



JI-UT-001-001

FILED  
UNITED STATES  
DISTRICT COURT  
DISTRICT OF UTAH

MAR 27 4 20 PM '84

PAUL L. BADGER  
CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

D.J.R., and L.A.M., minors, by and through their Next Friend and attorney, WILLIAM W. DOWNES, JR., on their behalf and on behalf of all others similarly situated,

Plaintiffs,

vs.

THE HONORABLE ARTHUR GRANT CHRISTEAN, THE HONORABLE SHARON PEACOCK, and THE HONORABLE REGNAL W. GARFF, JR., Second District Juvenile Court Judges, in and for Salt Lake County, State of Utah,

Defendants.

Civil No. C-82-0811W

CONSENT DECREE

This is a civil rights action for declaratory, injunctive, and other equitable relief, brought by juveniles confined in the Salt Lake Detention Center ("Detention Center") in Salt Lake City, Utah. The Complaint in this action was filed August 27, 1982. The plaintiffs, on behalf of themselves and a class of juveniles similarly situated, alleged that the defendants violate their rights to due process of law and equal protection of the laws (1) by detaining them at the Detention Center without a prompt judicial determination of probable cause and (2) by detaining them at the Detention Center pursuant to Section 78-3a-30 Utah Code Annotated (1953) and Rules 8, 11, and 13 of the Utah State Juvenile Court Rules of Practice and Procedure but

without adequate constitutional safeguards to prevent unnecessary and punitive incarceration in the absence of any adjudication of guilt. The defendants answered, admitting that they do not afford probable cause hearings to detained juveniles, but denying that their detention practices violate plaintiffs' constitutional rights.

By order dated February 15, 1983, this Court granted class certification on a provisional basis subject to further order from the Court. The class consists of those juveniles who have been, are now, or in the future will be confined at the Detention Center.

While neither admitting nor denying any allegations of fact or legal liability, the parties have now agreed to the entry of a Consent Judgment resolving plaintiffs' claims regarding prompt judicial determinations of probable cause. Therefore, based upon the stipulation and agreement of all parties to this action, by and through their respective counsel, and based upon all matters of record in this case, it is hereby ORDERED, ADJUDGED and DECREED that:

1. This Court has jurisdiction over this matter.
2. The named plaintiffs in this action are D.J.R. and L.A.M., minors, suing by and through their Next Friend, WILLIAM W. DOWNES, JR.
3. The defendants in this action are THE HONORABLE ARTHUR GRANT CHRISTEAN, THE HONORABLE SHARON PEACOCK, and THE HONORABLE REGNAL W. GARFF, JR., Second District Juvenile Court Judges in

and for Salt Lake County, State of Utah.

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

5. The plaintiff class consists of:

All juveniles who have been, are now, or in the future will be confined at the Salt Lake Detention Center.

6. Defendants will, on or before June 1, 1984, implement the following procedure for determining probable cause that a juvenile detained in the Detention Center committed the offense(s) alleged to have been committed:

a. A probable cause/detention hearing will be held within 48 hours of the juvenile's admission to Detention, excluding Sundays and holidays. § 78-3a-30(2) Utah Code Annotated.

b. The Juvenile Court Judge or referee will make the determination whether there is probable cause to believe the alleged offense was committed and that the detained juvenile alleged to have committed the offense did commit it.

c. The judge or referee must base the finding of probable cause upon sworn statements or testimony of persons having direct knowledge of the facts or circumstances surrounding the offense(s) which the juvenile is alleged to have committed or upon sworn statements or testimony of persons who have been informed of the facts or circumstances surrounding the offense(s) which the juvenile is alleged to have committed by informants having direct knowledge of such

facts or circumstances.

If the finding of probable cause is based only on information from informants, the sworn statements or testimony relating the information shall set forth the underlying fact or circumstances from which the informants concluded the offense(s) was committed and that the juvenile committed the offense(s) and shall set forth circumstances demonstrating the credibility or reliability of the informants.

d. If the judge or referee finds that probable cause has not been established, the allegation against the juvenile shall be found to be unsupported by probable cause and the juvenile shall be released from the Detention Center.

e. If the judge or referee finds there is probable cause to believe the offense(s) alleged was committed and that the juvenile committed it; the judge or referee shall immediately proceed to inquire into the need for further detention.

