

FILED  
U.S. DISTRICT COURT  
DISTRICT OF WYOMING

SEP 27 2005  
12:04 p.m.  
Stephan Harris, Clerk  
Cheyenne

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

BRAD SKINNER, on his own )  
behalf, and on behalf of all )  
other persons similarly )  
situated, )

Plaintiffs, )

vs. )

Case No. 02-CV-033-B

JUDITH UPHOFF; VANCE EVERETT; )  
JAMES HEWITT; DAVID EBELL; all )  
in their individual and )  
official capacities, ROBERT )  
ORTEGA and SCOTT ABBOTT, in )  
their official capacities, )

Defendants. )

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ORDER ON VARIOUS MOTIONS

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This matter is before the Court on (1) Plaintiffs' Motion to Modify the Remedial Plan; (2) Plaintiffs' Motion to Disseminate Redacted Investigative Reports; (3) Plaintiffs' Objection to Defendants' Proposed Changes to Policy 1.012; (4) Defendants' Motion to Modify the Order for Protection of Documents; and (5) Motion for Relief from Judgment. After considering the motions, having reviewed the materials on file, having heard oral argument, and being fully advised in the premises, the Court **FINDS** and **ORDERS**

as follows:

#### **BACKGROUND<sup>1</sup>**

Plaintiff Skinner originally filed this suit on February 15, 2002, asserting claims against Defendants individually and on behalf of other similarly situated individuals. Individually, Plaintiff Skinner sought compensatory and punitive damages, pursuant to 42 U.S.C. § 1983, for violations of his Eighth and Fourteenth amendment rights. Plaintiff also sought on his own behalf, and on behalf of all others similarly situated, injunctive relief preventing Defendants from failing to take all necessary and proper steps to safeguard Plaintiff and other Wyoming State Penitentiary ("WSP") inmates from unprovoked assaults by other inmates.

On November 27, 2002, this Court granted injunctive and declaratory relief on Plaintiffs' class action claim.<sup>2</sup> See Skinner v. Uphoff, 234 F. Supp. 2d 1208, 1218 (D. Wyo. 2002) (order granting Plaintiffs' motion for summary judgment). This Court

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<sup>1</sup>

For a complete recitation of the facts that precipitated this suit, see Skinner v. Uphoff, 234 F. Supp. 2d 1208, 1210-12 (D. Wyo. 2002).

<sup>2</sup>

The parties eventually reached a settlement regarding Skinner's individual claims.

found that Defendants had failed to adequately train and supervise their employees, failed to develop an effective internal review process for the reporting of policy violations and failed to properly discipline employees, leading to risks for inmate safety. Consequently, in an effort to alleviate the problems at the WSP, this Court ordered the parties to submit a proposed Remedial Plan which would address such shortcomings. On October 7, 2003, the Court approved the proposed Remedial Plan with minor changes.

As part of the Remedial Plan, Defendants were required to periodically provide certain documents and information to the Joint Expert and Plaintiffs' counsel. However, some of these documents contained information considered to be confidential pursuant to the Wyoming Public Records Act, Wyo. Stat. Ann. §§ 16-4-20 through 16-4-205, the State Self Insurance Act, Wyo. Stat. Ann. §§ 1-41-101 through 1-41-110, and the Wyoming Criminal History Record Act, Wyo. Stat. Ann. §§ 7-19-101 through 7-19-602, as well as other state and federal confidentiality laws. Thus, upon Defendants' motion to protect these documents, the Court promulgated a protective order, entitled Order for Protection of Documents, intending to prevent the dissemination of such confidential information.

Another concomitant of the Remedial Plan was Wyoming

Department of Corrections' Policy 1.012 (hereinafter referred to as "Policy 1.012" or "the Policy"), which set forth the agency's policy governing the investigation of inmate on inmate assaults. Specifically, the Policy provided for the procedure to be used in the investigation of suspected cases of inmate on inmate assaults, the hiring of a professional investigator within the Wyoming Department of Corrections ("WDOC"), the utilization of an outside investigator when the assaults appear to be premeditated, and discipline measures for staff members who violate any of the policies concerning prisoner safety. The Policy also established time lines for investigating incidents at the prison and completing reports on such incidents.

