

# Consent decree project essay example

[Law](#), [Criminal Justice](#)



A consent decree project was proposed by attorneys of a fictional jail named Adelphi County Jail in Maryland in the United States. This proposed consent decree was instigated by a particular situation that occurred at the jail involving two of the inmates where some prison officers accessed the inmate's belongings on suspicion of possession of contrabands. This report analyzes the consent decree project in the context of the situation that occurred leading to the decree. This report seeks to address the extent to which this situation, the policy and procedure directive of the jail and the appellate court decision on the matter in the case of *Carter v State*, are addressed by the consent decree. Further, the report also endeavors to explore whether and, to what extent, the consent decree as proposed is either under-inclusive or over-inclusive.

We begin with the case of the situation that inspired the proposal of the consent decree and the event that occurred in the Adelphi County jail. However, before examining the case as to whether the situation as described is addressed in the proposed consent decree, it is imperative to examine the key elements of the decree. The consent decree arose following a civil action filed by inmates named Jack Jones and Joe Johnson who had alleged that their rights under the Fourth, Fifth and the Fourteenth Amendment had been infringed. In a bid to reach an amicable solution, the parties, in this case the plaintiffs and the Adelphi County jail agreed on a number of issues which are now considered herein as the proposed consent decree. There was an agreement that the Adelphi County jail would pay a sum of \$500 to each of the plaintiffs. More importantly to the determination of the matters before us, it was further agreed that the Adelphi County jail and its officials and

employees would only conduct inmate searches according to certain parameters.

Firstly, the decree as agreed by the parties was to the effect that inmate cell searches would be conducted routinely in only three instances. The routine searches would only occur if an inmate was transferred to another cell, housing unit or facility, when an inmate was to be transported to court or when such inmate was to be released from confinement. The decree also stated that inmate cell searches would be done in a random manner where the Shift Commander gives such directions. However, this random search would only be conducted in accordance with a truly random and documented system of selection that involves multiple potential cells or housing units.

The third event where inmate cell search would be conducted was only when an inmate is suspected of possessing contraband and even then, only upon the request and with the consent of the Security Chief. In addition, the proposed consent decree stipulated the manner in which such an inmate search would be conducted. Firstly, the inmate search was to be conducted by at least two officers of the jail. More so, the consent decree provided that during cell searches, the inmates whose belongings were being searched were to be removed from the cell and kept in restraints immediately outside the cell. In the case where the inmate is not residing in the cell which is the subject of the search but is within the jail, such inmate would be summoned and placed in restraints immediately outside the cell.

Further, it was agreed in the decree as proposed, that an inmate would be allowed to observe the search in the cell during the conduct of the operation from outside the cell. This opportunity to examine the search by the inmate

from outside the cell would only be denied if an inmate violated the inmate rules such as by being disruptive. In this event, it was agreed in the decree that such disruptive inmate who violated inmate rules would be removed to administrative segregation and be subjected to disciplinary charges. Other requirements for the conduct of an inmate cell search according to the consent decree are that the bedding of the inmates would be removed and thoroughly inspected for any contraband and upon this, the bed would be re-made. It was also agreed that all appliances, clothing, footwear and commissary products would be closely inspected for any contrabands. All inmate books and magazines would also be checked for any evidence of a planned escape, disturbance or crime. The consent decree also provided for confiscation of all items of contrabands and their recording in a Property Confiscation Form followed with the charging of the inmate with a violation of the inmate rules. The decree also emphasized on the need for respect towards the inmates during the searches as well as diligent and reasonable efforts being made to avoid unnecessary damage to the property of the inmate. More so, the consent decree as proposed stated that the officers that conduct the search would prepare a report and submit it to the Shift Commander with disciplinary charges against the inmate in the event that contrabands are seized. The decree also stated that if the possession of such contraband constituted the commission of a crime, the Shift Commander would then forward the same report to the Warden for consequent transmission to the State Attorney for the necessary filing of charges. Having examined the essentials of the proposed Consent decree, we then begin to check whether the decree addresses the matters in the situation as