7. Defendants will, on or before July 1, 1984, adopt rules and procedures governing detention hearings in cases in which a juvenile is alleged to have committed an offense. Detention will only be permitted if the judge or referee determines that secure placement of the juvenile is required to protect the juvenile from harm, to protect persons in the community from being harmed or to secure the attendance of the juvenile at future court proceedings.

a. Detention to protect the juvenile from harm or to protect persons in the community from being harmed, shall be permitted only as follows:

(1) The nature and seriousness of the alleged offense:

(a) If a juvenile is alleged to have committed an offense specified in the list of OFFENSES WHICH ALONE MAY JUSTIFY ORDER FOR FURTHER DETENTION AT THE DETENTION-PROBABLE CAUSE HEARING (attached hereto as Appendix A), the juvenile may be detained without consideration of any other facts or circumstances. Detention is not mandated, however, even upon establishment of probable cause that the juvenile committed an offense listed in Appendix A. The judge or referee may determine whether to detain the juvenile after consideration of the facts and circumstances listed in paragraph 8.

(b) If a juvenile is alleged to have committed an offense listed in the UNSAFE OFFENSE LIST (attached hereto as Appendix B), the juvenile may be detained if the judge or referee finds, after reviewing the relevant facts and circumstances, that detention is required to protect the juvenile from harm and/or protect persons in the community from being harmed by the juvenile.

(c) If a juvenile is brought to detention solely by reason of one of the following facts or circumstances, the juvenile may not be detained in the Detention Center:

(i) Alleged to be ungovernable or runaway;

(ii) Taken into custody for neglect, abuse, abandonment, dependency, or requiring protection for any other reason;

(iii) Alleged to have committed a status offense (an offense which would not be a crime if committed by an adult);

(iv) Taken into custody solely for an "endangering condition," U.C.A. 78-3a-29(c);

(v) Taken into custody for attempted suicide.

(d) No juvenile under the age of ten years may be detained in the Detention Center.

(e) If a juvenile is alleged to have committed an offense not listed in Appendix A or Appendix B, the juvenile may be detained only if the juvenile may be detained under 7.a.(2) or 7.b. below.

(2) The juvenile's past offense record, as demonstrated by juvenile court files:

(a) A juvenile may be detained if the juvenile has two adjudications for offenses arising out of separate criminal episodes listed in the UNSAFE OFFENSE LIST within the past year and the judge or referee finds that the juvenile's past record and the other relevant facts and circumstances listed herein require detention to protect the juvenile from harm and/or to protect the community from being harmed by the juvenile.

(b) A juvenile may be detained if the juvenile is currently alleged to have committed an offense listed in

Appendix C and if the juvenile has three or more adjudications within the past year for offenses listed in either Appendix B or Appendix C.

b. Secure placement to secure the attendance of the juvenile at future court proceedings shall only be permitted as follows:

(1) A juvenile may be detained if the juvenile is an escapee from a secure institution or other secure placement facility to which the juvenile was committed under a prior adjudication of a juvenile court.

(2) A juvenile may be detained if the juvenile has failed to appear at a juvenile proceeding within the past year and the judge or referee finds that secure placement is necessary to ensure the juvenile's appearance at future court proceedings.

(3) A juvenile may be detained if the juvenile has been verified to be a fugitive from another jurisdiction, an official of which has formally requested that the juvenile be placed in detention.

(4) A juvenile may be detained if the juvenile has voluntarily absented himself or herself for at least 48 hours from three or more non-secure placements, including but not limited to court-ordered placements, within the preceding year.

8. In determining whether to detain a juvenile or continue a juvenile in detention in accordance with paragraph 7, a judge or referee may consider the juvenile's background and

circumstances, including:

- a. Family support/supervision and control;
- b. School involvement--attendance, student-faculty relations;
- c. Beneficial/supportive community relationship;
- d. Mental and emotional state/factors;
- e. Characterological or pathological factors;
- f. Other factors.

9. Defendants will, on or before July 1, 1984, revise Form 7, currently entitled "DETENTION/SHELTER HEARING FINDINGS AND ORDER," in a manner consistent with this Consent Decree.

10. Defendants will, upon adoption of the rules and procedures reflected in this Consent Decree, follow these practices and procedures within the Second District Juvenile Court.

11. Defendants will, on or before July 1, 1984, issue "Guidelines for Admission to Detention" consistent with the terms of this Consent Decree. Said "Guidelines" shall be directed to intake and admissions desk personnel at the Detention Center.

12. Defendants will forward copies of the daily population reports of the Salt Lake County Detention Center on a monthly basis to the attorneys for plaintiffs from July 1, 1984, until June 30, 1985.

13. Plaintiffs reserve the right to request such attorneys' fees and costs as this Court deems appropriate, and defendants reserve the right to oppose such request.


14. No just reason exists for delay in entering this Consent



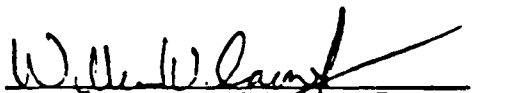
Decree as to all defendants in accordance with its terms.

15. The agreement set forth herein constitutes a fair and reasonable resolution of plaintiffs' claims regarding prompt judicial determinations of probable cause, and is therefore approved by this Court.

DATED this 27 day of March, 1984.



