



NEW YORK CITY LAW DEPARTMENT  
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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For Immediate Release

**U.S. SOUTHERN DISTRICT JUDGE TERMINATES STIPULATION OF  
SETTLEMENT GOVERNING  
DEPARTMENT OF CORRECTION'S CENTRAL PUNITIVE SEGREGATION UNIT**

***JUDGE ROBERT PATTERSON PRAISES ALL PARTIES IN CASE FOR THEIR COMMITMENT TO INSTITUTIONAL REFORM.***

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New York, July 17, 2002 -- Judge Robert P. Patterson, Jr., of the United States District Judge Southern District of New York issued a ruling late yesterday terminating the Stipulation in *Sheppard v. Phoenix*, 91 Civ 4148, a class action governing the New York City Department of Correction's (DOC's) Central Punitive Segregation Unit (CPSU).

The Court noted: "[I]t is evident that the goals of the Stipulation have been accomplished and institutionalized" and that there is no "current and ongoing violation of the plaintiff class' constitutional rights [and that] the control mechanisms, including departmental and independent oversight, are in place to ensure continued safe operation of the CPSU."

The termination was not opposed by counsel for plaintiffs. In his decision, Judge Patterson praised all parties involved both for negotiating a carefully crafted agreement and for their commitment to implementing the goals of the Stipulation.

*Sheppard* was a class action charging a pattern of brutality by correction officers and supervisory personnel against inmates in the CPSU, a unit on Riker's Island housing the most difficult inmates who had been found to have major disciplinary problems. In 1998, after five years of litigation, the City and the plaintiffs entered into a consent decree, which, while detailed, did not micromanage the daily operations of the CPSU.

The settlement was unique in that it called for the appointment of two joint expert consultants, Norman Carlson, who was formerly Director of the Federal Bureau of Prisons for some 17 years, and Steve J. Martin, who has extensive experience in the Texas Department of Corrections. The Stipulation was structured in such a way that the experts' role as consultants was as important as their role as monitors of compliance.

Thus, both DOC and the expert consultants were able to assess what policies and procedures furthered the goals of the Stipulation, not merely what was specifically required by each paragraph. While the Stipulation specifically directed that the DOC formulate certain policies and procedures (e.g. a use of force policy, training, penalty guidelines), it directed that the specifics be worked out with the expert consultants. In addition, the experts made a number of recommendations not specifically required by the Stipulation which, when implemented by DOC, contributed significantly to achieving its overall goals. Finally, the DOC, on its own, implemented a number of initiatives designed to achieve the goal of a safer CPSU for staff and inmates.

The Stipulation was also unique in that it called for its own termination unless the Court found that continued relief was necessary to correct a current and ongoing violation of the plaintiff class' constitutional rights.

The Court praised the cooperation and diligence of all counsel involved, both in negotiations and implementation of the

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Settlement. It also praised the DOC and many other former and current City officials.

Correction Commissioner William J. Fraser said, "The termination of this Consent Decree is a result of the hard work and dedication of the men and women of this Department. I am pleased that the Court, in reaching this decision, has recognized the high level of professionalism displayed by our uniformed and civilian staff." Commissioner Fraser also "thanked the Corporation Counsel for their work on this case, as well as Elizabeth Loconsolo, the Correction's General Counsel, for her tireless efforts in bringing this case to a successful conclusion."

Corporation Counsel Michael A. Cardozo noted the significance of the case. "This is truly a historic occasion," he said. "The success of the *Sheppard* Stipulation demonstrates that when stipulations are limited in time and carefully crafted to make use of professional expertise, they preserve flexibility for the agency to implement reforms that most effectively further the ultimate goals of the Settlement and further institutional improvement."

The matter was handled by Assistant Corporation Counsel Martha Calhoun and Jonathan Pines for the City, and the Legal Aid Society; Prisoner's Rights Project attorneys Jonathan Chasan, Sarah Kerr, and Dale Wilker for the plaintiffs.

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