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FILED
ORANGE COUNTY SUPERIOR COURT

AUG 31 1998

ALAN SLATER, Executive Officer/ Clerk

By C. FARIAS DEPUTY

9
10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF ORANGE

12
13 DR. CURTIS BOORAEM,)
14)
15 Plaintiff/Petitioner,)

16 vs.)

17 COUNTY OF ORANGE; LARRY LEAMAN,)
18 in his official capacity as Director of County of)
19 Orange Social Services Agency; CALIFORNIA)
20 DEPARTMENT OF SOCIAL SERVICES; and)
21 ELOISE ANDERSON, in her official capacity as)
22 Director, California Department of Social)
23 Services,)

24 Defendants/Respondents.)

Case No. **798871**

COMPLAINT AND PETITION
FOR WRIT OF MANDATE

Judge Robert E. Thomas
Dept. 61

25 I. INTRODUCTION

26 1. This is a taxpayer action challenging the detention of abused and
27 neglected infants and young children in Orangewood Children's Home
28 ("Orangewood"), an unlicensed institution owned and operated by Defendant/

1 Respondent Orange County, for extended periods of time under illegal and
2 unconstitutional conditions. This practice results in immediate trauma and injury, and
3 permanent and irreparable emotional, psychological, developmental, and physical harm
4 to these infants and young children.
5

6 2. Children confined at Orangewood are subject to unsafe conditions and
7 deprived of a secure emotional relationship with a primary caregiver. The conditions at
8 Orangewood are, in some ways, similar to or worse than conditions in institutions in
9 Eastern Europe in which children have suffered emotional, social and cognitive
10 impairments.
11

12 3. Although State law prohibits confinement of children under six in
13 emergency shelters without a court order specifying the need for an extensive
14 evaluation, Defendants/Respondents Orange County and Larry Leaman ("County
15 Defendants") confine almost every child removed from home in Orangewood without
16 such a court finding and for reasons unrelated to evaluation.
17

18 4. Plaintiff/Petitioner alleges that County Defendants routinely confine
19 children in Orangewood for long periods of time in overcrowded conditions under the
20 supervision of untrained staff who are unable to meet their most basic developmental
21 needs. Infants, toddlers and preschoolers are deprived of a consistent caregiver and
22 individualized care, and completely cut off from familiar people, places and objects. As
23 a result, children experience psychological and behavioral disturbances which County
24 Defendants are unable or unwilling to treat.
25

26 5. Defendant/Respondent California Department of Social Services
27 ("CDSS"), under the direction of Defendant/Respondent Eloise Anderson (hereinafter
28

1 "State Defendants"), has failed to develop standards and regulations for the operation
2 of county run shelters as required by state law. State Defendants permit County
3 Defendants to operate the institution in a manner that violates the law and the state and
4 federal constitutions and fail to monitor the care and services provided to children
5 confined in Orangewood.

7 **II. PLAINTIFF/PETITIONER**

8 6. Plaintiff/Petitioner Dr. Curtis BOORAEM (hereinafter "Plaintiff") is a
9 licensed clinical psychologist, a resident of Orange County and the State of California.
10 Dr. BOORAEM is assessed and is liable to pay, and within one year prior to the
11 commencement of this lawsuit has paid, taxes to the County of Orange and the State of
12 California. Dr. BOORAEM has a full-time private psychotherapy practice in Santa Ana,
13 and his clients include children. He has served on the faculties of Chapman University
14 and University of California at Irvine Medical School. Dr. BOORAEM brings this action
15 pursuant to California Code of Civil Procedure § 526a to enjoin the illegal and wasteful
16 policies and practices of Defendants/Respondents.

19 **III. DEFENDANTS/RESPONDENTS**

20 7. Defendant/Respondent COUNTY OF ORANGE is a local governmental
21 entity, duly authorized and formed under the laws of the State of California. It owns and
22 operates Orangewood Children's Home and detains children in that home pursuant to
23 Welf. & Inst. Code §§ 300 et seq.

