

EXPERT REPORT OF
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I. Introduction and Scope of Report

I was requested by counsel to assess certain operational aspects of death sentenced prisoners in the custody and care of the Louisiana Department of Corrections. More specifically, I was requested to opine based upon my training, education, and over 50 years of applied and executive experience regarding securing, classifying, and the general/security management of inmate population. I have provided expert confinement-related technical assistance to various jurisdictions (national and international). These expert technical assistance deliveries were conducted in a spectrum of managing non-violent offenders to securing predatory, extremely dangerous and chronically violent populations, including international terrorists.

Additionally, I was requested by Counsel to opine, based upon my qualifications and experience, regarding persons sentenced to death, confined, and then granted a reprieve, as to whether this segment of confined population would impose an unusual risk of endangerment to the staff, other inmates, and the general community. As explained below, the inmate population previously under a death sentence does not impose an additional risk to staff, other inmates, or the community after being sentenced to death and given relief. Louisiana's death-sentenced population, as a whole, is particularly suitable for re-classification should the prison be called upon to transition that population off of death row. This is, in large part, due to the relatively high age of Louisiana's death row and the significant progress in recent years with declining disciplinary infractions.

II. Expert Qualifications¹

I have worked in corrections for over five decades, in roles ranging from drug counselor, institutional warden, to agency commissioner (final responsible authority). I have extensive experience in all aspects of the administration of prisons and systems, including the management of inmate populations, inclusive of death row and performing actual executions of prisoners under death sentences, as well as the management and administration of staff, budgets, and physical plants at all security levels.

The facilities and systems to which I have been appointed to oversee were in various stages of dysfunction and/or crisis. I was appointed to identify and address system dysfunction to bring those correctional systems and facilities into further compliance with applicable legal mandates and sound confinement practices. These agencies and facilities were experiencing instances of failure to conform to minimally acceptable penological standards, and inadequately abdicating the facility and agency safety and protection responsibilities to the public, the staff, and the prisoners. I was appointed to these roles because of my extensive experience in all aspects of correctional administration which positioned me to restore these critical and unstable systems. In

¹ I am prohibited from providing certain aspects of my confinement facility security background, and some of the delivery, tactics, and methods used in managing dangerous prison/jail population due to confidentiality, safety, legal, and security restrictions. The opinions and findings in this report do not necessary include these specific experiences.

each case, as a fundamental purpose of the agency and prison, I conducted an organizational diagnosis to determine both symptoms and causes of system dysfunction. I also strategically redirected staff, priorities, and resources to improve and achieve agency compliance with legal mandates and sound correctional practices that better protect the public, staff, and inmates.

I received various appointments directly pertaining to operation, security, administration, safety and management of prisons and systems inclusive of:

- August, 1992 to August 1994, Director, Bureau of Corrections, United States Virgin Islands and consultant,
- March, 1989 to August, 1992, Commissioner, Indiana Department of Correction,
- April, 1987 to March 1989, Deputy Regional Administrator, South Carolina Department of Corrections,
- May, 1982 to April, 1987, Warden, Central Correctional Institution (state penitentiary) South Carolina Department of Corrections,
- September, 1979 to May, 1982, Warden, Women's Correctional Center, South Carolina Department of Corrections,
- September, 1976 to September, 1979, Deputy Warden for Administration, Central Correctional Institution (state penitentiary) South Carolina Department of Corrections,
- February, 1974 to September, 1976, Deputy Warden for Institutional Operations, Manning Correctional Institution, South Carolina Department of Corrections,
- September, 1972 to February 1974 Administrative Assistant to Warden, Manning Correctional Institution, South Carolina Department of Corrections,
- September, 1971 to September, 1972, Social Worker for Substance Abuse Treatment, South Carolina Department of Corrections.

Since August 1994, I have maintained a consulting concern in prison management and adjustment matters as James E. Aiken & Associates, Inc. In addition to my positions and roles as listed above, I have been retained and provided numerous on-site and/or expert technical assistance, training, instruction and consultant services for the U.S. Department of Justice, Federal Bureau of Prisons, National Institute of Corrections, National Academy of Corrections, and the American Directors Association for at least 40 jurisdictions at the state, county and/or local levels.

