult and juvenile offenders; to improve overall conditions in correctional facilities by using existing administrative, legislative and judicial channels; and to develop alternatives to incarceration.

The reprinting of *JOURNAL* material is encouraged with the stipulation that the National Prison Project *JOURNAL* be credited with the reprint, and that a copy of the reprint be sent to the editor.

The *JOURNAL* is scheduled for publication quarterly by the National Prison Project. Materials and suggestions are welcome.

The National Prison Project *JOURNAL* is designed by James True.

Hard-Fought Settlement Reached in Hawaii Case

Mary E. McClymont

On the very day scheduled for commencement of an anticipated five week trial, June 11, 1985, the parties in *Spear v. Ariyoshi* reached final agreement on all substantive issues in the case. The following day a comprehensive consent decree was entered for the court's approval in Honolulu, Hawaii. Filed in September of 1984, the complaint had alleged unconstitutionality in a wide range of environmental and medical conditions as well as correctional policies and practices at two Hawaii prisons, caused in large part by severe overcrowding. The National Prison Project filed the suit in conjunction with the ACLU of Hawaii Foundation.

In July 1984, at the behest of the ACLU of Hawaii , NPP Director Al Bronstein visited the state's overpopulated Oahu Community Correctional Center (OCCC) as well as the Hawaii Women's Correctional Facility (HWCF). The HWCF then housed close to three times its rated capacity. After his examination, Bronstein advised our local colleagues and state officials that in his opinion certain portions of the facilities were literally "unfit for human habitation" and overall they were far below minimum constitutional standards. He followed his visit with a letter to the State of Hawaii which urged an amicable resolution of the constitutional deficiencies and set out proposed remedies for settlement, including a phased reduction of the two prisons' populations as well as the establishment of panels of mutually agreed upon experts to develop plans to bring them into compliance with the Constitution.

In a sharply worded response, the State of Hawaii summarily rejected the NPP proposals, claiming (as it continued to do until the resolution of the litigation) that Hawaii's prisons, although replete with problems, nonetheless met constitutional standards. In fact, as late in pre-trial discovery as April of 1985, the state's own representative had even conceded to the press that the prisons were "barely legal."

Conditions at both prisons had been scrutinized by the local press and even the Reagan Justice Department for several years prior to the filing of *Spear,* and for good reason. At the time of trial, OCCC, which incarcerates both pre-trial detainees and medium security felons, had a population of over 1400 prisoners despite its rated capacity of only about 680. Over 500 inmates in the old cellblock, built in 1918, were either double- or triple-celled in tiny 48 square foot cells or were jammed into dormitories with men sleeping on the floor and with just over 20 square feet per inmate.

With no dayroom space inmates remained in the old cellblock cells and dormitories for virtually 24 hours a day, with no more than 2 hours per week of exercise and no regular outside programming or activities. Plumbing problems were serious and ongoing; rats were seen in living areas. Toilets were in short supply; sinks, showers, ventilation and lighting were substandard. Lack of adequate security supervision and blind spots in the dormitories made inmate fights and other violence commonplace.

Local ACLU attorney Dan Foley and Prison Project attorney Mary McClymont stand in front of the men's prison in Oahu, Hawaii.

Even the relatively new and well-designed "modules" at OCCC, where a large majority of sentenced prisoners were housed, were fast deteriorating with the massive stress placed on the physical plant by overcrowding. Prisoners were triple-celled in most single occupancy designed rooms, relegating one man to sleep on the floor, often for months at a time. Poor ventilation, leaky plumbing, pervasive idleness and limited outdoor exercise exacerbated the overcrowding in these module areas as in the cellblock. Lockdowns were frequent because of staff shortages.

Food services were totally overtaxed, with a kitchen designed for 500 attempting to serve close to 1500. The medical care system was overwhelmed with as little on-site physician coverage as 9 to 12 hours per week. Inmates on suicide watch were actually housed naked with no bedding, mattress or other belongings in empty concrete segregation cells without proper assessment, evaluation, or treatment. Other mentally disturbed inmates at OCCC were often double- or triple-celled in tiny dark and dirty cells which defendants' own staff and experts admitted were totally inappropriate.

At the women's prison, inmates were cramped into double-bunked dormitories with beds literally only inches apart. A dayroom allowing only 10 square feet for each of the approximately 90 women in the main facility was used for almost every function including meals, visits and "recreation." Hot water was rare and toilets, sinks, and showers were in short supply. Medical care and food services likewise fell below any acceptable standards.

Most egregious was the dungeon-like Detention Unit where cells were so small that no bed would even fit. Plumbing leaked and ventilation and lighting were substandard. Suicidal inmates and mentally disturbed women were housed in these tiny cells, a practice which even defendants, again, agreed was unacceptable. Throughout both facilities, fire hazards were numerous.

In the nine months following the filing of the complaint, extensive discovery was undertaken by plaintiffs' counsel. The court had immediately certified the case as a class action in September. Throughout the litigation, the NPP lawyers were aided by ACLU of Hawaii attorneys and had the excellent support of a team of experts including medical, psychiatric, environmental and correctional specialists.

Despite plaintiffs' stated willingness to attempt to settle mutually agreed upon deficiencies, no serious response to possible settlement came from the state until late May. As both counsel in *Spear* discussed mechanisms for settlement of the suit and initiated negotiations, they simultaneously prepared for the imminent trial in the case.

Only three days before the scheduled trial date the first drafts for proposed settlement were exchanged by opposing counsel and, following "eleventh hour" negotiations, the final details of the agreement were hammered out. Many of the remedies earlier sought in Bronstein's letter to the State of Hawaii, and more, were ultimately incorporated into the consent decree.

Population caps were set requiring reductions to begin October 1, 1985, and to be fully accomplished by December 1987. Specific population limits for various living areas were also established,

—*continued on next page.*

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along with restrictions on certain housing units for particular categories of offenders, such as protective custody, segregation, and the mentally ill.

The decree acknowledges that there are serious problems in the areas of medical and mental health care, environmental conditions, security staffing and training, classification and inmate activity. It employs a unique mechanism for specific remedy development and implementation. Three panels of nationally recognized experts were created to develop plans by October 1, 1985, to address the needs and insure adequacy in these areas. The experts will inspect the facilities, and monitor and report on implementation of the plans every six months. The experts include Patrick McManus, former corrections commissioner in Kansas; Jerry Enomoto, former director of the California system; Dr. Ronald Shansky, medical director of the Illinois Department of Corrections; Dr. Armand Start, medical director of the Texas Department of Corrections; Ward Duel, a public health expert from Illinois; and Jerrold Michael, dean of the School of Public Health, University of Hawaii. A Hawaii Corrections Department representative will also sit on each panel. If disagreements arise between the experts or the parties, the decree requires that the differences be first submitted for mediation to Allen Breed, former director of the National Institute of Corrections (NIC).

