

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Suzanne Rabe
William E. Morris
SOUTHERN ARIZONA LEGAL AID, INC.
155 East Alameda Street
Tucson, Arizona 85701
Telephone: (602) 623-9461
Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

ANTHONY C., et. al., by their)
next friends, individually)
and on behalf of all other)
similarly-situated,)
Plaintiffs,)
vs.)
PIMA COUNTY, et. al.,)
Defendants.)

NO. CIV-82-501-TUC-ACM
STIPULATION AND AGREEMENT

The plaintiffs herein, both in their individual capacities and as representatives of the class certified in the above-entitled action, by and through their undersigned attorneys, and the defendants herein by and through their undersigned attorneys, stipulate and agree as follows:

General Provisions

1. The Court will retain jurisdiction of the parties and of this action for a period of two years after entry of its order approving this Stipulation and Agreement. Either plaintiffs or defendants may petition the Court for an order,

1 upon a showing of good cause, extending or shortening the time in
2 which the Court may retain such jurisdiction.

3 2. The Court will dismiss the above-entitled action
4 with prejudice at the conclusion of the period in which it
5 retains jurisdiction.

6 3. All provisions of paragraphs 10 through 36 of this
7 Stipulation and Agreement shall apply to the existing Pima County
8 Juvenile Detention Center so long as defendants house or detain
9 minors within the present facilities now used for such purposes.
10 The provisions of paragraphs 13-14, 16-22, 24-32, and 34-36 shall
11 also apply to the detention facilities now under construction.

12 4. The defendants enter into this Agreement for the
13 purpose of compromise, and deny any violation of any inmate's
14 constitutional or statutory rights at any time during his or her
15 confinement in the Pima County Juvenile Detention Center.

16 5. No other agreement between the parties exists
17 except that contained in this Stipulation and Agreement, and no
18 other agreement will be alleged in subsequent proceedings before
19 any court while this action is pending.

20 6. Except as otherwise provided herein, the defendants
21 reserve all rights, privileges, discretion and prerogatives
22 conferred on them by law with regard to the maintenance,
23 management and administration of the Pima County Juvenile
24 Detention Center.

25 Attorney's Fees and Costs

26 7. Plaintiffs hereby waive any and all claims for

1 attorney's fees and costs, of every kind, which might be asserted
2 by them for the benefit of Southern Arizona Legal Aid, Inc. its
3 officers, directors, employees and agents.

4 8. Defendants have made an agreement to satisfy, in
5 full, all claims to attorney's fees and costs, of every kind,
6 which have been or might be asserted on behalf of the National
7 Youth Law Center, its officers, directors, employees and agents.

8 9. Plaintiffs do not and shall not assert any claims
9 for attorney's fees or costs other than those set forth in
10 paragraphs 7 and 8 of this Stipulation and Agreement.

11 Implementation

12 10. Defendants shall implement all provisions of this
13 Stipulation and Agreement hereafter set forth, with the exception
14 of paragraph 25, no later than sixty (60) days after the date on
15 which the Court enters its Order approving the Stipulation and
16 Agreement.

17 Population

18 11. The Detention Center shall never house a detainee
19 population that exceeds its design capacity (two detainees per
20 security room and eighteen detainees per living unit). There
21 shall be no exceptions to this population limit.

22 Meals

23 12. While in the security unit, detainees may be
24 required to eat their meals in their rooms.

25 Clean Bedding, Towels and Clothing

26 13. Clean bedding and jumpsuits will be issued

1 detainees two times weekly. Clean towels, socks and
2 undergarments will be issued detainees daily.

3 Showers

4 14. Showers will be offered to each detainee daily.
5 An additional shower shall be provided each detainee upon return
6 from the gym.

7 Time in Security Cells

8 15. Absent High Security Risk classification, which
9 will be approved on a daily basis by the Director of Court
10 Services and/or or the Presiding Juvenile Judge, or a deputy
11 director designee other than the Deputy Director of Detention, or
12 behavior warranting discipline or medical isolation, no detainee
13 shall be required to spend more than 48 hours in security before
14 being eligible for transfer to the living unit. Furthermore, if
15 a child is placed in a security cell simply because of lack of
16 available space in the living unit, any such child shall be
17 allowed to participate in the same programs as detainees in the
18 living unit, which shall include attendance in school.