In addition, Congress (leadership of the United States Senate) appointed me as the only person with direct correctional expertise in the field with a background in correctional leadership and administration to serve on the National Prison Rape Elimination Act Commission. This bipartisan, nine-member commission was charged with evaluating all confinement facility and agencies on the federal, state, county, and local levels in the United States. The purpose of the Commission was to recommend binding standards to enhance detection, prevention, reduction of inmate and staff sexual transgressions in adult and juvenile confinement facilities inclusive of prisons, jails, detention, Indian reservations, and immigration detention.

Furthermore, I have been qualified as an expert in the areas of criminal justice, prison security, classification, and corrections by courts in the jurisdictions of Washington state, Ohio, Georgia, Arizona, Delaware, North Carolina, Montana, Pennsylvania, New York, South Carolina, Indiana, Virginia, Maryland, Louisiana, Oregon, New Hampshire, Missouri, Alabama, Mississippi, Florida, Wyoming, South Dakota, Texas and the United States District Courts of Massachusetts, Maryland, New York, Connecticut, Virginia, Ohio, South Carolina, Louisiana, Michigan, Arizona, West Virginia, Florida, Texas, North Carolina, Illinois, Georgia, Alabama, Missouri, Tennessee, District of Columbia and Pennsylvania as well as the Court of Queen's Bench, Canada.

III. Methodology

In preparation for this report, I was able to assess the raw total number of disciplinary infractions over time and the total disciplinary infractions by age of each Louisiana death row prisoner since 1986. This report is submitted with the understanding that correctional systems are abnormal environments when comparing them to the manner in which individuals in the community carry out their daily activities. It is also understood that there is an intense priority to ensure the safety and well-being of correctional staff, inmates, and the public in the most cost-effective and accountable fashion.

Furthermore, correctional institutions and agencies to which the death row population is assigned are responsible for the safety, security, and basic well-being of the prisoners. Prison officials are also responsible for protecting the fundamental legal rights, including the state and federal constitutional rights of prisoners awaiting execution. The importance of these responsibilities cannot be overstated.

To ensure the rights of prison population inclusive of death row, prison officials and the public, there are various systems in place within the Louisiana Department of Corrections to secure and enhance this protection. Examples of systems and operational definitions used by the confinement systems to better manage prisoners include:

1. **Classification:** The manner in which each prisoner is assigned to a security designation, housing unit, and/or program that would adequately address the security, medical, mental health, and other basic human needs. Some factors used in the classification process include the inmate's age, criminal history, mental status, medical status, length of confinement, sentence, demonstrated adjustment to confinement conditions, and program involvement. Classification systems are behavior driven; therefore, inmates should be appropriately classified based on their behavior in prison.
2. **Policy and Procedure Development:** The memorialization of the process that promotes staff and inmate behavior conforming to how the prison is expected to operate and provides the foundation for measuring compliance with applicable law and sound correctional practice.

3. **Contraband Control:** The practice of prevention, control, and eradication of items and/or materials that if not properly monitored and secured can become detrimental to the safety and well-being of staff, other inmates, and the community.
4. **Physical Plant:** The physical structure and associated equipment that promote safety and security of the community, staff, and inmates.
5. **Planning:** The process of gathering, evaluating, validating, and documenting information to enhance the effectiveness and equal application of mandates regarding the safety and security of prisoners, staff and the public. This information forces objective analysis and decision-making that compares performance goals and objectively measures results of validated productivity.
6. **Training and Staff Development:** The mechanism through which the chain of command operationalizes prison procedures and practices in accordance to approved policy, procedure, applicable law, and sound correctional practice. Training and staff development transform written policy and procedure into actual staff behavior and establish the institutional culture. It is also the mechanism correctional professionals use to ensure that the mission, goals, and objectives of the prison are transformed into actual practice and observed in the behavior patterns of staff and prisoners. Failure to use training and staff development usually causes the prison operation to become inconsistent, unjustified and arbitrary when managing the inmate population.
7. **Chain of Command:** A body of supervisory staff that has the responsibility and authority to ensure the prison is operating in a reasonably safe, humane, and secure manner while complying with applicable law and sound correctional practice.
8. **Offender Management Audits and Inspections:** A system that conducts formal and informal monitoring and evaluations of various aspects of the prison operation to further validate the security and operational status of the facility.
9. **Security Performance Evaluations:** A system that assesses the overall objective performance of prison security and safety as well as institutional climate, status, and performance on security-related measures.
10. **Staffing (Complement, Deployment, Supervision, Duties):** The system that provides adequate sight and sound supervision of the prison population using staff members who are properly educated, trained, equipped, supervised, and deployed to ensure the appropriate level of protection and security of prisoners.
11. **Programs:** Various systems, including but not limited to medical services, mental health services, organized recreation, religious activities, and group interactions, are required as an elementary safety and security component to the operation of a facility.