Significantly, the state also agreed to close down the old cellblock at OCCC by 1988 unless it was fully renovated and found to meet American Public Health Association and American Correctional Association environmental standards. Moreover, the state agreed that by July 1, 1985, the women's Detention Unit would no longer be used for any more than "time-out" housing for a period not to exceed 48 hours. In fact, this unit was closed by the state in July. The decree's "corrections panel" will furthermore determine whether the unit may be used for any future housing of prisoners.

Compliance is already moving ahead as the experts begin to develop their plans. Dan Foley, the Hawaii ACLU's staff attorney, continues to work on the case with the NPP. In a hard-fought case like *Spear*, it is particularly encouraging to see the cooperation displayed between the parties post-decree, a key ingredient for speedy implementation of the long-awaited improvements in Hawaii's prisons. ■

Revived Settlement Halts Trial in Arizona Case

Claudia Wright

In the premier edition of the JOURNAL, we included an article which expressed our optimism that settlement could be reached in* Black v. Ricketts, *a case challenging conditions of confinement in the Administrative Segregation Unit, CB-6, of the Arizona State Prison at Florence. That goal has finally been achieved, though not by the process so hopefully described in the article.*

During late September and early October of 1984, attorneys for the parties had reached agreement on virtually all the issues in the case. Just before the hearing, set to present the settlement agreement to the court, plaintiffs' counsel were informed that the settlement agreement was being withdrawn by the defendants because of shake-ups in the Department of Corrections and problems in the Attorney General's Office. The assistant attorney general who had participated in negotiations was removed from the case, and private counsel was hired to represent the defendants. The new trial date was set for February 5, 1985.

PREPARATION FOR TRIAL

Following the withdrawal of the settlement agreement by the defendants, Prison Project lawyers and local counsel shifted into high gear to prepare for trial which was now little more than three months away. Numerous trips to Phoenix were required to take over forty depositions of institutional administrators and staff in November and December. We prepared our clients for their testimony and were present for their depositions. Although many experts had already made tours of CB-6 prior to the aborted settlement, tours were arranged and completed for those who had not. The court ruled that depositions would not be taken of the experts, so it was necessary to assist in the preparation of written reports to answer the discovery requests of the defendants.

The defendants relentlessly attempted to pressure the court into granting a continuance of the trial date by filing many technical, complicated motions for summary judgment and motions to dismiss directed to particular issues in the case. The court consistently refused to grant any continuances, and all motions for summary judgment and dismissal were heard and dismissed.

The "diet loaf," a disgusting mass of chopped foods . . . was served without utensils.

During January, the month before the trial was to begin, logistical problems became almost as important and time-consuming as legal problems. Preparation to move the four-person legal team from the Prison Project to Phoenix for an indefinite stay required that apartments be found and leased, automobiles rented, and office equipment and supplies acquired. Mountains of documents for trial exhibits were put in order and shipped. During this period, as pressure and bills mounted, we often felt as though we were planning the D-Day invasion of Normandy rather than simply preparing a case for trial. But somehow the first of February found everyone settled into Phoenix, while struggling against the clock to complete the final preparation of testimony for expert and prisoner witnesses, of documentary exhibits, and the massive pre-trial order for the court. On the fifth of February we were ready to go.

THE TRIAL

This case included most of the traditional issues of big prison cases—unsanitary living conditions, inadequate food, idleness, inappropriate classification, violence, and rats and roaches. However, some unusual issues were also involved. Isolation, rather than overcrowding, was a major problem. Many prisoners were allowed out of their cells only 3 hours per week. Sensory deprivation resulting from virtually unrelieved isolation was intensified because windows and doors had been covered over with large plates of solid steel. A brutally repressive behavior modification program, which

Isolation, rather than overcrowding, was a major problem. Many prisoners were allowed out of their cells only 3 hours per week.

*Wright, Claudia. "Parties Move Toward Settlement in Arizona." *NPP JOURNAL* 3 (Fall 1984): p.4.

included the use of a "diet loaf" as punishment, was challenged. The "diet loaf," a disgusting mass of chopped foods, was compressed, shaped into loaves, frozen, then microwaved and presented as a meal in response to unacceptable behavior. It was served without utensils. Perhaps the single most disturbing practice at issue in this case was the use of abusive, mass rectal cavity searches upon prisoners. Several incidents in which every prisoner in administrative segregation had been subjected to these searches occurred in the spring of 1984. Many searches were videotaped. Our job was to present these awful facts in a way that would bring the reality of life in CB-6 alive for the judge.

Because of the unique issues involved in the case, we presented testimony by a large number of experts. A number of prisoner witnesses described the day-to-day problems of survival in this setting. Their testimony was graphic and in many instances, intensely moving. We entered hundreds of documents into evidence which clearly outlined the deficiencies in classification and programming, and also showed the inability of the defendants to follow even their own stated policies. A videotape of the many abusive rectal searches was shown to the court. We accompanied the judge on a day-long tour of the unit, including a climb up to the roof to inspect the faulty ventilation system.

Solid proposals were carefully drafted and agreed upon, only then to be rejected out-of-hand by the defendant administrators.

Much of the testimony was shocking. Our sanitarian testified that the death of an inmate by fire which occurred in the fall of 1984 could have been avoided if the smoke alarm system, improperly maintained, had been functional. Defense counsel, on cross-examination of the sanitarian, managed to extract testimony that he would have, given the authority, completely closed down the food preparation areas. No administrator was willing to accept responsibility for the rectal searches. The Director of Corrections admitted that he had never even bothered to review the videotapes of the searches, nor had any staff member been disciplined in any way for the abusive behavior.

The trial dragged on through February and March. Plaintiffs rested their case on March 14. After a week-long break, defendants began to present their case on March 27. After only a few days, it became apparent that defense testimony was directed to show that reforms which the plaintiffs were demanding were being put into operation. The court became more and more impatient with this testimony, and questioned the defendants as to why these issues could not be settled without the agony and expense of a trial with no end in sight. The trial did in fact end abruptly on April 11, when the defendants requested that settlement negotiations resume.

—continued on next page.

How the West Was Won, Part II

Betsy Bernat

We at the Prison Project are hovering over the phones. We are waiting for Hollywood to call. Such a story we have here, so much drama, the studio heads should be mauling one another to reach us first.