19 Medical and Psychological Screening

20 16. All detainees shall be screened at Intake for
21 medical and psychological problems. Intake staff shall be
22 trained (upon hiring and also once yearly) in techniques of such
23 screening. Such training shall be done by qualified medical/
24 psychological personnel. If, on the basis of personal
25 observation, Intake believes that a minor is, as a result of
26 mental disorder, a danger to self or others and that without

1 immediate hospitalization the minor is likely to suffer serious
2 physical harm or serious illness, or is likely to inflict serious
3 physical harm upon another person, the minor will immediately be
4 physically or telephonically referred to Kino Hospital or the
5 appropriate medical or psychological authority for examination to
6 determine whether the minor should be immediately hospitalized.
7 Intake personnel shall act in good faith and with all deliberate
8 speed.

9 Attorney Visitation

10 17. Visitation by the detainee's attorney of record
11 shall be unlimited, provided that such visitation is at
12 reasonable hours. An attorney in a matter other than the
13 detainee's delinquency case shall have the same rights of
14 visitation, provided that 48 hours notice of intent to visit is
15 given to the Director of Court Services or his designee. The
16 monitoring probation officer will then attempt to contact the
17 minor's attorney of record, and the custodial parent or parents,
18 and will advise the minor of this request to visit. The minor
19 will have the right to decide whether the visit will take place.
20 In the case of a purported emergency, the attorney will contact
21 the Director of Court Services or his designee, who will then
22 decide whether to waive the 48 hour requirement. A place will be
23 provided so that attorneys wishing to do so may have a private
24 place in which to consult with their clients. (This may mean
25 consultation in the dining area or other available space at the
26 Juvenile Court Center.)

1 Visitation

2 18. Parents or legal guardians may visit during
3 regular visiting hours. Visitation in Detention will also be
4 allowed for person over the age of eighteen (18) other than
5 parents or legal guardians if requested by the Probation Office.
6 Additionally, Probation Officers may, if they so choose,
7 personally staff visitation in the Intake Unit with any visitors,
8 including persons under the age of eighteen (18) years.
9 Detainees shall be advised of their right to request such
10 additional visitation at the time they are initially informed of
11 the policies, rules and regulations governing operation of the
12 Detention facility. Visitation decisions by probation officers
13 shall not be denied absent good cause. Any denial of a visit by
14 the probation officer shall be put in writing with the reasons
15 therefor, and the detainee shall be advised of those reasons for
16 denial and shall have the opportunity to grieve it.

17 Telephone Calls

18 19. Upon admission to the Detention facility, a
19 detainee shall be allowed one telephone call to a parent or
20 guardian or attorney. After the initial telephone call, the
21 detainee may make whatever calls the Probation Unit agrees to and
22 staffs. The detainee shall be offered the opportunity to make no
23 less than one ten-minute call per week, which will be subject to
24 approval of the Probation Unit or its designee. The minor may
25 grieve the failure to be afforded one ten-minute call per week.
26 Any long distance calls will be made on a collect basis or as

1 agreed to by staff. Detainees shall be advised in writing of
2 their right to request more than one call per week and of their
3 right to have at least one ten-minute call per week subject to
4 the approval described above.

5 Detainee Mail

6 20. The Detention Center may request postage from
7 parents or legal guardians, but if such postage is not provided,
8 the detainee shall nonetheless be permitted postage for two
9 letters per week. If postage is provided by an outside source,
10 the detainee may write an unlimited number of letters (depending
11 upon the amount of postage provided). Writing materials shall be
12 provided for each detainee for at least two letters per week.
13 Mail shall not be opened or read in the absence of the minor
14 without probable cause. Mail shall not be read in the presence
15 of the minor without probable cause.

16 Physical Restraints

17 21. Physical restraints will be used only to prevent a
18 detainee from hurting him/herself or others. Whenever restraints
19 are applied, staff will use only the amount of force necessary
20 for control and will remove the restraints as soon as the child
21 demonstrates an adequate amount of self-control. Shift leaders
22 in consultation with the shift supervisor will decide when to use
23 or remove restraints (except in emergency situations). Four-
24 point restraints shall be used only as a last resort to prevent a
25 detainee from hurting him/herself or others. This type of
26 restraining as well as other uses of physical restraining in

1 rooms will be done only in a room separate from any room housing
2 or holding other detainees. The shift supervisor shall
3 personally review any restraining situation at least every 15
4 minutes. The Director or Court Services or his designee shall be
5 notified of any restraint situation that lasts for more than 30
6 minutes. The Director or his designee will then contact Kino
7 Hospital or other appropriate authority and seek their advice.
8 If directed, the minor will be transported to Kino Hospital or
9 other appropriate authority. During any restraint situation, a
10 double mattress will be used.