25 8. Defendant/Respondent LARRY LEAMAN, is the Director of the County of
26 Orange Social Services Agency and, as such, is responsible for, *inter alia*, operation of
27 Orangewood Children's Center and for administering child welfare services in the
28

1 County of Orange. Mr. Leaman is sued in his official capacity.

2 9. Defendant/Respondent CALIFORNIA DEPARTMENT OF SOCIAL
3 SERVICES is required to establish and support a public system of statewide child
4 welfare services, Welf. & Inst. Code §§ 16500 et seq., to supervise the administration
5 of state public social services, including child welfare services, and to secure full
6 compliance with applicable provisions of state and federal law. Welf. & Inst. Code §
7 10600.
8

9 10. Defendant/Respondent ELOISE ANDERSON, Director of California
10 Department of Social Services, is responsible for administering laws relating to child
11 welfare services; promulgating regulations and standards; supervising the
12 administration of public social services including child welfare services, and
13 investigating, examining and making reports on public offices responsible for the
14 administration of public social service funds. Welf. & Inst. Code §§ 10553, 10554,
15 10600, 10602. Under Welf. & Inst. Code § 10605, she has the power to enforce state
16 statutes and regulations.
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19 **IV. STATEMENT OF FACTS**

20 11. Defendants use County and State tax revenues collected from Plaintiff
21 and others to operate Orangewood, the County of Orange Social Services Agency and
22 the California Department of Social Services.
23

24 A. Orangewood

25 12. Orange County owns and operates Orangewood, a large institution
26 located in Orange, California, where County Defendants detain children removed from
27 home because their parents have allegedly abused, neglected or abandoned them.
28

1 13. As presently configured, Orangewood has a design capacity of 236
2 children. Its population regularly exceeds that number and has been as high as 320.

3 14. Defendants detain children of all ages at Orangewood. Approximately
4 40% of the children confined in the facility are under six years old.

5 15. County Defendants detain almost every child removed from home under
6 Welf. & Inst. Code § 300 at Orangewood for some period of time. Over 3,100 children
7 were admitted to Orangewood in fiscal year 1996-1997. Orangewood was designed to
8 be a short term facility and some children are released after only a very short stay.
9 Others, however, stay for several months.

10 16. Children at Orangewood are assigned to living units called "cottages"
11 based on their age and, for older youth, gender. Cottages are designed to house
12 approximately 20-25 children. Because of overcrowding, cottages often house 30 or
13 more children.

14 17. Children under age 6 are assigned to cottages based on chronological
15 age. There is no system for ensuring that young children who are severely emotionally
16 or behaviorally disturbed are separated from children who have no such problems.
17 Very young children who have been victims of sexual abuse are mixed with children
18 who have not had these experiences. As a result, children may be exposed to
19 threatening behavior or may model inappropriate behavior they learn from their peers.

20 18. Children age six and under are assigned to one of four cottages.
21 Newborns, infants and toddlers up to 18 months of age are housed together, as are 18
22 to 30 month olds, 3 1/2 to 5 year olds and 5 to 7 year olds.

23 19. The cottages that house the three youngest groups provide children with
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1 no individual space. Infants and toddlers in each age group all sleep together in a large
2 open area and eat and play together in large rooms in the cottages. When cottages
3 become overcrowded, beds and cribs are pushed closer together to accommodate the
4 additional children. When there are not enough beds available, or when there is not
5 enough space to add beds, children sleep on mattresses on the floor.
6

7 20. Because these small children have no personal space, their living areas
8 are totally impersonal and cannot be individualized and they cannot surround
9 themselves in any way with familiar things.
10

11 21. The 5 to 7 year olds live in a cottage that has sleeping rooms designed for
12 two children. This cottage is also chronically overcrowded. When this cottage is
13 overcrowded, children sleep on mattresses on the floor of the sleeping rooms.
14

15 22. Orangewood operates without a license. The sleeping arrangements in
16 the institution do not comply with requirements for licensed group homes for children in
17 California.

