



JI-ME-0002-0002

U.S. DISTRICT COURT
PORTLAND, MAINE
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

ERIC P., et al.,
Plaintiffs,
v.
CUMBERLAND COUNTY, MAINE, et al.,
Defendants.

No. CV-86-0265 P
CONSENT JUDGMENT

This is a civil rights action for declaratory judgment, permanent injunction, damages, and other relief brought by juveniles confined in the Cumberland County Jail in Portland, Maine. The plaintiffs, on behalf of themselves and a class of juveniles similarly situated, alleged that the defendants subjected them to cruel, unconscionable, and illegal conditions of confinement in the jail; to illegal incarceration in the jail without adequate separation from confined adult offenders; to unlawful secure detention in the jail of juveniles who are charged with or who have committed offenses that would not be criminal if committed by adults ("status offenses"); and to denial of adequate and appropriate community placements as alternatives to the jail.

The defendants answered and denied the material allegations of the complaint.

By order dated November 23, 1987, this Court certified that this action should proceed as a class action under Rule 23(b) of

1 the Federal Rules of Civil Procedure. The certified class
2 consists of all juveniles who are, have been, or will in the
3 future be confined in the Cumberland County Jail.

4 While neither admitting nor denying any allegations or fact
5 or legal liability, the parties have now agreed to the entry of a
6 consent judgment resolving all of plaintiffs' claims for
7 declaratory and injunctive relief. Therefore, based upon the
8 stipulation and agreement of all parties to this action, by and
9 through their respective counsel, and based upon all matters of
10 record in this case, it is hereby ORDERED, ADJUDGED, and DECREED
11 that:

12 1. This Court has jurisdiction over this matter.

13 2. The named plaintiffs in this action are ERIC P., DAVID
14 S., and DANIEL T., suing by and through their next friends,
15 respectively, Beverly P., Linda S., and Patrick T.

16 3. The defendants in this action are CUMBERLAND COUNTY,
17 MAINE; MARTIN JOYCE, sheriff of Cumberland County; and RICHARD
18 HEWES, JOSEPH MAZZIOTI, and GARY PLUMMER, county commissioners of
19 Cumberland County.

20 4. This action is properly maintained as a class action
21 under Rule 23(b) of the Federal Rules of Civil Procedure.

22 5. The plaintiff class consists of all juveniles who are,
23 have been, or will in the future be confined in the Cumberland
24 County Jail.

25 6. No later than January 1, 1990, the defendants shall
26 cease utilizing the Cumberland County Jail for the confinement of

1 any juveniles.

2 7. No later than January 1, 1990, the defendants shall
3 complete construction of a Juvenile Detention Facility adjacent
4 to the Cumberland County Jail. As soon as construction of the
5 Juvenile Detention Facility is completed, the defendants shall
6 utilize the Juvenile Detention Facility for confinement of
7 juveniles, and shall cease utilizing the Cumberland County Jail
8 for such confinement.

9 8. The Juvenile Detention Facility shall be a separate
10 structure adjacent to the Cumberland County Jail, as shown on the
11 accompanying diagram labeled Exhibit A.

12 On Exhibit A, all solid lines are new walls. The door and
13 passageway marked "S.P." and designated for "Support Services and
14 Emergency Backup" may be used for transportation of food and
15 other supplies between the Cumberland County Jail and the
16 Juvenile Detention Facility. The same door and passageway may
17 also be used by Juvenile Detention Facility staff and Cumberland
18 County Jail staff in case of an emergency, i.e., an assault,
19 escape attempt, suicide attempt, or fire.

20 9. The defendants shall implement a classification and
21 monitoring system for juveniles confined in the Juvenile
22 Detention Facility that shall have at least the following
23 provisions:

24 A. Procedures for classifying juveniles confined in
25 the Juvenile Detention Facility based on security risks.

26 B. Procedures for preventing juveniles classified as

1 "maximum" security risks from being confined in cells or rooms
2 with juveniles classified as "minimum" security risks.

3 C. Procedures for either classifying juveniles
4 immediately upon admission to the Juvenile Detention Facility or
5 separating them from other juveniles until they are classified.

6 Prior to adopting and implementing the classification
7 procedure, the defendants shall submit the classification
8 procedure to plaintiffs' counsel for their approval.

9 10. The defendants shall provide appropriate medical and
10 mental health screening for juveniles admitted to the Juvenile
11 Detention Facility.

12 11. The defendants shall provide adequate medical and
13 mental health services for juveniles confined in the Juvenile
14 Detention Facility.

15 12. The Juvenile Detention Facility shall contain
16 sufficient interior space for juveniles confined therein to meet
17 with their attorneys and with members of their family.

18 13. The defendants shall provide juveniles confined in the
19 Juvenile Detention Facility with educational and counseling
20 services.

21 14. The Juvenile Detention Facility shall provide
22 sufficient interior space in the Commons for juveniles confined
23 therein to have recreation and exercise on a daily basis.

24 15. The Juvenile Detention Facility shall provide
25 sufficient exterior space, either on the roof or on land adjacent
26 to the Facility, for juveniles confined therein to have outdoor

of the jail and of all prisoners therein, for seeing that the jail is kept as clean and healthful as may be, for paying strict attention to the personal cleanliness of the prisoners, for providing prisoners with books and instruction, and for supervising the service of food to prisoners. The policies, practices, acts, and omissions complained of herein are the official practices, customs, and usages of defendant JOYCE as Sheriff of Cumberland County, Maine. He is sued individually and in his official capacity.