11 Beds

12 22. Each detainee shall be provided a bed for
13 overnight sleeping. No detainee shall be required to sleep on a
14 mattress on the floor. There shall be no exceptions to this
15 restriction.

16 Security Cells

17 23. No more than two detainees shall be held in each
18 security room. There shall be no exceptions to this restriction.

19 Psychiatric Care

20 24. If the minor becomes disturbed while in Detention:

21 1) In emergency cases the minor shall promptly be
22 either telephonically or physically referred to Kino Hospital or
23 other appropriate medical or psychological authority on an
24 emergency basis as provided for by A.R.S. §36-524 et. seq., as
25 set forth in paragraph 16 above.

26 2) In non-emergency cases the County Attorney's

1 Office (in delinquency cases) or the Attorney General's Office
2 (in dependency cases) and defense counsel shall be notified and
3 advised of the situation in order that they may seek a court-
4 ordered evaluation as set forth in A.R.S. §8-242.01.

5 Juvenile court personnel will act with all deliberate
6 speed and in good faith in all cases described herein.

7 Outdoor Recreation

8 25. Daily outdoor time will be programmed for all
9 detainees (absent disciplinary or health problems) upon
10 completion of a new facility, now under construction. The
11 anticipated date of its completion is June 30, 1985. If
12 recreation is not provided within 90 days after this anticipated
13 completion date, the plaintiffs shall have the right to petition
14 the Court for a review of the matter.

15 Strip Searches

16 26. Strip searches are permitted but not required and
17 shall occur only: 1) Upon the detainee's arrival at the Juvenile
18 Court Center; 2) Upon the detainee's return to the detention area
19 (which includes the living unit, cafeteria, classroom, gym,
20 doctor's offices, security cells and phase I of the new Juvenile
21 court after time spent outside the construction); after time
22 spent outside the aforesaid detention area of the Juvenile Court
23 Center; 3) After visitation within the Juvenile Court Center,
24 except with an outside agency, attorney or court staff; or 4)
25 Upon reasonable suspicion of possession of contraband or weapons.

26 Ventilation and Temperature

1 27. All efforts shall be made to keep ventilation and
2 temperature at a comfortable level at all times.

3 Medical Care

4 28. A medical doctor or nurse practitioner shall visit
5 Detention seven days per week. Said practitioner/doctor will be
6 advised of each complaint a detainee makes, and the practitioner/
7 doctor will decide whether to see and treat the detainee. In
8 addition, emergency cases will be taken to Kino Hospital
9 immediately. All medical complaints shall be reduced to writing
10 and a written record shall be kept of such complaints.

11 Education

12 29. The Court Center acknowledges that it is desirable
13 that two full-time school teachers be available for academic
14 instruction. Two full-time teachers accordingly have been
15 requested from Tucson Unified School District No. 1 and other
16 Pima County school districts. This matter will be pursued in
17 good faith with Tucson Unified School District No. 1 and other
18 Pima County school districts, but it is essentially their
19 decision whether or not to provide two full-time teachers.

20 Hardbound Books

21 30. All detainees may have access to hardbound books,
22 including school books. Hardbound books will be kept in staff
23 control areas and issued during time-out of security units, free
24 time, or study time.

25 Twenty-Four Hour Detention Hearings

26 31. Detention hearings will be held every twenty-four

1 behalf of the named plaintiffs in this action.

2 DATED this _____ day of January, 1985.

3
4 SOUTHERN ARIZONA LEGAL AID, INC.

5 BY: _____
6 Suzanne Rabe
7 Attorney for Plaintiffs

8 Date: _____

9 BY: _____
10 William E. Morris
11 Attorney for Plaintiffs

12 Date: _____

13 BY: _____
14 James Bell
15 Attorney for Plaintiffs

16 Date: _____

17 BY: _____
18 Raner C. Collins
19 Attorney for Defendants

20 Date: _____

21 BY: _____
22 Sam Lena, Chairman
23 Board of Supervisors

24 Date: _____

25 BY: _____
26 Honorable Phillip Fahringer
Presiding Judge, Juvenile Court

Date: _____