DAVID K. WINDER  
United States District Judge




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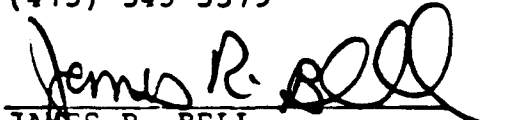


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## APPENDIX A

### OFFENSES WHICH ALONE MAY JUSTIFY ORDER FOR FURTHER DETENTION AT THE DETENTION-PROBABLE CAUSE HEARING

#### ARSON

1. ARSON5 Aggravated Arson - damages a habitable structure or vehicle when any person not a participant is in the same.

#### ASSAULTS

1. AGST23 Aggravated Assault
2. AGSXA1 Aggravated Sexual Assault

#### ATTEMPTS

1. ATMP11 Attempt to commit a Capital Felony
2. ATMP22 Attempt to commit a 1st Degree Felony against person

#### BOMBS-CATASTROPHES-RIOTS

1. BOMBD2 Bombing - person injured
2. CAUCI2 Catastrophe - knowingly caused - injury to persons
3. RIOT39 Riot resulting in injury or substantial property damage or arson or armed with a deadly weapon.

#### BURGLARY

1. AGBUA1 Aggravated Burglary - causes physical injury to non-participant or threatens the immediate use of a dangerous or deadly weapon.
2. AGBUB3 Aggravated Burglary - armed with a deadly weapon or possesses or attempts to use any explosive or deadly weapon.

CONSPIRACIES

1. CNSP11 Conspire to commit Capital Felony. No overt act required.
2. CNSP22 Conspire to commit 1s Degree Felony against person.

EXTORTION-ROBBERY

1. EXTRA3 Extortion - threatens physical harm - value of property extorted is more than \$250 to \$1,000.
2. EATRTA Extortion - threatens physical harm - value of property extorted is from more than \$100 to \$250.
3. EXTR42 Extortion - threatens physical harm - value over \$1,000.
4. PBERY1 Aggravated Robbery - 1st Degree Felony

HOMICIDES

1. MNSLT2 Manslaughter
2. MRDR10 Murder - First Degree
3. MRDR21 Murder - Second Degree

KIDNAP

1. AGKD21 Aggravated Kidnaping
2. KDNC1 Child Kidnaping - victim under 14 years

OBSTRUCTING GOVERNMENTAL OPERATIONS

1. ESCP18 Escape from official custody by use of force, threat or deadly weapon.

SEX OFFENSES

1. AGSXA1 Aggravated Sexual Assault
2. RAPE21 Rape of person 14 years or older.
3. RAPCD1 Rape of a child under 14 years.

4. RAPOB1 Object Rape - victim 14 years or over.
5. RAPOC1 Object Rape upon a child under 14 years of age.
6. AGSAC1 Forcible Sexual Abuse upon a child under 14 years of age accompanied by an aggravating factor specified in 76-05-404.1(3)(a) or (b) or (I).

APPENDIX B

UNSAFE OFFENSE LIST

JUVENILES BOOKED IN DETENTION FOR THE FOLLOWING OFFENSES MAY BE DETAINED IF THE JUDGE OR REFEREE FINDS THAT DETENTION IS REQUIRED TO PROTECT THE JUVENILE FROM HARM AND/OR PROTECT PERSONS IN THE COMMUNITY FROM BEING HARMED BY THE JUVENILE.

ASSAULTS

1. AGST23 Aggravated Assault
2. AGSXA1 Aggravated Sexual Assault

ATTEMPTS

1. ATMPAA Attempt to commit a 3rd Degree Felony against person
2. ATMP11 Attempt to commit a Capital Felony
3. ATMP22 Attempt to commit a 1st Degree Felony against person
4. ATMP33 Attempt to commit a 2nd Degree Felony against person

BOMBS - CATASTROPHES - RIOTS - WEAPONS

1. BOMBD2 Bombing - person injured
2. CAUCI2 Catastrophe - knowingly caused - injury to persons
3. PSWEPG Possession of dangerous weapon with intent to assault another.
4. RIOT39 Riot resulting in injury or substantial property damage or arson or armed with a deadly weapon.
5. SBTGE8 Sabotage
6. WEAPEH Exhibiting a dangerous weapon in any angry manner in presence of two or more persons. (Knife or Gun)
7. WEAPUH Using a dangerous weapon in any fight or quarrel. (Knife or Gun)

BURGLARY

1. AGBUA1 Aggravated Burglary - causes physical injury to non-participant or threatens the immediate use of a dangerous or deadly weapon.

2. AGBUB3 Aggravated Burglary - armed with a gun or knife or possesses or attempts to use any explosive.
3. BURG25 Burglary - where burglary involved entry into a habitable dwelling.

