



Jl-IN-001-002

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

JOHN DOE, et al.,
Plaintiffs,
- VS -
THE COUNTY OF LAKE, et al.,
Defendants.

CIVIL NO. H 74-49

FILED

OCT 25 1977

CONSENT JUDGMENT

At _____ M
FRANCIS T. GRANDYS, CLERK
U. S. DISTRICT COURT

The parties, excluding the city defendants covered by the Consent Decree approved by the court on May 19, 1977, by counsel hereby agree to, and submit to the court for entry, the following judgment resolving all issues in this case, with the exception of plaintiffs' attorney fees.

I. INTRODUCTION

Plaintiffs filed the Complaint herein on February 20, 1974, and an Amended Complaint on August 2, 1974, seeking declaratory and injunctive relief and damages based on the following contentions:

A. Against the City of Gary and individual city officials:

1. Denial of due process in violation of the fourteenth amendment to the United States Constitution in that they were confined to the Gary City Jail without notice of charges against them, without being advised of their right to an attorney, and their right to consult with a parent or guardian before being questioned, and without any judicial determination as to the legality of their detention.

2. Denial of their right to treatment in violation of the fourteenth amendment to the United States Constitution in that they were denied medical treatment, psychological services, recreation, and education while confined at the Gary City Jail.

3. Denial of their right under I.C. 1971, 31-5-7-1, at the Gary City Jail, in that they were not provided with custody, care, and discipline as nearly as possible equivalent to that which they should have been given by their own parents.

4. Denial of their rights under I.C. 31-5-7-23, in that they were held in the Gary City Jail without any determination that their habits constituted a threat to other persons.

B. Against the County of Lake and individual County officials:

1. Denial of due process in violation of the fourteenth amendment to the United States Constitution in that they were confined to the Lake County Detention Home without notice of charges against them, without being advised of their right to an attorney and without any judicial determination as to the legality of their detention.

2. Denial of due process in violation of the fourteenth amendment to the United States Constitution, in that they were subjected to punishment, including solitary confinement and food deprivation, at the Lake County Detention Home without notice and a hearing.

3. Denial of equal protection in violation of the fourteenth amendment to the United States Constitution in that juveniles with non-Anglo-American backgrounds were treated more harshly than those of Anglo-American backgrounds.

4. Denial of equal protection in violation of the fourteenth amendment to the United States Constitution and freedom of expression in violation of the first and fourteenth amendments to the United States Constitution in that their heads were shaved while at the Lake County Detention Home.

5. Denial of equal protection in violation of the fourteenth amendment to the United States Constitution and freedom of speech in violation of the first and fourteenth amendments to the United States Constitution in that they were prevented from speaking the language of their choice in the Lake County Detention Home.

6. Denial of freedom of religion in violation of the establishment and free exercise clauses of the first amendment to the United States Constitution in that they were prevented from worshipping or not worshipping in accord with their own consciences and were forced to be involved with mandatory religious activities.

7. Denial of their rights under the sixth amendment to the United States Constitution in that they were denied free access to counsel while at the Lake County Detention Home.

8. Denial of the protection of the eighth and fourteenth amendments to the United States Constitution at the Lake County Detention Home in that they were denied medical care, psychological services and education and were subjected to cruel and unusual punishment by being confined in isolation, by being kept inaccessible to their parents or guardians for extended periods of time, by having their mail read and censored, by having their heads shaved, by being deprived of meals, by being deprived of all personal possessions, by the arbitrary control of their recreation, and by being subjected to supervision and discipline by staff with inadequate training.

9. Denial of their rights under I.C. 1971, 31-5-7-1, at the Lake County Detention Home in that they were not provided with custody, care, and discipline as nearly as possible equivalent to that which should have been given by their own parents.

10. Denial of their rights under I.C. 31-5-7-23, in that they were held in the Lake County Detention Home without any determination that their habits constituted a threat to other persons.

II. FINDINGS OF FACT

Based on the agreement of the parties, the court hereby makes the following findings of fact:

- A. Defendant County of Lake has the statutory obligation to provide sufficient funds for the operation of the Juvenile Court System in Lake County.
- B. Defendant Joseph Meszar is the Judge of the Juvenile Division of the Lake Superior Court [hereafter Juvenile Court] and is charged by statute with the responsibility for both the administrative and judicial functions of the Juvenile Court. Defendant Judge Meszar is also charged by statute with administration of the Lake County Juvenile Detention Home and, by his appointment of defendants Michael Kampo, Superintendent, and Emily Slepcevich, Assistant Superintendent, with the supervision of juveniles within the Home.
- C. Defendant Board of Commissioners of Lake County and its members, Stanley Olszewski, Atterson Spann and Martin Behnke are legally responsible for maintaining the building and the grounds of the Lake County Detention Home.*
- D. Defendant Lake County Council and its members, Clark A. Metz, Richard J. Blastick, Sydney E. Garner, Gerald J. Mazur, David J. Bradach, Rolland C. Beckham and Frank B. Perry,* are legally responsible for appropriating funds for the Lake County Court system and for the Lake County Detention Home. The County Council and County Auditor, Jose Arredondo, are joined as defendants pursuant to I.C. 1971, 17-1-24-27, which requires such joinder when an action for money judgment is brought against a county and the county council is sued collectively by its legal name.
- E. Defendant Michael Kampo, the Superintendent of the Lake County Detention Home, and defendant Emily Slepcevich, the Assistant Superintendent of the Lake County Detention Home, are charged