15. Defendants RICHARD HEWES, JOSEPH MAZZIOTI, and GARY PLUMMER are the County Commissioners of Cumberland County, Maine. As such, they are responsible under, inter alia, 30 M.R.S.A. §§ 1851, 1854, and 1858, for periodically examining the jail, for taking necessary precautions for the security of prisoners, the prevention of infection and sickness and for their accommodations; for procuring all necessary supplies, including necessary food, fuel, bedding, and clothing for the jail and the prisoners therein; and for making such additions in suitable accommodations in the jail as may be found necessary for the safekeeping of prisoners therein. These defendants are sued in their official capacities.

CLASS ACTION

16. Plaintiffs ERIC P., DAVID S., and DANIEL T. bring this action on behalf of themselves and all others similarly situated, pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil

Procedure. The class consists of all juveniles who are currently, have been, or in the future will be confined in the Cumberland County jail.

17. The members of the class are so numerous that joinder of all members is impracticable. According to available information, more than 300 juveniles were confined in the Cumberland County jail during 1984. In addition, there are questions of law and fact common to the members of the plaintiff class regarding practices of the defendants, and the claims of the named plaintiffs are typical of the claims of the members of the plaintiff class. The named plaintiffs and plaintiffs' counsel will fairly and adequately protect the interests of the members of the class.

18. By their policies, the defendants have acted and continue to act on grounds and in a manner generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

19. The injuries suffered by the named plaintiffs and the members of the plaintiff class as a result of the policies and practices of defendants are capable of repetition, yet may evade review, thereby making class relief appropriate.

FACTUAL ALLEGATIONS

A. General Allegations

20. The Cumberland County jail is a secure facility located

in Portland, Maine.

21. Defendants confine juveniles and adults in the Cumberland County jail. Juveniles are often confined in the jail for several days at a time.

22. Juveniles have extensive contact with adult inmates in the jail.

23. Juveniles enter the jail through the same area as the adults inmates and are photographed in the same room with them.

24. Juveniles are confined in two holding cells in the matron's quarters of the jail. Juveniles confined in these cells can hear the voices of adult female prisoners and can converse in loud tones with them.

25. These cells have sufficient beds for three juveniles. If more than three juveniles are held in the jail, these children sleep on mattresses on the floor. If more than five to seven children are confined in the jail, the additional juveniles are held in four cells which are part of the adult section of the jail in a small hallway on the second floor. To get to these cells, juveniles must pass by rows of large open cells in which adult inmates are confined.

26. Juveniles in the overflow cells have both visual and auditory contact with adults in adult cells. For example, these children often receive contraband or cigarettes from the adult inmates.

27. Juveniles who are intoxicated, under the influence of drugs, or who present behavior problems are held in isolation

cells, "tanks," immediately adjacent to cells in which adults are held. Juveniles in the cells can hear the voices of adult inmates and can converse with them.

28. The tanks are not adequate for protecting children, particularly those who are intoxicated or under the influence of drugs. The cells are totally empty, without furniture or even a toilet or other sanitary facilities. The children confined in these cells are stripped. Children must use a hole in the middle of the floor for a toilet. A bright light constantly shines on children in this cell. Juveniles must sleep or rest on the cold cement floor of these cells.

29. Juveniles in the Cumberland County jail have no privacy. They must shower and use the toilet in front of each other and in front of staff who are monitoring them.

30. Juveniles in the Cumberland County jail are not adequately supervised or monitored. Although staff are ostensibly required to monitor juveniles every half hour, in fact, it is a regular policy and practice to leave juveniles for long periods of time without any staff supervision or monitoring.

31. Defendants further do not have any electronic audio or visual monitoring system for juveniles at the jail.

32. Defendants have not implemented or promulgated rules and regulations for the proper handling and treatment of children.

33. Defendants do not employ jail personnel who are trained in identifying and responding to problems of juveniles.

Defendants' failure to employ adequately trained staff results in lack of attention to problems of plaintiffs during their confinement, lack of appropriate assessment of plaintiffs' physical and emotional needs, and lack of programs for plaintiffs during their confinement. Such failure subjects plaintiffs to serious danger at the hands of institutional personnel, other inmates, and themselves.

34. Defendants do not hire qualified personnel who can respond to and provide for the needs of plaintiffs in the jail.

35. Defendants do not adequately supervise jail personnel who are responsible for plaintiffs in the jail.

36. Defendants do not adequately train staff in the Cumberland County jail to deal with juveniles or to counsel them.

37. Defendants have failed to develop and implement a classification system for juveniles. As a result, juveniles charged with serious or violent offenses or juveniles who have serious criminal histories are housed with juveniles who have less serious offenses.

38. Defendants fail to provide adequate medical or psychological screening or examination for plaintiffs when plaintiffs are taken into custody. Defendants fail to provide regular medical or mental health services to plaintiffs.

39. The Cumberland County juvenile section is often overcrowded. Consequently, many juveniles must sleep on mattresses on the floor.

40. Defendants do not provide juveniles with any education