described. In the described situation, it is stated that Officer Anderson suspected inmate Joe Johnson who shared a cell with Jones of selling contraband cigarettes to other inmates. It is further stated that Officer Anderson shared his suspicions with Sgt. Belker who then approached the Shift Commander with a view to arranging for the search of inmate Jones' cell. The search of the cell in this case was not routine as it was not a normal occurrence but was rather random. With respect to the suspicion by Officer Anderson and the consequent search based on this suspicion, we submit that this is inconsistent with the proposed consent decree. Indeed, the decree has addressed this matter by providing that a random search should be done only when so directed by the Shift Commander and in accordance with a documented system of selection involving multiple cells or housing units. This is to prevent the targeting of particular inmates. The other occasion where a search instigated by reasonable suspicion of possession of contrabands by an inmate residing in a cell is carried out is only upon a written request and authorization for the Security Chief. It may be stated that this safeguard so provided is meant to shield the inmates from mistreatment and hardship or harassment from the officers of the jail. With respect to the removal of Johnson from the cell during the search and his consequent taking to the dayroom as stated in the described situation, the decree addresses this matter by stating that an inmate is only to be removed and placed in restraints immediately outside the cell and also given an opportunity to examine the search unless he is in violation of the inmate rules. This again is meant to ensure that the search meets and follows the correct procedures and is not accompanied by misdeeds on the part of

officers or possible planting of contrabands by the officers upon any misunderstanding. The snapping of the television when mishandled by the officers during the search is addressed by the decree which provides that necessary diligence and care must be taken to ensure that the property of the inmate is secure. The inspection of the inmates clothing, footwear and snacks which revealed the contraband cigarettes is as set out in the consent decree and is further addressed through a reinforcement of this position. Officer Anderson found a sheet of paper which showed a description of the industrial park where Jones was alleged to have committed the offence of murder with which he was then charged. He forwarded the same to his cousin who was a staff investigator and it was further transmitted it to the state attorney. The decree states that all confiscated property is to be recorded in a Property Confiscation Form so as to ensure the safety and security of such property. The decree makes the case that officers who conduct a cell search shall prepare a report and forward the same to the Shift Commander who may then send it to the Warden for onward transmission to a state attorney. It is notable that in the described situation, Officer Anderson left the sheet of paper with his cousin who was a staff investigator, which raises issues of possible connivance or collusion to fix Jones. Though this may be inconsistent, the decree has anticipated integrity issues in this respect and provided for the procedure to be used for the transmission of such items to the state attorney through the Shift Commander and the Warden. We, therefore, argue that the report has adequately addressed the situation

With regards to the Adelphi County Jail policy and procedure directive on cell

searches, it is stated that a cell search shall be conducted routinely, randomly or on suspicion of possession of contraband by an inmate. It would appear that this procedural directive must have been used by the officers of the jail as it conformed to this practice and it is the subsisting piece of legislation. It is clear that this directive does not give instances of when the routine or random cell searches would be conducted. As such, the proposed consent decree has addressed the gap left by the policy directive thus securing the process of cell search and making it better. The directive further provides for the removal of the inmate during the search without any more requirements. This again is addressed by the consent decree which provides that the inmate is to be placed just immediately outside the cell and be given an opportunity to examine the search. The directive further provides for confiscation of property and the removal and inspection of the bed. These elements are addressed and made better in the decree which demands more accountability by calling for the recording of the confiscated property and the remaking of the bed following the inspection as well as the securing of the inmate's property.

We now examine the appeal court decision of *Carter v State* so as to explore whether the case as decided is addressed by the proposed consent decree. In the *Carter* case, the court found that the seizure of an exhibit drafted by the accused while in custody upon request by a defense counsel and forwarded to the prosecution was a violation of the Sixth Amendment and was, therefore, inadmissible. In this case, correctional officers searched the cell of the accused and found two exhibits which the accused had drafted for his defense counsel upon his request and handed it to the prosecution. The

court held that there was no violation of the Fourth Amendment in the search and seizure of the documents with the court stating that an inmate has no reasonable expectations of privacy in their cells. However, the court disallowed the evidence of the exhibits and stated that the admission of the same militated against the Sixth Amendment of the accused of the right to counsel holding that the tendering of the exhibits to the prosecution prejudiced the accused. The court further stated that this violated the right to counsel as the exhibits were protected by attorney-client privilege. The proposed consent decree allows for the transmission of seized documents from the inmate's cells which indicates a disturbance, crime or planned escape. The decree addressed this position as determined in the court decision which appears conflicting. The court held that this evidence is disallowed if taken by the prosecution in the event that such evidence is privileged. It therefore, follows, that the appeal court decision is not adequately addressed by the proposed consent decree.

We submit that the proposed consent decree is under-inclusive to the extent that it does not address the appeal court decision with respect to the admission and the state of evidence seized by correctional officers and given to the prosecution while it is privileged. I do not find the consent decree being over-inclusive and as such the extent, to which they are so, becomes superfluous.

## **References**

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