Both parties agree that the Remedial Plan has improved prison conditions immensely since its implementation in 2003. However, both parties contend that slight modifications to the current policies and procedures would further improve the effectiveness of the Remedial Plan. Specifically, in four separate motions, the parties have asked the Court to review and make slight modifications to the Remedial Plan, Policy 1.012, and the Court's Order for Protection of Documents.

In a separate motion, Mr. Parkhurst, on behalf of himself and

nine other inmates, seeks relief from the summary judgment order entered by this Court on November 27, 2002. Mr. Parkhurst and his associates (hereinafter referred to as "Parkhurst") contend that the judgment does not adequately address the overcrowding problem at the WSP. Parkhurst also requests that the Court recuse itself and appoint new counsel to replace Mr. Pevar, attorney for Plaintiffs in this case.

#### **DISCUSSION**

As noted above, there are currently five motions pending before the Court. Specifically, they are (1) Plaintiffs' Motion to Modify the Remedial Plan; (2) Plaintiffs' Motion to Disseminate Redacted Investigative Reports; (3) Plaintiffs' Objection to Defendants' Proposed Changes to Policy 1.012; (4) Defendants' Motion to Modify the Order for Protection of Documents; and (5) Motion for Relief from Judgment. These five motions can be discussed in four sections as two of the motions pertain to the same issue. Therefore, the Court will first discuss the two motions regarding protection of confidential information and dissemination of documents. Next, the Court will address the Plaintiff's Objection to Defendants' Proposed Changes to Policy 1.012. Third, the Court will analyze Plaintiffs' Motion to Modify

the Remedial Plan. Finally, the Court will cover the Motion for Relief from Judgment.

**I. Protection of Confidential Information and Dissemination of Documents**

As previously stated, the Remedial Plan requires Defendants to provide all investigation reports, as well as supporting documentation, to Plaintiffs. However, some of the information contained within these documents is confidential. Thus, the Court issued a protective order intending to prevent the dissemination of such confidential data. See Order for Protection of Documents. In particular, the Order protects personal medical records, personnel records of any WDOC employee, and the criminal history record of any person. Id. at 2. The Order provides that "[n]o person who obtains access to any of these confidential documents, records, or reports produced or inspected pursuant to the Remedial Plan may copy, distribute or disseminate the document or contents thereof, to any inmate of the Wyoming State Penitentiary or of the Wyoming Department of Corrections." Id. at 2-3. The Order also states that Plaintiffs' legal counsel may not provide confidential reports to "any other person, group of persons or organization, without the written order of the Court." Id. at 3.

Based upon this Order, the Defendants began producing redacted

documents to Plaintiffs' counsel and the Joint Expert. Plaintiffs' counsel, however, felt that the redaction process made the documents unintelligible. Based on this complaint, Defendants began producing unredacted and partially redacted documents to the Joint Expert and Plaintiffs' counsel. Defendants distributed these documents on the assumption that they would never be given to an inmate or released to the press.

Both parties now contend that the current system for producing documents and, hence, the Order for Protection of Documents, are not working as intended. Plaintiffs argue that they should be able to disseminate non-confidential documents to the inmates and the public at large. Plaintiffs believe that the public, as well as the inmates, have a right to know about the functioning of our state government. Defendants claim that an inmate should only be allowed to view those documents which contain the inmate's own statements to investigators. Defendants feel that the dissemination of documents, even redacted ones, to the inmates will decrease inmate safety at the WSP. Defendants also argue that release of documents to the public may violate several privacy and confidentiality laws. Additionally, Defendants request that the Court allow them to redact the documents now possessed by

Plaintiffs' counsel should the Court decide to allow publication of these documents. For the reasons stated below, the Court agrees with Plaintiffs that non-confidential information should be available to the inmates and public. However, the Court also agrees with Defendants that certain information should not be published.

First of all, as just stated, the Court agrees with Plaintiffs that the inmates are entitled to non-confidential information concerning the conditions of their confinement. The Court is also of the opinion that the public has a right, and even a responsibility, to review the investigative reports. See Allsop v. Cheyenne Newspapers, Inc., 39 P.3d 1092, 1096 (Wyo. 2002) ("[T]he Federal and Wyoming constitutions guarantee a person's right to access public records, and absent a compelling State interest, the State may not exclude an entire class of records from public inspection.") The public should be allowed to monitor the activities and performance of their own government and use this information to implement change if needed. In other words, the public's review should help to deter substandard performance at the WSP. See id. at 1095 ("Confrontation has a salutary effect and causes those in positions of public responsibility to practice

thoughtfulness and wisdom in their utterances and carefully weigh their decisions." ).