Black v. Ricketts, our case challenging conditions in Arizona state Prison's Cellblock 6, could be Hollywood's next big hit—um, a "block"-buster if you will; a Western for the Eighties. It can be called **Settlers.** Or better yet, **How the West Was Won, Part II.**

Cars are always good in movies and we certainly had plenty of them in Arizona. For over two weeks, the state insisted on escorting our two inmate witnesses 75 miles from the prison in Florence to the courtroom in Phoenix with a police car both in front and behind the van in which they were riding. We're speaking here of inmates who were wearing handcuffs *and* leg irons. Now, just in case the van and both police cars developed engine trouble, or the inmates pulled a Houdini and got out of the handcuffs, the leg irons and the van (unnoticed by the folks in the police cars), the state had arranged for motorcycle escorts as well: two in front of the entourage, and two in back. Then, for the whole of the 75-mile trip, the police cars ran their sirens and flashed their blue lights, perhaps to alert citizens that they had better lock their doors and windows, lest the inmates escape from their leg irons, handcuffs, the van, the police cars and motorcycle-escorts, or maybe because they knew that there's nobody who doesn't like a good parade and they didn't want anyone to miss this one.

So much for the car factor. Sizzling dialogue is also a must in the movies and we suffered no shortage of it in *Black,* thanks to the defendants' attorney. He referred to the all-female "cast" of Prison Project lawyers as everything from "the gaggle of geese" to the "gang of five," and that was when he was feeling kindly. The legal procedures of our "little gang of likeminded litigators" (also his term) were described by him as "craven and despicable."

He contacted our lawyers at one point by mail about some state documents we had not yet returned, writing, "I sincerely hope that [you are] not growing anything in those cartons."

In another letter to NPP counsel, he wrote, "We must take you at your word at this point," adding that doing so was "a highly risky practice where you are concerned." And, referring to our attorneys' fees application, he commented that we should use not the lodestar method, but the "motherlodestar method."

During an inmate deposition, he refused to let prison officials serve water to the NPP attorney, although water was allowed the inmate. He also tried to schedule his deposing of plaintiffs on the day after Thanksgiving, thereby denying our attorneys a holiday at home in Washington. The judge put a stop to his scheme, however. At the hearing to set the deposition date, he remarked, "Isn't this hearing on whether [the defendants' attorney] is Scrooge or not?"

"Scrooge" didn't like us. His affection for the ACLU in general seemed, in fact, a rung or so below non-existent. "[This letter]," he corresponded, "has been written in such a fashion as to limit the possibility of misunderstanding of position, that faithful old friend of the ACLU."

In addition to cars, conflict, and name-calling, the movie would also include courtroom drama and highlights from a trial that went on for over two months and threatened to go on as long as six months; a handful of exhausted East Coast attorneys fighting a legal battle on the deserts of the West; a Department of Corrections official who called off the negotiations on days when he had golf tournaments; and the ever-famous "diet-loaf," a bad imitation of meatloaf which was served as punishment to prisoners for periods of 21 days, three meals a day.

That's the story. The rest, Hollywood, is up to you. ■

—continued from previous page.

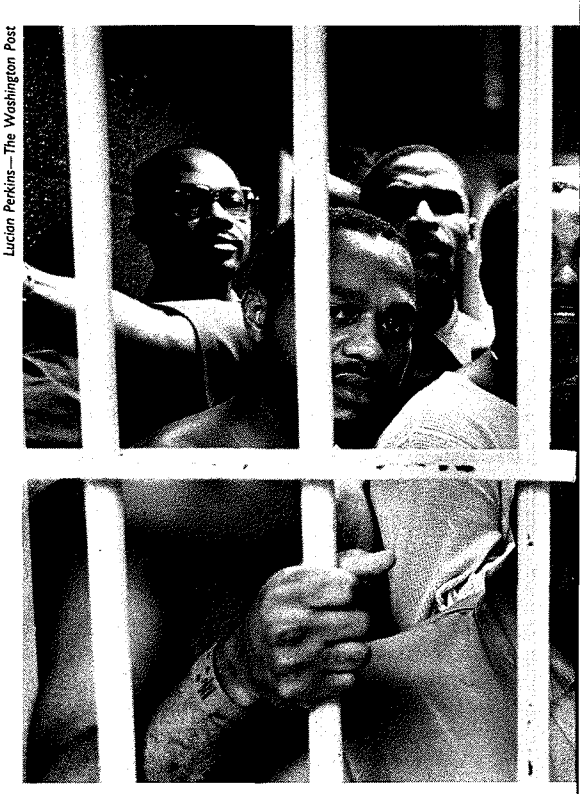
SETTLEMENT

In many ways the month-long period of settlement negotiations was more frustrating than the seemingly endless weeks of trial. The previously agreed upon settlement document served as the model for negotiations, but every word was examined carefully. The real obstacle to settlement soon became apparent. The lawyers for both sides, by now so intimately familiar with all the issues, facts and law involved in the case, found little about which to disagree. Solid proposals were carefully drafted and agreed upon, only then to be rejected out-of-hand by the defendant administrators. The prison administrators' lack of knowledge about the facts of the case, the law, and correctional practices in general—the new Director of Corrections had no background in corrections although he talked knowledgeably and endlessly about his golf game—created a nearly insurmountable barrier to settlement. The court had to assign the duty of supervising negotiations to his magistrate. Real progress began to occur only after the magistrate insisted that the Director of Corrections be present at the bargaining table to assure that final decisions could be made on the spot. Settlement meetings became a forum not only for typical back-and-forth bargaining of the parties, but for education of the prison administrators on generally accepted correctional practice and policy. Although this procedure slowed negotiations to a snail's pace, final agreements were at last reached. A comprehensive settlement document was presented to the court on May 9, 1985, one year and three months after the initiation of the lawsuit.

RESULTS

The court ordered final approval of the proposed settlement on June 17, 1985. Substantial improvements were mandated in all areas addressed by the lawsuit. The "diet loaf" was outlawed. Rules were clearly spelled out for classification and incentive systems. Use of force, including rectal searches, was ordered to be severely limited to only emergency situations. Provisions were made for improvement of living conditions, out-of-cell time, and programming. The implementation of the agreement will be monitored by Allen Breed, former director of the National Institute of Corrections, who will report regularly to the parties and the court upon compliance.

The settlement agreement will undoubtedly result in major changes in CB-6, improving the conditions of life for the men there. It is unfortunate that the agreement could only be reached after months of expensive litigation. Ironically, the final document is the same in every major particular as the one which had been agreed upon prior to the trial. This case will be remembered, if for nothing else, as a classic example of the benefits of reasoned negotiation and settlement, and the folly of hard-line resistance to necessary, constitutionally-required institutional reform. ■



Lucian Perkins—The Washington Post

Prisoners look through cell bars at the D.C. Jail. Many inmat

Judge Bans Further Intake of Prisoners at D.C. Jail

Steven Ney

The District of Columbia jail litigation took a dramatic turn on July 5, 1985, when Federal Judge William B. Bryant issued an order finding the new D.C. Jail, opened in 1976, to be "massively" and "dangerously" overcrowded. He banned further intake of prisoners at the jail beginning on August 24, 1985, unless the city reduced the population below 1694. The ruling in effect set that number as a permanent ceiling on the jail's population.