18 23. Children surrender their clothes and their personal possessions when they
19 are admitted to Orangewood. Defendants require them to wear used clothing, including
20 used underclothing, provided by the institution. Clothing is often ill-fitting and does not
21 reflect the personal choice of these children.
22

23 24. All of these infants, toddlers and young children have experienced abuse,
24 neglect or abandonment before they arrive at Orangewood. They all suffer the
25 additional trauma of removal from their homes, families and friends when County
26 Defendants bring them to Orangewood. At the institution, they are, almost immediately
27 and without any preparation, placed with twenty to thirty other children who have been
28

1 at the facility for varying periods of time. With few exceptions, these children are all
2 strangers to each other when they enter Orangewood. In the institution, they rely on
3 staff -- who are also complete strangers -- to meet their basic needs.
4

5 25. Child care staff who are responsible for helping these small children
6 adjust to this new environment are not required to have training in early childhood
7 education or child development. They do not understand the nature of the trauma the
8 children are experiencing. They cannot interpret the infants and toddlers non-verbal
9 cues or respond appropriately. As a result, children have no effective assistance in
10 coping with this crisis in their lives. No effective measures are taken to reduce the long
11 term impact of this trauma.
12

13 26. Staff have no contact with the children's parents. As a result, they are not
14 familiar with the child's routine, or his or her preferences or characteristic behaviors.
15 Since many of these children are completely non-verbal and the rest have only limited
16 verbal abilities, they cannot effectively communicate their needs to staff.
17

18 27. Staff work for 8 to 12 hour shifts, five days a week. When the facility is
19 overcrowded, supplemental staff assist on a temporary basis. This means that infants
20 may be cared for by up to 40 people in a week.
21

22 28. Staff are not assigned responsibility for specific children. Instead, all staff
23 work with all children. There is, therefore, little or no opportunity for a child to become
24 attached to a particular staff member or to develop an effective way of communicating
25 with staff.
26

27 29. Because staff are responsible for caring for many infants, they are unable
28 to hold them or routinely provide them with close physical contact.

1 30. In addition, the shelter population is constantly changing. Every day
2 children leave and new children are admitted. Children cannot develop consistent
3 relationships with each other because of this change.
4

5 31. Because these infants, toddlers and pre-schoolers live in large groups, in
6 order for the institution to function effectively the children must all follow the same
7 schedule. Except for the youngest infants, all children in a cottage eat at the same time
8 and sleep at the same time. Routines are dictated by the demands of the institution,
9 and the institution cannot accommodate individual children's differing needs or
10 capabilities.
11

12 32. Because cottages are assigned by age, children are separated from their
13 siblings at Orangewood. Defendants permit some sibling visitation, but have not
14 developed a regular program of sibling interaction.
15

16 33. Infants and young children have little or no interaction with their parents
17 while they are at Orangewood. Parents are not allowed to visit them on the units or to
18 help meet their daily needs. Defendants have a visiting room at the shelter where
19 parents can meet with their children, but this room is very small and formal and must
20 serve all families. Because they are pre-verbal or have limited verbal skills, the only
21 meaningful interaction these children can have is through activities like feeding,
22 diapering, bathing, and physical play. The visiting area and policies do not permit this
23 interaction. As a result, infants, toddlers and pre-schoolers are totally emotionally
24 separated from their families while at Orangewood. Their very limited ability to
25 communicate and comprehend means that they cannot understand the cause or
26 duration of this separation.
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B. Research on Child Development

34. For over fifty years, researchers have been aware of the negative effects of institutionalization on young children. The negative effects of institutionalization include: limitations on the child's capacity to form lasting relationships, impairment of the child's cognitive development and behavioral problems related to an increased need for attention.

35. Recent research has confirmed the importance of a strong relationship with a primary caregiver in the first years of life to healthy emotional and cognitive development. This research has also shown that the absence of a positive relationship with a primary caregiver can cause lasting neurological impairment affecting the child's ability to relate and attach to others.

36. The responsiveness of the child's environment is critical to his or her ability to complete certain developmental phases. When the infant or toddler's environment is not responsive to nonverbal communication, he or she may become depressed, frustrated and angry. His or her ability to eat and sleep may be adversely affected. He or she may exhibit behavior problems as a way of coping with the unresponsive environment.

37. A feeling of isolation and lack of responsiveness may also delay or impede a child's intellectual and language development.

38. In addition, this feeling of isolation and powerlessness can lead to physical symptoms, including increased vulnerability to illness, and eating and sleeping disorders.