However, there is a compelling state interest in protecting confidential and privileged information from public dissemination and the Court is fully cognizant of Defendants' concerns regarding the distribution and dissemination of such data. State and federal laws clearly prevent the publication of materials relating to medical records, personnel records, and criminal history records. See, e.g., Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d-2; Wyoming Public Records Act, Wyo. Stat. Ann. §§ 16-4-20 through 16-4-205; State Self Insurance Act, Wyo. Stat. Ann. §§ 1-41-101 through 1-41-110; and the Wyoming Criminal History Record Act, Wyo. Stat. Ann. §§ 7-19-101 through 7-19-602. Thus, information relating to these matters should not be published to either the inmates nor the public at large. This does not mean, however, that non-confidential materials should also be protected. The protection of confidential or privileged information should not create a blanket suppression of all information.

Accordingly, the Court has formulated the following standard, or system, to govern the production, dissemination, and distribution of documents by Defendants and Plaintiffs' counsel.

From this date forward, Defendants shall redact all confidential and privileged information from documents which Plaintiffs' counsel is entitled to review or receive. Defendants shall only redact information which is confidential or privileged pursuant to state and federal law. Defendants may also redact any information which, under the reasonable person standard, would identify any inmates who have cooperated, are cooperating, or will cooperate with prison officials. This provision of the system is necessary to protect the safety of the cooperating inmates and further the investigation process. Defendants will not, however, redact information simply because it reflects negatively upon the WDOC or the WSP.

After Defendants provide the redacted materials to Plaintiffs' counsel, he will be allowed to distribute and disseminate these materials to the inmates, the public, and the press as he deems fit. Plaintiffs' counsel will not have a duty to carefully scrutinize these documents for protected information before he disseminates them, that duty is upon the Defendants. However, the Court is confident that should Plaintiffs' counsel become aware of such information contained in a supposedly redacted document, he will notify Defendants and allow them the opportunity to redact such information. Furthermore, if at any time Defendants agree to

provide Plaintiffs' counsel with unredacted documents, he will refrain from disseminating or distributing them to any member of the public or to any inmate. Such a distribution could violate state or federal law and endanger the lives of the inmates.

In regards to the unredacted documents now possessed by Plaintiffs' counsel, the Court **FINDS** that Plaintiffs' counsel should return such documents to Defendants and allow them to redact the documents before he disseminates them any further. This is the only fair resolution of this problem. Defendants provided these unredacted or partially redacted documents upon the assumption that they would not be viewed by anyone except the Joint Expert and Plaintiffs' counsel. This, of course, would not be true if Plaintiffs' counsel provides them to the public. Thus, redaction is needed.

Therefore, based upon the foregoing discussion, Plaintiffs' Motion to Disseminate Redacted Investigative Reports is **GRANTED** and Defendants' Motion to Modify the Order for Protections of Documents is **DENIED**.

## **II. Plaintiffs' Objection to Defendants' Proposed Changes to Policy 1.012**

Policy 1.012 is the Department of Corrections' policy governing the investigation of inmate on inmate assaults. This

policy is an integral part of the Remedial Plan as it establishes the process for investigating inmate on inmate assaults and provides deadlines for each step of the process. Specifically, Policy 1.012 now provides, in pertinent part, as follows:

IV. Procedure

\* \* \* \*

B. Scope of Initial Inquiry

The Investigations Major, on receipt of information of the occurrence of an inmate on inmate assault shall conduct and/or coordinate an initial inquiry.

\* \* \* \*

4. The Investigations Major shall file a written report of each initial inquiry with the Director of WDOC within **thirty (30) days** following receipt of notification of the incident.

C. Determination of spontaneous assaults

In the initial report, the Investigations Major shall make a determination of whether or not the incident constitutes a spontaneous assault or a premeditated assault.

D. Referral to Outside Investigator

Upon a determination that an incident at the Wyoming State Penitentiary (WSP) constitutes a premeditated assault, the Investigations Major shall, within **five (5) working days**, refer the investigation to an outside investigator for investigations pursuant to this policy.