The order marks the latest development in litigation begun in the early 1970's when conditions at the old D.C. Jail were first challenged in federal court by the National Prison Project and the Public Defender Service.

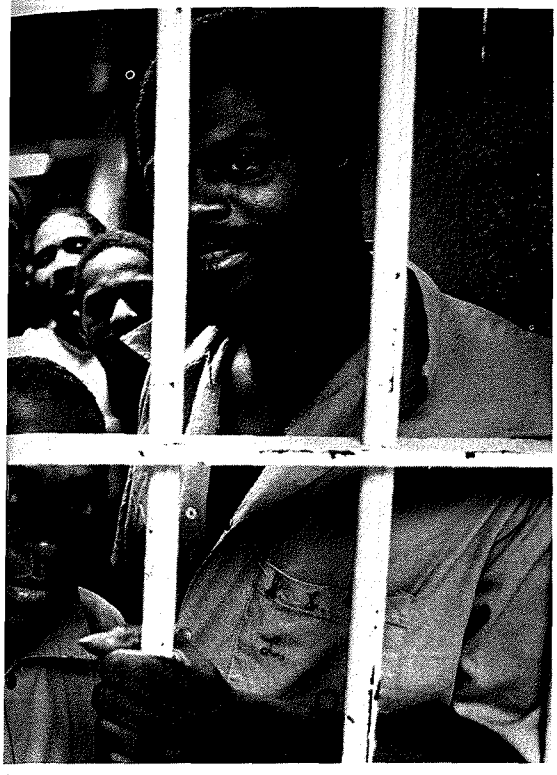
The court order sent local and federal officials scrambling and fingerpointing in an effort to cope with the latest chapter in the continuing crisis in the District of Columbia's criminal justice system.

On August 22, 1985, the District of Columbia agreed not to appeal the court's order setting a limit on the jail, and to phase-in the reduction in population to 1694 by November 22, 1985, together with alternatives to incarceration such as expanding halfway house capacity, third-party custody programs, bail review, and timely parole decisions. By September 23, 1985, the jail population was down to 1877. If the District does not reach or maintain the cap, the court's original ban on further intake will be reinstated automatically.

At the time of the ruling the jail confined more than 2600 prisoners in a facility built for no more than 1355. The population began exceeding that number in 1980, exceeded 2400 in 1983, sparking a riot in several cellblocks, and has continued to climb to its current level of roughly 2600. Approximately 1400 of the 2600 prisoners are convicted or sentenced misdemeanants and felons.

The judge imposed the population cap to remedy the needless pain and suffering at the jail reflected by filth, uncontrolled inmate upon inmate violence, and denial of essential medical, dental and mental health services. These conditions have "steadily worsened" despite repeated court orders—without a population limit—over the past decade.

In his first reaction, D.C. Mayor Marion Barry stated that the ruling was "unreasonable" and that he was "shocked and appalled that Judge Bryant would seek to force the city government to put criminals on the street." The following day he asserted that the prisoners at the jail were technically in the custody of the U.S. Attorney General and that "if a solution to the situation has not been found in cooperation with the U.S. Attorney and the Attorney General and others . . . by the deadline . . . [I] will have no alternative but to direct [Corrections Department Director James F.] Palmer not to accept



must sleep in hallways because of crowded conditions.

any more prisoners." The Mayor apparently was trying to force the Federal Bureau of Prisons to accept more D.C. prisoners in addition to the 1400 already in the federal system. The federal prison system, however, is itself 38% over its capacity and thus has little, if any, room for more. The U.S. Attorney's office (the prosecutor in D.C.) in its response blamed the Mayor for not building enough prison and jail space. The Chief of Police and the Chief Judge of the Superior Court indicated that they would continue sending prisoners to the jail as usual despite the ruling. No one mentioned the fact that the District arrests, prosecutes and incarcerates large numbers of petty offenders to placate members of Congress from all over the country (D.C. citizens having no representation in Congress) who control and appropriate the D.C. budget.

No one mentioned the fact that the District arrests, prosecutes and incarcerates large numbers of petty offenders to placate members of Congress . . . who control and appropriate the D.C. budget.

Judge Bryant's order came in response to motions filed by National Prison Project attorneys in 1983 to halt the overcrowding crisis. At a week-long hearing in 1983, and subsequent hearings, experts in the fields of corrections, public health, medical care and correctional psychiatry testified along with jail officials and inmates about the deteriorating conditions and their adverse impact upon the prisoners and staff. The order states,

Time and again, defendants have requested the court to defer to their accumulated wisdom, to stay its hand and to give them more time. Time and again, these requests have been honored in the hope and expectation that defendants would solve these problems expeditiously and effectively. However, instead of matters improving they have deteriorated. For example, at the October 1984 hearing defendants represented to the court that the jail population, which had steadily risen over the summer months, would fall with the onset of winter. This did not happen; in fact, the opposite occurred. The court was further given to understand that a new 400 bed Department facility, which was scheduled to open in late winter, would reduce the jail population by 400. That facility has opened, and is currently 20 persons shy of its design capacity—yet the jail is still packed with record numbers.

The court emphasized that it was forced to act because "for the most part there is no indication of anything except complacency" by the District of Columbia Government. "[I]nstead of a sustained drive against the effects of a population crisis, defendants' efforts have been sporadic, and largely unproductive, and conditions have steadily worsened."

In its 54-page opinion the Court found that the "massive overcrowding" has placed "unreasonable demands on every jail resource both in terms of the physical plant and personnel" such that the ability to "provide essential services has been seriously undermined" and that living conditions at the jail are "dangerous." The court found that violence has reached "alarmingly high levels" as a direct result of the overcrowding, with many inmates living in constant fear of rape or assault. Gymnasiums, dayrooms, warehouses, and aisle space, are taken up by beds, preventing recreation from taking place. Facilities and services "which are ordinarily contemplated as escape valves have been effectively transformed into pressure points."