39. Studies of children in Eastern European orphanages found that children

1 suffered from the inability to develop bonds with a primary caregiver, a lack of
2 individualized attention, regimentation of daily activities and isolation from normal life.
3 The conditions that gave rise to this harm are, in some ways, similar to those at
4 Orangewood. In addition, the population at Orangewood is larger than the populations
5 of many Eastern European orphanages for very young children, many more children
6 enter the facility each year, living units are larger than those of most of these
7 orphanages, and the young children at Orangewood interact with many more staff.

8
9
10 C. Legislation

11 40. The Legislature has determined that children in out-of-home care are
12 entitled to placement in the least restrictive, most family-like setting and to live as close
13 as possible to their families. Welf. & Inst. Code §§ 16000, 16501.1(c). Because
14 County Defendants confine all such children in Orangewood, they have failed to
15 develop familylike alternatives, and thus, violate this provision routinely.

16
17 41. In 1993, the California Legislature recognized that existing statutes and
18 licensing regulations were not sufficient to protect the safety and well being of very
19 young children in protective custody. Thus, the Legislature sought to limit the practice
20 of holding young children in group or institutional settings.

21
22 42. Specifically, the Legislature prohibited placement of children under age six
23 in institutions like Orangewood, unless a court had specifically found that the placement
24 was "necessary to secure a complete and adequate evaluation." Welf. & Inst. Code §
25 319.2. County Defendants regularly confine children under the age of six at
26 Orangewood without such a court finding.

27
28 43. The Legislature also required State Defendant CDSS to develop and

1 implement special standards and regulations governing the care of young children in
2 group homes and institutions like Orangewood. Welf. & Inst. Code § 11467.1.

3
4 44. Under this legislation, CDSS is required to develop separate sets of
5 standards governing the care of three age groups (infants, toddlers and preschool age
6 children). In settlement of a lawsuit filed in 1996, State Defendants are in the process
7 of finalizing such regulations.

8
9 45. Finally, in 1994, the Legislature required that institutions like Orangewood
10 be licensed by the state and that Defendant CDSS promulgate licensing regulations for
11 these facilities. Health & Safety Code §§ 1502(a)(11), 1502.3. Defendant CDSS has
12 not begun the process of developing licensing regulations to govern shelter care
13 facilities.

14 **IV. NEED FOR JUDICIAL INTERVENTION**

15
16 46. The policies, practices, acts and omissions complained of are continuous
17 and ongoing and result in irreparable physical and psychological harm to children at
18 Orangewood and continued waste of public funds. Plaintiff has no plain, speedy or
19 adequate remedy at law. Unless and until Defendants are enjoined by the Court from
20 continuing their illegal and wasteful actions, children will continue to suffer these injuries
21 and public funds will continue to be wasted causing irreparable harm.

22 **V. CLAIMS**

23 **First Cause of Action**

24
25 47. County Defendants' practice of confining children under the age of six
26 years in Orangewood, subject to the conditions and practices therein, violate the
27 children's right to due process of law under the 14th Amendment of the United States
28

1 Constitution and Article I, Section 6 of the California Constitution.

2 48. The confinement of children in Orangewood, pursuant to these illegal
3 policies, practices, and conditions, constitutes a waste of public funds within the
4 meaning of California Code of Civil Procedure § 526a.
5

6 **Second Cause of Action**

7 49. By confining young children in Orangewood and by failing to develop and
8 utilize sufficient alternatives to Orangewood, including family preservation services,
9 family reunification services, placement with relatives and placement in licensed foster
10 homes and foster family agencies, County Defendants violate the children's right to be
11 placed in the least restrictive, most familylike setting. Welf. & Inst. Code §§ 16000,
12 16501.1.
13

14 50. The confinement of children in Orangewood pursuant to these illegal
15 policies, practices, and conditions, constitutes a waste of public funds within the
16 meaning of California Code of Civil Procedure § 526a.
17

18 **Third Cause of Action**

19 51. County Defendants' practice of confining children under the age of six
20 years in Orangewood without the requisite court findings, for reasons unrelated to
21 obtaining evaluations, and for periods in excess of the time necessary to obtain an
22 evaluation, violates their clear and mandatory duty under Welf. & Inst. Code § 319.2.
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24 52. The confinement of children in Orangewood pursuant to these illegal
25 policies, practices, and conditions, constitutes a waste of public funds within the
26 meaning of California Code of Civil Procedure § 526a.
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Fourth Cause of Action

53. County Defendants' operation of an unlicensed transitional shelter care facility violates the California Community Care Facilities Act. Health & Safety Code § 1503.5.