CONSPIRACIES

1. CNSPAA Conspire to commit 3rd Degree Felony against a person.
2. CNSP11 Conspire to commit Capital Felony. No overt act required.
3. CNSP22 Conspire to commit 1st Degree Felony against person.
4. CNSP33 Conspire to commit 2nd Degree Felony against person.

DESTRUCTION OF PROPERTY - ARSON - RECKLESS/BURNING (FIRESETTING)

1. ARSN2D Arson - value exceeds \$1,000.  
ARNS16 Arson - value exceeds \$5,000.
2. ARSON5 Aggravated Arson - damages a habitable structure or vehicle when any person not a participant is in the same.
3. RKLBAA Reckless Burning - endangers human life, or having started a fire and knowing it is spreading and will endanger human life fails to take reasonable measures to put it out or control it or to give a prompt alarm.

DIRECT HOLDS - DETENTION

- . CTYCMZ Circuit or J.P. Court Commitment. Child may be held if detention is authorized by guidelines.
- . CTYWRZ Circuit or J.P. Judge Warrant. Child may be held for detention if detention is authorized by guidelines.

DRUGS (SALE OF)

- . NRCSAG Distribution of narcotic drug for value.  
NRCSB9  
NRCSL7

EXTORTION - ROBBERY

- 1. EXTRA3 Extortion - threatens physical harm - value of property extorted is more than \$250 to \$1,000.
- 2. EXTRTA Extortion - threatens physical harm - value of property extorted is from more than \$100 to \$250.
- 3. EXTR42 Extortion - threatens physical harm - value over \$1,000.
- 4. RBERY1 Aggravated Robbery - 1st Degree Felony.
- 5. ROBER2 Robbery - Federal Offense Bank Robbery.

HOMICIDES

- 1. AUTOH3 Automobile Homicide
- 2. MNSLT2 Manslaughter
- 3. MRDR10 Murder - First Degree
- 4. MRDR21 Murder - Second Degree
- 5. MYHEM2 Mayhem

JUVENILE

- 1. PCKUP2 Pickup Order, child may be held if authorized by guidelines.
- 2. ALIENJ Non-resident Alien - Hold for Immigration Service. If not charged with a criminal offense, place on a direct hold. Otherwise, include on Detention Docket.

KIDNAP - TERRORISTIC THREATS

- 1. AGKD10 Aggravated Kidnaping - victim not released.
- 2. AGDO21 Aggravated Kidnaping - victim released.
- 3. DTAINB Unlawful Detention
- 4. KDNAP2 Kidnaping
- 5. KDNCD1 Child kidnaping - victim under 14 years

OBSTRUCTING (JUSTICE) GOVERNMENTAL OPERATIONS

1. AWOL-H Absent Without Official Leave from the Military.
2. ESCAW7 Aiding in an escape from official custody by providing a deadly weapon which may facilitate such escape.
3. ESCP18 Escape from correctional facility by use of force, threat or deadly weapon.
4. FLGHTG Interstate Flight to Avoid Prosecution.
5. OBJSC8 Obstructing Justice where a capital offense or felony of first degree has been committed.

TRAFFIC

1. HR1P1M Leave Accident Scene - personal injury.
2. HR4FD6 Fleeing a Police Officer causing damage to police property or substantial damage to property of another.
3. HR4F13 Fleeing a Police Officer causing bodily injury to another.
4. HR4FS9 Fleeing a Police Officer - 90 MPH or over or while doing so leaves the state of Utah.

SEX OFFENSES

1. AGEXP8 Aggravated Exploitation of Prostitution
2. AGSXA1 Aggravated Sexual Assault
3. RAPCD1 Rape of person under 14 years.
4. RAPE21 Rape of a person 14 years or over.
5. SDMY11 Sodomy upon a child - victim under 14.
5. SDMY21 Forcible Sodomy - victim 14 years or over.
7. SXABS2 Forcible Sexual Abuse - victim 14 or over.
3. RAPOB1 Object rape - victim 14 years or over.
3. RAPOC1 Object rape upon a child under 14 years of age.



- 10. AGSAC1 Aggravated sexual abuse upon a child under 14 years of age.
- 11. SXABC2 Sexual abuse upon a child under 14 years of age.

APPENDIX C

A JUVENILE MAY BE DETAINED IF CURRENTLY ALLEGED TO HAVE COMMITTED AN OFFENSE ON THIS LIST AND THE JUVENILE HAS THREE OR MORE ADJUDICATIONS WITHIN THE PAST YEAR FOR OFFENSES LISTED IN EITHER APPENDIX B OR THIS LIST.

HOMICIDE

1. NGHOMA Negligent homicide

TRAFFIC

1. DI1UIM DUI - Alcohol  
DI2MEM DUI - Other Drugs

SEX OFFENSES

1. EXPRS9 Exploiting Prostitution
2. PRSTU9 Interstate Transportation of Prostitute