Because the population tripled while staff remained constant in number or even declined, the court found that the jail failed to provide basic medical services. This amounts to "deliberate indifference to the health care needs of all prisoners" and has caused "untold pain and suffering." This indifference was manifested by intolerable delays in access to health care personnel, lack of training and lack of supervision of non-professional medical and psychiatric staff, haphazard and ill-conceived administration and organization, sloppy record keeping, "screening" improperly delegated to unqualified personnel, improper dispensation of prescription drugs, and a "woeful lack of dental and psychiatric care." These deficiencies, the court concluded, are causing needless suffering and purposeless infliction of pain without any conceivable penological justification, citing numerous incidents of gross and wanton neglect which established a pattern of misconduct and malfeasance. One inmate, for example, who complained of pains symptomatic of a heart attack, had to wait two and one-half weeks before being seen by a physician. The court noted that there is no intake psychiatric screening at the time of a prisoner's commitment to the jail, and that staff shortages have forced entire cellblocks to go without prescribed mental health medications for days at a time. Two suicides occurred at the jail during 1983 which could have been prevented.

The court found that violence has reached "alarmingly high levels" as a direct result of the overcrowding, with many inmates living in constant fear of rape or assault.

The jail ruling has brought the long-standing population crisis into sharp focus. There seems to be no place to put the approximately 900 prisoners now at the jail in excess of the cap. The federal prison system holds little prospect for relief for the District because it is already far over its capacity. The D.C. facilities at Lorton (Va.) are either under court imposed population ceilings or are filled to capacity. Moreover, the District of Columbia is facing pressure from Fairfax County, Virginia officials not to confine more prisoners at the Virginia site. In fact, the "runaway overcrowding" at the jail reflects the fact that all of D.C.'s prisons are filled to or beyond capacity and that the overflow has been warehoused at the jail.

The Prison Project, in response to the ruling, agreed with the court's statement that the District of Columbia has had years to develop alternatives to incarceration—such as bail reform and parole changes—but simply has failed to act. According to Prison Project attorney Mary McClymont, "The District of Columbia's only response in recent years to the dramatic growth of prison population has been to build additional prison facilities. But the District failed to develop alternatives to incarceration successfully used in other jurisdictions such as work release, intensive probation, expanded good time, third party custody,

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and bail reform. Now the District of Columbia must pay the price of having the country's highest incarceration rate—approximately 800 per 100,000—roughly four times that of any state. This escalating incarceration rate at a time when the crime rate has been going down is the product of stiffer sentences, tougher restrictions on parole, and the increased use of imprisonment."

The Prison Project, along with other groups in the District, has urged that the court ruling be viewed as an "opportunity for the District to finally develop and rethink its approach to crime and develop alternatives to prisons which it failed to do over the past decade." ■

Bureau Continues Totalitarian Measures at Marion

Adjoa A. Aiyetoro

For the past year, the National Prison Project has been asking Congress to look behind the veil of secrecy at the United States Penitentiary at Marion, Illinois. Marion, which was opened in the 1960's to replace Alcatraz, is the "super-max" of the federal prison system. It houses approximately 350 prisoners and contains the Control Unit, the most secure prison unit in the United States. A series of tragic deaths occurred on October 22, 1983, when two prison guards working in the Control Unit were killed and then a prisoner housed in the general population. As a result, on October 28, 1983, the entire prison population was locked down, confined to their cells 24 hours a day. The lockdown conditions continue at Marion for a majority of prisoners, almost two years after these deaths, although those responsible for the murders have been identified, and the staff assailants tried and convicted.

Prisoners in the general population are now confined to their cells approximately 22 hours per day. They are allowed one hour out of their cells five days a week for exercise and showers on the tier, two hours per week exercise in the gym and two hours per week outdoor exercise. They are allowed two ten-minute telephone calls per month and four two-hour non-contact visits per month. In addition they are allowed one 30-minute congregate religious service per month, with fewer than 12 participating. The entire prison population is now being punished for the acts of a few.

Prior to the lockdown cells were open virtually all day, meals were taken in the dining halls, access to the main law library was permitted 6 to 8 hours per week, and five all-day contact visits per month were permitted. Approximately 10 hours per week of gym or outdoor recreation were allowed with various types of recreational equipment provided; phone calls were permitted virtually every day.

THE LOCKDOWN

Several years ago a federal judge in Rhode Island said that a lockdown is ". . . one of the most drastic and disruptive measures a prison can take."[1] To obtain more information, Prison Project staff made three trips to Marion, interviewing staff and over thirty prisoners. They also met with Norman Carlson, Director of the Bureau of Prisons. A request to have a penologist tour Marion and talk with staff and prisoners was denied by the Bureau.

To effectuate the lockdown correctional staff was brought in from other federal prisons to supplement the staff at Marion. Correctional officers were outfitted in riot gear, complete with jumpsuits, helmets with face masks, and batons. Prisoners reported that officers wore no name tags. These officers went to each unit, removing prisoners from their cells and then removing all the prisoners' property. Prisoners allege that many items, including religious and legal materials, were never returned to them. They also complained that during the first month of the lockdown, serious medical concerns went unaddressed.

In meetings with Norman Carlson, Prison Project attorneys requested various reports, asked that he restate to staff and prisoners regulations for use of force, and, finally, requested that he return the institution to pre-lockdown status. These meetings resulted in very little action on his part. In National Prison Project testimony before the House Judiciary Committee's Subcommittee on the Courts, Civil Liberties and the Administration of Justice, which has oversight responsibility for the Bureau, Congress was asked to investigate the lockdown. The Subcommittee was asked to determine whether the conduct of the Bureau exacerbated the already tense atmosphere of such a high-security institution.

CONGRESS' RESPONSE

The Subcommittee, chaired by Robert Kastenmeier (D-Wisc.), responded to Prison Project requests for a Congressional investigation by sending a staff person to Marion to interview prisoners and staff, and by holding two hearings on the lockdown (March 29, 1984 and June 26, 1985). The Subcommittee commissioned a report from Allen Breed, Chairman, Board of Directors, National Council on Crime and Delinquency, and David Ward, Chairman, Department of Sociology, University of Minnesota, concerning Marion. At this time the Subcommittee is considering what further action it will take.

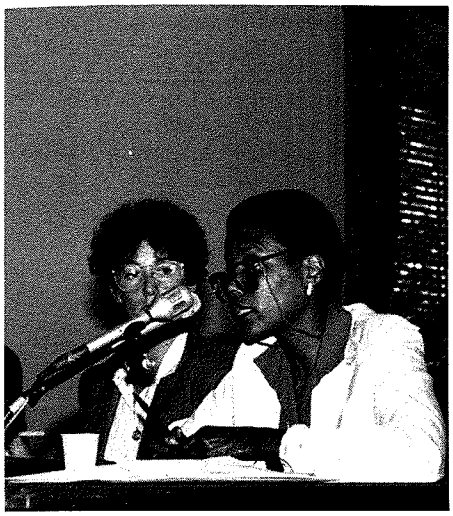
The report prepared by Breed and Ward in December 1984[2] contained a number of recommendations which the Prison Project endorsed. In addition, recommendations concerning use of routine digital rectal searches, the inaccessibility of the law library and use of graded units have led to some changes in Bureau policy.