E. Scope of Outside Investigation

\* \* \* \*

2. The outside investigator shall submit a report including a synopsis of the investigative methodology, findings of fact, conclusions regarding staff error or policy violations or institutional deficiencies causing or contributing to the incident, and recommendation for corrective actions including personnel action, remedial training, or policy and procedure revisions. The outside investigator's review shall address the questions outlined in paragraph IV.B.1.a through IV.B.1.i of this policy.

The report shall be completed within **two (2) weeks** of referral of the investigation to the outside investigator and shall be submitted to the Director. The outside investigator may be granted an additional **two (2) week** period if the depth of investigation warrants such extension.

\* \* \* \*

F. Implementation of Corrective Action

1. Within **ten (10) working days** of receipt of Inquiry Report (from the Investigations Major for incidents involving spontaneous assaults or from the outside investigator for incidents involving premeditated assaults) that includes recommendations for corrective action, the Director shall refer the Inquiry Report to the applicable warden with a directive to determine what corrective actions are to be taken,

including any indicated personnel action, remedial training or recommendations for policy and procedure revisions. If corrective actions include recommendations for additions or revisions to training, the Warden will immediately submit his/her recommendations to the Department's Staff Training Administrator to address identified training needs.

2. The Warden and/or Staff Training Administrator shall submit to the Director, within **ten (10) working days** of receipt of the directive/recommendation, a plan to carry out any corrective actions, including personnel action or procedural revisions.

3. \* \* \* \*

Corrective action recommended by the outside investigator implemented pursuant to this policy shall be initiated no later than **one (1) month** from receipt of the outside investigator's Inquiry Report.

Defendants' Response to Plaintiffs' Objection to Defendants' Proposed Changes to Policy 1.012 at Exhibit A.<sup>3</sup>

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<sup>3</sup> In their Objection to Defendants' Proposed Changes to Policy 1.012, Plaintiffs indicate that the current version of the Policy is attached to the Remedial Plan. The Court, however, is under the impression that this particular version was superceded and amended in February of 2004 by the version attached to Defendants' Response to Plaintiffs' Objection to Defendants' Proposed Changes to Policy 1.012. Although the versions are similar in most respects, the new version does give the Investigations Major five (5) working days, rather than three

Defendants now contend that the above-cited deadlines are unworkable and unrealistic. Defendants claim that the investigation processes are taking much longer than first anticipated. Thus, Defendants wish to amend Policy 1.012 by extending the deadlines therein. Specifically, Defendants would extend the deadlines in the following manner: (1) the Investigations Major would have forty-five (45) days to file a written report instead of thirty (30) days; (2) the Investigations Major would have ten (10) working days, rather than five (5), to refer investigations to an outside investigator; (3) the outside investigator would have thirty (30) days to complete his report as opposed to fourteen (14); (4) the outside investigator could apply for a thirty (30) day extension, rather than an extra two (2) weeks; (5) the Warden and/or Staff Training Administrator would be given five (5) additional working days, for a total of fifteen (15), to submit a plan of corrective actions to the Director; and (6) corrective action recommended by the outside investigator would not have to be implemented for forty-five (45) calendar days, as

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(3), to refer premeditated assault investigations to outside investigators. Thus, the Court is working under the assumption that the five (5) day period applies. Were it only three (3) days, the Court would extend that deadline period to five (5) days.

opposed to one (1) month.

According to the Remedial Plan, Defendants can modify the Policy as long as they adhere to the procedures for doing so. Those procedures, which are set forth on page five of the Remedial Plan, provide as follows:

From time to time, during the period of the Court's final decree, it may be necessary to adjust the Investigations Policy. The WDOC agrees not to modify, amend or delete the Investigations Policy until forty-five (45) days notice in writing has been given to the Plaintiffs' legal counsel and the Joint Expert. If the Plaintiffs object to a proposed amendment, modification or deletion of the Investigations Policy, the Plaintiffs and the WDOC shall make a good faith effort to confer with each other and reach an agreement concerning the proposed change. If the parties are unable to reach an agreement, the Plaintiffs may apply to the Court, at any time during the forty-five days, for an order to prevent the modification, amendment or deletion of the Investigations Policy by the Defendants, on the grounds that the policy, as modified, amended or deleted poses a substantial risk of exposing the Plaintiffs to increased risk of harm from inmate on inmate assault. If the Plaintiffs have filed their objection with the Court, the amendment, modification, or deletion may not be implemented by the Defendants until the Court has ruled upon the merits of Plaintiffs' objection.

Defendants' Second Proposed Remedial Plan at 5.

