

Judge limits OC's use of restraints on youths

Psychiatrist must be consulted before juveniles can be tied down

By Pat Brennan
The Orange County Register

Both sides claimed victory Wednesday when a judge restricted the use of tie-down restraints in Orange County Juvenile Hall, saying children should not be restrained based on a "judgment call" by county staff members.

Orange County Superior Court Judge Linda H. McLaughlin ruled that Juvenile Hall staff members must consult a psychiatrist before tying down inmates. In emergencies, when a psychiatrist is unavailable, a staff member certified by a psychiatrist must make the decision, she ruled.

"Based on the evidence received in this trial, both the physical and

psychological safety of minors are endangered in a restraint episode," McLaughlin wrote. Only someone trained in medicine and psychology is qualified to order restraint, she said.

The same restrictions should apply to the use of rubber "safety" rooms, according to the ruling. The plaintiffs in the class-action suit alleged that tie-downs and confinement in rubber rooms violate state laws and the 14th Amendment guarantee of freedom from bodily restraint.

McLaughlin also struck down a county policy limiting minors' access to attorneys as unconstitutional. The policy, imposed as part of a previous court order, re-

quired attorneys who wanted to meet with minors, but who had not been hired or appointed to represent them, to get permission from a minor's attorney of record.

"The judge's decision vindicates years of effort on the part of the Youth Law Center and the ACLU to improve conditions for minors held in Juvenile Hall," said American Civil Liberties Union lawyer Dick Herman. He called the ruling a win for his side, which filed the lawsuit three years ago to end the use of tie-down restraints.

"The court's order will hopefully go a long way toward remedying what has been a long-standing problem in Juvenile Hall," said lawyer Mark Soler of the Youth Law Center in San Francisco.

The ruling labels plaintiffs the "prevailing party" in the case and orders the county to pay attorney fees and trial costs associated with the tie-down and rubber-room is-

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measures. Although total costs in the case might approach \$700,000 to \$1 million, according to estimates by the plaintiff's attorneys, the costs to the county might be reduced substantially once final calculations are made. That is because McLaughlin also ordered the plaintiffs to pay the costs of trying other allegations that she rejected.

McLaughlin rejected 23 of the 26 allegations in the trial, including those of improper mail screening, telephone monitoring, room confinement and access to legal mate-

rials.

In some cases, the county changed policies challenged in the lawsuit before it went to trial, making the challenges unnecessary. In others, McLaughlin found that the county's practices were in line with state and federal laws.

McLaughlin also found that although the population of Juvenile Hall, which averaged 385 in the first quarter of this year, is often beyond its capacity, it is not so crowded that the safety of minors is threatened.

Kenneth Kasdan, one of two attorneys for the county in the trial, said the judge's restrictions on tie-down restraints and rubber rooms do not differ significantly from current Juvenile Hall procedures.

"I think it's a complete vindication for the county's position and a substantial victory for the county," Kasdan said. "The county is prepared to implement each of the elements of this decision."

Chief County Probation Officer

Michael Schumacher, who oversees the administration of Juvenile Hall, said tie-downs are necessary to prevent uncontrollable minors from hurting themselves and others.

"The emergency procedure is used only until a person comes back under control," Schumacher said. "This is a real vindication for our staff. They're firm but caring, and concerned about the welfare of the juveniles we have in our custody."

The judge's restrictions focus on concerns about interruption of blood circulation, nerve damage and other physical problems, as well as psychological harm that could result from being tied down.

A nurse must be summoned as soon as an inmate is tied down or confined in a rubber room. In addition, medical records must be kept and critiques must be made by psychiatrists and staff members after the incident.

Still to be resolved is an allegation of harassment of juveniles involved in the lawsuit by Juvenile Hall staff members. The allegation arose shortly before the trial, when Michael D. Pursell, a lawyer appointed by McLaughlin as a guardian for the minors, reported that staff members had ignored a court order to post notices of the lawsuit, torn down notices, and harassed and intimidated inmates involved in the lawsuit.

McLaughlin will hold a hearing on the matter July 20.