The Breed/Ward Report suggests that conduct of Bureau personnel (routine digital rectal searches, the failure to allow certain groups to practice their religion, the lack of access to the law library, the creation of a special unit for 40 prisoners who were previously indistinguishable from the other general population prisoners, and the force used against prisoners during the lockdown) created what they term the "combat mentality" at Marion. The report did not address, however, the adequacy of the policies, procedures or practices used by the Bureau in relation to the deaths of the prisoner and two officers;[3] the appropriateness of the policies, practices or procedures used in the lockdown; and failed to evaluate the overall relationship between inadequate policies and the potential for harm to staff and prisoners. Breed and Ward conclude that the lockdown should continue

[1] *Jefferson v. Southworth,* 447 F.Supp. 179, 189 (D. R.I. 1978).

[2] This report is available to the public through the House of Representatives Judiciary Committee's document room.

[3] Dr. David Fogel, penologist, appeared with the Prison Project at the March 29, 1984 Subcommittee hearing. He was unable to provide the Subcommittee with a thorough analysis of security procedures in operation prior to the lockdown because of the Bureau's refusal to allow him, as the Project's expert, to tour Marion, review security procedures and interview staff and prisoners. He was able, however, even with the limited information available, to raise serious questions about the adequacy of the security measures in the Control Unit at the time of the murders of the two correctional officers.



Prison Project attorney Adjoa Aiyetoro testifying on June 26, 1985, before Congressman Kastenmeier's Subcommittee about the repressive lockdown at Marion Federal Penitentiary.

because the staff fears retribution from prisoners whom staff has harmed.[4]

Unfortunately the report failed to conclude what are generally accepted principles in corrections. To paraphrase Vincent Nathan, the Special Master in Texas and New Mexico and a national authority on prison violence, who reviewed the report: if you treat prisoners fairly and humanely, report on errors in policies, practices and procedures and reprimand those staff who violate policies and procedures, then staff need not fear widespread retribution.[5]

The Bureau's failure to conduct an investigation of the lockdown and report its findings (and Breed and Ward's support for a continuation of the lockdown conditions without fully investigating Bureau conduct or recommending further investigation), may undermine its ability to prevent future violence and creates the appearance of unfairness. This appearance is enhanced by the fact that reports, generally issued after a problem of some magnitude occurs in prisons, discuss not only the acts of prisoners which led to the problem but also the errors or weaknesses in the prison administration which created a climate for the occurrence of violence or which made the violent confrontation worse. Such reports were issued after the Attica uprising in 1971, the New Mexico rebellion in 1980, and the escape of a number of prisoners from death row at the Mecklenburg Correctional Center in Virginia in 1984.

[4]Breed and Ward attribute their failure to conduct a comprehensive investigation and discussion on these issues to the limited amount of time allotted to them (10 days) by Congress.

[5]In a telephone conversation in January of 1985.

THE URGENT NEED FOR HUMANE AND FAIR TREATMENT

The rights of prisoners to fair treatment must not be officially ignored. Frank Wood, Warden of the Minnesota Maximum Security Correctional Facility-Oak Park Heights, laid out sound correctional principles in the article appearing in the Summer 1985 *JOURNAL:*

We are responsible for maintaining an environment which is conducive to and encourages the rehabilitation of those inclined to change, through emphasis on control, accountability, sensitivity and responsiveness to the real and imagined concerns of inmates and staff.

To be consistent with this goal and to follow through on the "sensitivity and responsiveness" that is part of that goal, we continually strive to ensure that inmates will be treated the way we would like to see a close relative or friend treated if he were incarcerated.

In his testimony before Kastenmeier's Subcommittee, nationally recognized prison psychiatrist Frank Rundle stated, "[H]olding inmates in locked cells for 23 hours daily allowing very little opportunity for physical activity, no program or work participation, no open visiting and severely restricted communication with family, little opportunity for interaction with peers, and no acceptable means of expression of anger in many leads to a sustained state of rage, and resentment and preoccupation with thoughts of violent vengeance against institutional staff, and the society at large."

CONCLUSION

The National Prison Project believes that all general population prisoners who have not had an individual determination that they are in need of restrictive confinement should be returned to pre-lockdown mobility. The Project has also requested that the Subcommittee on Courts, Civil Liberties and the Administration of Justice appoint a Board of Inquiry composed of persons with no prior relationship to the Bureau of Prisons to assess the relative responsibilities for the violence which occurred during the lockdown. In the alternative we have asked the Subcommittee to hold hearings at Marion to address this issue in the hope that some daylight be allowed to pierce the veil. ■

For further information on the history of Marion, see "The Lessons of Marion," an analysis by the American Friends Service Committee, Criminal Justice Program, 1501 Cherry St., Philadelphia, Pa. 19102

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on relief of overcrowding as the key to progress. Lawyers from the Prison Project, Christine Freeman, from the Southern Prisoners Defense Committee, and Gaston Fairey, local counsel from Columbia, South Carolina participated in the settlement.

"Hopefully, the court order will lead to significant changes in the way the prisons are run so they will be safer for prisoners and staff," Ney said. "And if implemented, prisoners will be provided with more activity and education so when they come out at least they're not any worse than when they came in."

The state plans to construct a new facility to replace the Midlands Reception and Evaluation Center and Annex in Columbia. The court order requires the closure of this prison. The Annex has eight or nine men in cells of 144 square feet. The Reception and Evaluation Center has triple-celling in 35 square foot cells.

The decree establishes a panel of mutually agreed upon experts to evaluate staffing and other needs in the critical areas of security and medical and mental health care.

Dr. Robert L. Cohen, M.D., a member of the three-person medical team which conducted an inspection of the Midlands prison, termed the overcrowding "dangerous" . . . "This situation has serious medical and security implications," Cohen said.

The court order adopts and incorporates many recommendations made by the medical team for improved health care throughout the system. Significant increases in staffing include the addition of physicians, registered nurses, physicians' assistants, and psychologists. Improved procedures for medical emergencies and the dispensing of prescription medications will be implemented. Dr. Cohen, Dr. Charles A. Rosenberg, M.D., and Bonnie Norman, R.N., M.P.A., the members of the mutually appointed panel of medical experts, will continue to play a role in supervising and reviewing the changes in health services.