54. The confinement of children in Orangewood pursuant to these illegal policies, practices, and conditions, constitutes a waste of public funds within the meaning of California Code of Civil Procedure § 526a

Fifth Cause of Action

55. State Defendants' failure to adopt regulations for the licensing of Orangewood and other transitional shelter care facilities violates their clear and mandatory duty under the California Community Care Facilities Act. Health & Safety Code § 1502(a)(11), 1502.3.

56. This failure constitutes a waste of public funds within the meaning of California Code of Civil Procedure § 526a.

Sixth Cause of Action

57. State Defendants' failure to monitor the care delivered to young children confined in Orangewood and to ensure that they are not confined in the facility in violation of Welf. & Inst. Code § 319.2 violates their obligation to supervise the administration of child welfare services, and to secure full compliance with applicable provisions of state and federal law. Welf. & Inst. Code § 10600.

58. This failure constitutes a waste of public funds within the meaning of California Code of Civil Procedure § 526a.

1 VI. PRAYER FOR RELIEF

2 Plaintiff requests that this Court:

3
4 59. Declare that the practices and conditions identified in this complaint
5 violate the 14th Amendment of the United States Constitution; Article I, Section 6 of the
6 California Constitution; and Welf. & Inst. Code §§ 319.2, 10605, 16000, 16501.1, and
7 Health & Safety Code §§ 1502(a)(11), 1502.3.

8
9 60. Enter a permanent injunction prohibiting County Defendants from
10 confining children under the age of six in Orangewood Children's Home.

11 61. Issue a writ of mandate requiring County Defendants to comply with Welf.
12 & Inst. Code § 319.2.

13 62. Issue a writ of mandate requiring State Defendants to promulgate
14 regulations governing Orangewood and other transitional shelter care facilities.


15
16 63. Enter a permanent injunction requiring State Defendants to monitor the
17 care of young children in Orangewood and to ensure that County Defendants comply
18 with Welf. & Inst. Code § 319.2.

19 64. Award Plaintiff reasonable attorneys' fees and costs.

20 65. Grant such other and further relief as the Court finds just and proper.

21 Dated: August 28, 1998

22
23 CAROLE SHAUFFER
24 SHANNAN WILBER
25 MARIA RAMIU

26
27 By: 
28 Shannan Wilber
Attorney for Plaintiff/Petitioner

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ALAN SLATER, Executive Officer/ Clerk

By C. FARIAS DEPUTY

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CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF ADVISORS
AUG 31 11 2:37
ML

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8 Attorney for the Plaintiff/Petitioner
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 CLERK OF THE COURT
 COUNTY OF ORANGE
 1000 N. GATE
 SANTA ANA, CA 92701

ORANGE COUNTY SUPERIOR COURT
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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF ORANGE
 ALAN SLATER, Executive Officer/Clerk
 By JOHN TOULOUSE, DEPUTY

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 STATEMENT OF
 DISQUALIFICATION

 Judge Robert E. Thomas
 Dept. 61

I, Shannan L. Wilber, declare:

1. I am an attorney at law admitted to practice before this court and an attorney of record for the plaintiff. Pursuant to California Code of Civil Procedure § 170.3(c)(1), I hereby respectfully submit the following verified statement of facts in support of plaintiff's request that all judges of the Superior Court of California, County of



All Counties

FACSIMILE TRANSMISSION

DATE:	8-31-98	
TO: (firm)	Youth Law Center	
ATTENTION:	Karel Chavez OR Robin Bishop	
FAX NUMBER:	(415) 956 9022	
FROM:	Kent Hansen	PAGES: 3

Complaint filed
 Statement of Registration Received D.C.I
 Both served on Board of Supervisors
 By Serving Maria Lopez Clerk of the Board
 at 2:40pm
 Presiding Judge O'Leary served
 By Serving Paula Alvarez Clerk 2:55pm
 Receipts of service to follow
 Thank you Kent