Plaintiffs oppose the proposed changes, as evidenced by their pleading entitled Plaintiffs' Objection to Defendants' Proposed Changes to Policy 1.012. Plaintiffs argue that a *pro forma* extension of the deadlines is not needed. Rather, Plaintiffs

insist that the necessity for extensions should be determined on a case by case basis. Thus, based on Plaintiffs' objections, the Defendants have not been able to implement their desired changes to Policy 1.012. See id. Plaintiffs' objections have also laid the decision at the Court's feet. See id. As a result, it is now incumbent upon the Court to render a decision on the merits of the Plaintiffs' objections.

As just noted, the Plaintiffs contend that the deadlines in the Policy should not be extended in every case as a matter of course. Plaintiffs claim that such extensions will expose the inmates to an increased risk of harm - the same risks that precipitated this suit in the first place. The Court agrees with these contentions for the most part. The Court does, however, part ways with Plaintiffs' argument on a few issues.

As it currently stands, the investigation and reporting process for premeditated assaults can take up to 113 days, or about sixteen (16) weeks. Defendants' proposed changes would increase this process period by over ten (10) weeks. Defendants' proposed changes would also increase the process for spontaneous assaults, or those investigations done solely by internal investigators, by at least twenty (20) days. These extensions seem rather large

considering the fact that ninety percent (90%) of the incident investigations conducted meet the current time deadlines. It defies the Court's common sense to grant a ten (10) week blanket extension in all cases when very few cases actually need the extensions.

Furthermore, Plaintiffs' counsel is correct when he states that the extensions, generally speaking, will work a detriment to the purpose of the Remedial Plan. These extensions will delay the implementation of important corrective actions which are intended to prevent and eliminate the dangerous conditions that led to the filing of this suit. Each additional day requested by Defendants to complete the investigation process increases the risk of injury to the inmates at WSP.

That being said, the Court is also aware that incidents that are referred to the outside investigators are more complicated and have a tendency to take much longer. It appears to the Court that these are the cases where Defendants have troubles meeting the deadlines of Policy 1.012. The investigation files in these cases can take days, if not weeks, to read and such time does not include that necessary to complete an incident report and recommendation. As a result, the two week time period to complete the outside

investigation report is frequently inadequate. Often, the two week extension is of no help. Thus, the Court believes that a time extension for the outside investigator's report is warranted.

Based upon the foregoing, the Court **FINDS** that the Defendants should not be allowed to amend the deadlines in Policy 1.012 as proposed in May of 2005, except that the outside investigator should be given more time to conduct his investigation and issue a report. Specifically, the outside investigator should be given thirty (30) days to conduct his investigation and issue his report. If that amount of time is insufficient, the Warden can grant him an additional fourteen (14) days to finish the report. This amendment will only extend the current reporting periods by approximately two (2) weeks and, therefore, should not unduly endanger the inmates' safety.

This time extension applicable to premeditated assault cases does not mean, however, that every case, whether premeditated or spontaneous, will be able to be completed within the current allotted time period. Therefore, there must be a procedure whereby Defendants can acquire additional time to complete a report if they need such time. The process will be as follows. If Defendants determine that they will not be able to meet a deadline and can

show good cause therefore, the Defendants will notify Plaintiffs' counsel that they need an extension and supply the reasons necessitating such extension. Defendants will also inform Plaintiffs' counsel of the amount of extra time needed. If Plaintiffs' counsel does not object, then the extension will be deemed to be necessary and granted. If Plaintiffs' counsel does object and the parties cannot reach an agreement regarding the extension, the Plaintiffs' can file an objection with this Court, which will then rule on the merits of the objection.

Therefore, based upon the foregoing, Plaintiffs' Objection to Defendants' Proposed Changes to Policy 1.012 is **SUSTAINED** in part and **OVERRULED** in part.

### **III. Plaintiffs' Motion to Modify the Remedial Plan**

According to the Remedial Plan, the month after an investigation report is due in accordance with Policy 1.012 it must be provided to the Joint Expert and Plaintiffs' legal counsel. See Defendants' Second Proposed Remedial Plan at 17. Plaintiffs have filed the Motion to Modify the Remedial Plan because Defendants, mostly due to causes not of their own making, have not been adhering to this deadline. Essentially, this motion is a corollary to the previous discussion as the Defendants have not met the

Remedial Plan deadline because they could not meet the deadlines in Policy 1.012.