Other plans required by the court order include the development of a comprehensive classification scheme, the advent of programming providing not less than five hours per day, five days a week of meaningful activity (including prisoners in protective custody status), adequate staffing to end a practice of allowing prisoners to supervise other prisoners and a minimum requirement of 40-50 square feet per inmate sleeping space.

The decree contains a provision for a new approach towards resolution of future disputes over compliance. The parties have agreed that any disputes will

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be submitted in the first instance to a mediator, Allen Breed, former Director of the Justice Department's National Institute of Corrections. Only if that effort is unsuccessful will the dispute be submitted to the court and then Mr. Breed's findings of fact may guide the court in finding resolution.

In stating that "the settlement represents a fair compromise of difficult issues," Steven Ney noted that "by setting population limits on each institution, and requiring compliance with minimum standards in virtually all areas governing a prisoner's day-to-day existence, we are hopeful that humane conditions will soon be established within South Carolina's prisons." ■

Mark Kluger is a third-year law student at Cornell University in Ithaca, New York who did an internship at the Prison Project this summer.

Private Prison Planned on Toxic Waste Site

Jody Levine

The prisons-for-profit movement originated in part as a response to the problem of overcrowded prisons and jails in this country.

Governments and localities have been faced with lawsuits (challenging the constitutionality of inhumane conditions often due to overcrowding), rising construction costs, and a public unwilling to underwrite the costs for its "lock-em-up" mentality. The dilemma has not gone unnoticed by the private sector. Indeed, the "privatization" of corrections has become, in the short space of three years, a fast-growing industry. Although there is no evidence that any money has yet been made, the bloodhounds are out. The idea of making a profit on the backs of prisoners may seem unsavory to many, but former corrections administrators have flocked to the new industry, seeing it as a chance to use their expertise in corrections while earning a profit at the same time.

Buckingham Security, Ltd., is one of the new private sector firms. The Buckingham corporation was founded by Charles Fenton, the former warden of the Federal Penitentiary at Lewisburg, Pennsylvania, and two other federal prisons, and his brother, Joseph, a Pennsylvania businessman. In 1980, a federal jury found Charles Fenton liable for inflicting cruel and unusual punishment on two inmates, who were subjected to a beating with ax handles while they were handcuffed and in shackles, during his tenure as warden at Lewisburg.

Buckingham planned to build and operate a $15 million, 720-bed medium-maximum security, interstate protective custody prison in North Sewickly, Pennsylvania. The Pennsylvania state legislature is, however, currently considering a bill to impose a moratorium on the operation of private prisons until many questions concerning their operation can be answered.

The spectre of a prison built on a toxic waste site illustrates the concern so many people have about private prisons falling through the cracks of accountability and regulation.

Although the matter of the moratorium will not be settled for awhile, the uncertainties it has caused have put the Buckingham prison on hold.

That should be good news for the 720 prisoners who are the future residents of the North Sewickly facility. The Fentons, who plan to spend $15 million to build the prison, bought the site for $1. The deed transferring the land to Buckingham states: "A portion of Parcel No. 1 has been used for the disposal of hazardous wastes which were principally cadmium and cyanide and other electroplating and cleansing sludge." The spectre of a prison built on a toxic waste site illustrates the concern so many people have about private prisons falling through the cracks of accountability and regulation.

The land was once occupied by Townsend Fastening Systems, part of the Townsend Division of Textron. The plant manufactured nuts and bolts using several chemicals and cleaning agents in the process.

In 1984 Textron transferred the land to the Beaver County Industrial Development Authority which turned it over to Buckingham (at the $1 price) for a prison.

Before it gave up the land, Textron hired D'Appolonia Waste Management Services, which specializes in hazardous waste cleanups, to look over the site. Its report describes the waste disposal area as a 40 by 60 foot shallow pit, a man-made lagoon filled three feet deep with 350 cubic yards of sludge containing a high concentration of cyanide and cadmium and other contaminants. The report said, "this waste is characterized as hazardous under Resource Conservation and Recovery Act (RCRA) regulations."

Mack Wilson, vice president of administration, Townsend Division, Textron, said that when his company transferred the land it also transferred responsibility for the cleanup.

"We transferred the land for a dollar and we were transferring it in 'as is' condition. That's to be cleaned up by them (Buckingham) if and when they get into construction of a prison."

Mark Russell, a solid waste specialist for the Bureau of Solid Waste Management, Department of Environmental Resources in Pennsylvania, agrees that is Buckingham's responsibility.

"They promised us verbally they would clean up the site," he said. He said Buckingham also promised to give the DER a written plan from a consultant as to how the site would be cleaned by April 15, 1985.

Buckingham has yet to turn in this report. "We're having a little trouble knowing what Buckingham Security is doing about that site," Russell said.

Joseph Fenton, when contacted, said he did not believe the property to be dangerous, "but I don't think I'd want to grow a vegetable garden on it."

"It can be cleaned up and it will be cleaned up. If someone wants to ignorantly make an issue out of this they can." He said he had talked "with several people" about a cleanup but would

The following comments on the dangers of cadmium and cyanide in waste were drawn from an interview with Chuck Morgan, environmental health scientist and chief of the Health Science Section, Office of Waste Program Enforcement of the Environmental Protection Agency.

"Cyanide is probably more acutely hazardous than chronically hazardous. Acutely means something causing an immediate response, normally . . . death. Cyanide is the pellet they use in gas chambers . . .

"Exposure over long periods of time to very low levels of cyanide by any route causes enlargement of the thyroid gland in humans.

"Cadmium would more than likely be acutely and chronically hazardous.

"There is suggestive evidence in scientific literature linking cadmium to cancer of the prostate glands in humans . . . lung cancer in rats . . . kidney disfunctions . . . defects in the fetus and other kinds of reproductive effects."

not specify who or offer any estimates on cleanup costs.

In March 1984, D'Appolonia was acquired by IT Company of Philadelphia, also in the hazardous waste business. According to Leo Brausch, manager of project development for IT's northeast region, an attempt was made to keep D'Appolonia's involvement alive. Brausch said, "At the time of the transfer of property from Townsend Textron to Buckingham I contacted Mr. Fenton indicating our interest in pursuing the project with them now that Townsend Textron was no longer involved. I've not heard from him since."

The cleanup, according to Brausch, would be expensive. "What's done these days is to de-water the material and add a cementing agent and then dispose of it in a secure landfill licensed to take these materials. There are no such facilities in Pennsylvania." He estimated the total cost at $350,000. Besides the costs, which have doubled in the past year, another problem is that very few places are licensed to take such waste, he said.