IV. Conclusion

The inmate population previously under a death sentence does not impose an additional risk to staff, other inmates, or the community after being given relief and moved off death row. The sentence an inmate receives is not necessarily the better predictor as to the manner an inmate adjusts to long-term confinement. Based upon my experience, prison systems have the expertise and ability to transition a previously death-sentenced population into the general population in a safe and secure manner. The Louisiana State Penitentiary has extensive experience with these transitions when death sentences have been modified over the years.

Outside of death row, inmates not suitable for general population can be and routinely are housed elsewhere and those same procedures can be and are applied to those transitioning from a death sentence. Also, based upon Louisiana's decline in disciplinary infractions on death row, the relative age of the death row population, and my professional interactions with the Louisiana Department of Corrections, the agency is well-suited by way of systems, staff and experience to determine and manage the transition of inmate population from death row to general population. On thousands of occasions, the Department determines the classification, security status and protection requirements of inmates. Some better predictors for protection of staff, inmates and the community are: age, length of stay, medical status, mental health condition, programs, spiritual support, and assessment of long-term behavior patterns.

As outlined above, the Louisiana Department of Corrections has in place these various protection systems. Therefore, I conclude that the inmate population previously under death sentences do not impose an additional risk to staff, and the community after being sentenced to death and then receiving relief. As stated earlier, the sentence an inmate receives is not necessarily the better predictor as to the manner an inmate adjusts to confinement.

Age is an especially important factor in institutional adjustment. Persons incarcerated at an early age often demonstrate impulsive adverse behavior patterns. This immaturity level and the behavior pattern presented while incarcerated is expected of this particular demographic of inmate population. Maturity levels are generally reflective in confinement behavior. Immaturity, operationally indicates a behavior pattern that is impulsive, naïve, and absent of forethought. Additionally, as an inmate chronologically ages, operationally there is a trend of the inmate having a diminished involvement in institutional violence and other misconduct.

This trend, of prisoner's aging out of misconduct during confinement, is reflected in the age of prisoners on Louisiana's death row, where the average inmate is almost 54 years old. A review of the number of disciplinary write-ups over time for each prisoner reflects the general trend that age and maturity have a strong effect on confinement behavior.

Of note, an inmate who is currently 57 years old with one of the highest total number of disciplinary infractions on death row (116), went from a high of 42 in one year to zero infractions from 2018 to 2023. As of the writing of this report, the overall number of infractions on Louisiana's death row has declined over time, with zero in 2023, from a high of 100 in 1998.

Infractions overall are more than 3 times lower in the last five years than the preceding 3 decades. This is certainly a testament to the work of the staff at the prison but is also consistent

with an aging population. There is a marked, steep drop-off in the number of infractions for prisoners 50 and over. **On Louisiana's death row, over time, prisoners over 50 years old account for more than 6 times fewer infractions than those under 50. The average age is now almost 54.**

Based on the Undersigned's over fifty years of direct experience managing inmate population at all levels of security classification including inmates under capital sentences, I have not observed or noted any difference in medical, mental health, or potential endangerment issues that death row and previously death sentenced populations pose as compared to inmates in general population in a high security setting. Inmates assigned to death row often are compliant and adhere to the rules and requirements of the prison. I have found that the population that was granted a reprieve from death row/execution sentences and thereby transitioned to general prison population do not pose a greater endangerment to staff, the community, than other prisoners. Louisiana's death-sentenced population, as a whole, is particularly suitable for re-classification should the prison be called upon to transition that population off of death row. This is, in large part, due to the relatively high age of Louisiana's death row and the significant progress in recent years with declining disciplinary infractions.



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