In their motion, Plaintiffs simply request that they be notified when Defendants are going to miss a deadline. Plaintiffs do not request sanctions or other reprimand by the Court. The Court does not find this to be an unreasonable request. Plaintiffs should be notified if Defendants expect to miss a deadline. However, this issue was dispensed with in the previous section when the Court directed Defendants to notify Plaintiffs' counsel if they expect to miss a deadline and desire an extension. Thus, the Remedial Plan does not need to contain such notification language.

Therefore, in accordance with the foregoing, Plaintiffs' Motion to Modify the Remedial Plan is **DENIED** as moot.

#### **IV. Motion for Relief from Judgment**

As noted above, Parkhurst filed this motion requesting that he and nine other inmates at WSP be given relief from the judgment of the Court dated November 27, 2002. Specifically, Parkhurst contends that the judgment in favor of Plaintiffs in this case did not adequately address the overcrowding problem at WSP. Thus, Parkhurst is seeking relief from judgment so that he may address this issue. As support for his argument, Parkhurst claims that he

and the other class members at WSP were not given adequate notice regarding this suit. He contends that due to this lack of notice he and the other prisoners should not be bound by the order of this Court.

While the Court understands Parkhurst's frustration with the overcrowding problem at WSP, the Court does not believe that Parkhurst's motion is the proper method to raise such concerns. Overcrowding is not, and never has been, an issue in this case. As such, Parkhurst's motion is irrelevant to this suit.

Furthermore, even if it were relevant, the motion is not supported by law. Simply put, the law did not require that all inmates at WSP be given notice of all happenings in this suit. According to Federal Rule of Civil Procedure 23(c)(2)(A), class members in a class action suit initiated pursuant to Rule 23(b)(2) are not entitled to notice. Fed. R. Civ. P. 23(c)(2)(A). Rather, the Court has the discretion to require notice. Id. In this case, the Court did not see fit to require notice to all potential class members. Furthermore, this case was resolved by a decision of this Court, not by a settlement or compromise. Thus, notice was not required under Rule 23(e). See Fed. R. Civ. P. 23(e).

In addition to seeking relief from judgment, Parkhurst also

asks this Court to hire new counsel to represent the inmates of WSP in this matter. According to Parkhurst, Mr. Pevar, the current counsel for Plaintiffs, has done a woefully inadequate job. Nothing could be further from the truth. Mr. Pevar has done a tremendous job representing the inmates of WSP in this case. He has been a zealous advocate from the beginning and, as a result of such efforts, has been a tremendous force in improving the conditions at WSP. The Court finds Mr. Pevar's representation to be more than adequate in this case. Therefore, the Court finds no reason to replace Mr. Pevar with alternate counsel.

Parkhurst also requests this Court to recuse itself from this proceeding. Parkhurst contends that this Court is "responsible for the continuing violence at WSP" and "for failing to replace Mr. Pevar when his failure to take his professional duties seriously became obvious." The Court finds this argument utterly meritless and lacking in candor. The Court perceives no reasons to recuse itself from this case.

Therefore, for the reasons just stated, and in accordance with the Court's oral ruling from the bench as stated in the record, Parkhurst's Motion for Relief From Judgment is **DENIED** in all respects.

### CONCLUSION

The Court is relatively pleased with the progress that the WDOC has made in improving conditions at the WSP. I think all parties can agree that, for the most part, the Remedial Plan, Policy 1.012, and the Court's Order for Protection of Documents are working as intended. However, it is apparent to this Court that minor amendments would increase the effectiveness of all three documents and the directives contained therein. Therefore, based upon the foregoing discussion,

**IT IS HEREBY ORDERED** that Plaintiffs' Motion to Modify the Remedial Plan is **DENIED** as moot; Plaintiffs' Motion to Disseminate Redacted Investigative Reports is **GRANTED**; Plaintiffs' Objection to Defendants' Proposed Changes to Policy 1.012 is **SUSTAINED** in part and **OVERRULED** in part; Defendants' Motion to Modify the Order for Protection of Documents is **DENIED**; and the Motion for Relief from Judgment filed by Mr. Parkhurst and nine other inmates is **DENIED**.

Dated this \_\_\_27th\_\_\_\_\_ day of September, 2005.

/s/ Clarence A. Brimmer  
UNITED STATES DISTRICT JUDGE