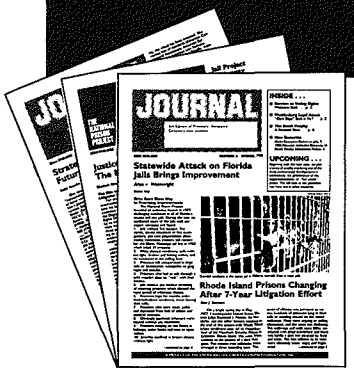
Joseph Fenton . . . said he did not believe the property to be dangerous, "but I don't think I'd want to grow a vegetable garden on it."

Robert Zapsic, director of the Beaver County Industrial Development Authority, said that as part of an agreement between Buckingham and his organization Buckingham is obligated to clean up the lagoon "within 18 months of the time of the transfer."

Who has authority in the matter? Amy Kelchner, spokesperson for the Pennsylvania Department of Corrections, said, "If it were a state facility, we certainly would be concerned about the grounds where the facility is located." And for a private prison? "There is nothing in our legislation which gives anyone authority on what to do." ■

Jody Hart Levine is a 3rd year law student at the Antioch School of Law, Washington, D.C. Jody did a summer internship here at the NPP.

PUBLICATIONS



The National Prison Project JOURNAL, $15/yr. $2/yr. to prisoners. Back issues, $1 ea.

The Prisoners' Assistance Directory, the result of a national survey, identifies and describes various organizations and agencies that provide assistance to prisoners. Lists national, state, and local organizations and sources of assistance including legal, library, medical, educational, employment and financial aid. 6th edition, published January 1985. Paperback, $15 prepaid from NPP.

Offender Rights Litigation: Historical and Future Developments. A book chapter by Alvin J. Bronstein published in the **Prisoners' Rights Sourcebook** (1980). Traces the history of the prisoners' rights movement and surveys the state of the law on various prison issues (many case citations). 24 pages, $2.50 prepaid from NPP.

The National Prison Project Status Report lists each state presently under court order, or dealing with pending litigation in the entire state prison system or major institutions in the state which deal with overcrowding and/or the total conditions of confinement. (No jails except District of Columbia). Periodically updated. $3 prepaid from NPP.

Bibliography of Women in Prison Issues. A bibliography of all the information on this subject contained in our files. Includes information on abortion, behavior modification programs, lists of other bibliographies, Bureau of Prison policies affecting women in prison, juvenile girls, women in jail, the problem of incarcerated mothers, health care, and general articles and books. $5 prepaid from NPP.

A Primer For Jail Litigators is a detailed manual with practical suggestions for jail litigation. It includes chapters on legal analysis, the use of expert witnesses, class actions, attorneys' fees, enforcement, discovery, defenses' proof, remedies, and many practical suggestions. Relevant case citations and correctional standards. 1st edition, February 1984. 180 pages, paperback, $15 prepaid from NPP.

The **Jail Litigation Status Report** gives a state-by-state listing of cases involving jail conditions in both federal and state courts. The **Report** covers unpublished opinions, consent decrees and cases in progress as well as published decisions. The **Report** is the first nation-wide compilation of litigation involving jails. It will be updated regularly by the National Jail Project. 1st Edition, published September 1985. $15 prepaid from NJP.

ACLU Handbook, The Rights of Prisoners. A guide to the legal rights of prisoners, pre-trial detainees, in question-and-answer format with case citations. Bantam Books, April 1983. Paperback, $3.95 from ACLU, 132 West 43rd St., New York, N.Y. 10036. Free to prisoners.

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HIGHLIGHTS

The following are major developments in the Prison Project's litigation program since April 15, 1985. Further details of any of the listed cases may be obtained by calling or writing the Project.

BLACK V. RICKETTS - This case challenges conditions of confinement in the Administrative Segregation Unit of the Arizona State Prison in Florence. On May 9 we reached a comprehensive settlement which was approved by the court.

BROWN V. SIELAFF - This case challenges conditions and practices at the super-maximum security prison, Mecklenburg Correctional Center, in Virginia. In July the court approved the settlement agreement, abolishing the prison's behavior modification program and affecting a wide range of conditions and practices.

DURAN V. ANAYA - This is a statewide prison conditions case in New Mexico. The Special Master issued his report on PNM finding the defendants in non-compliance with the court order in the areas of classification, discipline and staff training.

FLITTIE V. SOLEM - (reported as **Cody v. Hillard)** - This case challenges a variety of conditions at the South Dakota State Penitentiary. In April the Board of charities approved the settlement, with the exception of the double-celling provisions. We continue to discuss settlement of the remaining issues.

JERRY M. V. D.C. - This action challenges conditions of confinement at D.C.'s juvenile facilities. In April we joined this lawsuit with the Public Defender Service of D.C. after several years of unsuccessful negotiations with the District government.

RAMOS V. LAMM - This case challenges the totality of conditions at the Colorado State Penitentiary. In June we received $150,000 for our share of the interim fee award. Additionally, the court awarded us $1,050,000, less the interim award, on the entire fee claim.

SHRADER V. WHITE - This case challenges conditions of confinement at the Virginia State Penitentiary in Richmond. In May a Court of Appeals panel affirmed in part and remanded in part the Magistrate's decision to dismiss the case. Our petition for rehearing *en banc* was rejected.

SPEAR V. ARIYOSHI - This case challenges conditions at two Hawaii prisons. The day trial was to commence we reached a settlement agreement which includes population limits, expert panels to develop compliance plans and a mediator in the event of disputes.

TERRY D. V. RADER - This action challenges conditions in six juvenile institutions in the state of Oklahoma. The court established plaintiffs' lawyers as prevailing parties in the case and therefore our right to reasonable fees.

U.S. V. MICHIGAN - This case challenges conditions in the entire Michigan prison system. In June the Judge announced his intention to appoint a special master to monitor compliance with the consent decree.

During this period the National Prison Project received $345,321 in attorneys' fees and costs, in the various cases. These fees and costs help make up part of the Prison Project budget and enable us to continue our work. ■

National Jail Project Status Report Released

The National Jail Project of the ACLU Foundation announces the publication of its *Jail Litigation Status Report*. The 120-page report is the result of a two-year effort to identify and collect information and materials on local jail litigation efforts from across the United States. The *Report* reveals the nature and extraordinary scope of court efforts to bring the Constitution to American jails.

The *Report* contains a state-by-state listing of all the jail cases known to the Project. For each case listed, the *Report* provides a brief description of the issues presented by the case, the course of proceedings before the courts and any judicial remedies issued.

Persons who have information and materials about cases not listed in the *Report* as well as updated information on cases already listed are urged to contact the Project.

The *Jail Litigation Status Report* is available from the National Jail Project, 1616 P Street, Washington, D.C. 20036 at a cost of $15.00 prepaid.

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