* Pursuant to Rule 25(d)(1), F.R.C.P., Atterson Spann has been substituted for J.J. Forszt as a County Commissioner; Clark A. Metz, David J. Bradach and Rolland C. Beckham have been substituted for Joseph Baron, William Bielski and James Mundell as County Council members.

by statute with the responsibility for the Home's administration by reason of appointment of the Juvenile Court Judge.

F. Defendant Andrew Hiduke, the Chief Lake County Probation officer, holds his office by appointment by the Juvenile Court Judge. The Chief Probation officer has charge by statute of the work of the Probation Department which is to carry out the objectives and provisions of the Indiana Juvenile Code.

G. The following conditions, practices and policies prevailed at the time this action was filed on February 20, 1974:

1. Some juveniles were detained in various city jails in Lake County without being provided notice of charges against them, without being advised of their right to an attorney, or their right to consult with a parent or guardian before being questioned, and without any judicial determination as to the necessity of their detention or that their habits constitute a threat to other persons.

2. Some juveniles were detained at the Lake County Juvenile Detention Home without having notice of the charges against them, without being advised of their right to an attorney and without a judicial determination as to the necessity of their detention or that their habits constituted a threat to other persons.

3. Some male juveniles detained at the Lake County Detention Home were subjected to involuntary haircuts.

4. Some juveniles detained at the Lake County Juvenile Detention Home were prohibited from speaking a language other than English.

5. Some juveniles detained at the Lake County Juvenile Detention Home were required to attend certain mandatory religious activities.

6. Both the outgoing and incoming mail of some juveniles detained at the Lake County Juvenile Detention Home was read and censored by officials at the Home.

7. Some juveniles detained at the Lake County Juvenile Detention Home were subjected to discipline without a hearing, and the discipline included confinement to isolation rooms for extended periods of time, inaccessibility to parents and guardians for extended periods of time, and deprivation of full meals.

8. Some juveniles detained at the Lake County Juvenile Detention Home were not provided appropriate education opportunities, medical and psychological treatment, and programs appropriate for such a short-term detention home.

9. The staff at the Lake County Juvenile Detention Home in charge of the supervision and discipline of the juveniles detained there was only partially integrated on the basis of race and culture and some staff had no particular training, education, or prior experience in dealing with institutionalized children.

III. CONCLUSIONS OF LAW

- A. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 and 1343(3) and (4).
- B. Plaintiffs' action for declaratory and injunctive relief and damages is authorized by 42 U.S.C. § 1983, the United States Constitution, 28 U.S.C. §§ 2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure.
- C. This is a proper class action brought under Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, and was so certified by this Court on July 19, 1974. The class consists of all juveniles who have been, are currently being, or will in the future be held in the Gary City Jail without charges being filed, and/or who have been, are being, or will be held in the Lake County Juvenile Detention Home, and while in that Detention Home, be subjected to any or all of the illegal and unconstitutional practices alleged in the Complaint.
- D. The conditions, practices and policies outlined in § G of § II above are hereby declared to be in violation of the

plaintiffs' rights under the first, sixth, eighth, and fourteenth amendments to the United States Constitution, and the provisions of the Indiana Juvenile Code, Ind. Ann. Stat. § 9-3201, et seq., I.C. 31-5-7-1, et seq. (1971).

IV. ORDER

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

- A. The following defendants: the County of Lake; the Lake County Council; Clark A. Metz, Richard J. Blastick, Sydney E. Garner, Gerald J. Mazur, David J. Bradach, Rolland C. Beckham, and Frank H. Perry, individually and as members of the Lake County Council; Atterson Spann, Stanley Olszewski, and Martin Behnke, individually and as members of the Board of Commissioners of Lake County; Jose Arredondo, individually and as Lake County Auditor; Joseph Meszar, individually and in his capacity as Judge of the Juvenile Division of the Superior Court of Lake County, Michael Kampo, individually and as Superintendent of the Lake County Juvenile Detention Home; Emily Slepcevich, individually and as Assistant Superintendent of the Lake County Juvenile Detention Home; Andrew Hiduke, individually and as Chief Lake County Juvenile Probation Officer; and Kenneth Orze, individually and as Probation Officer of Lake County; their agents, employees and successors in office are hereby enjoined from:

1. Authorizing or in any way participating in the confinement of juveniles in city jails, without notice of charges against them, without being advised of their right to an attorney and their right to consult with a parent or guardian before being questioned, and without any judicial determination as to the legality of their detention or that their habits constitute a threat to other persons.

2. Confining juveniles to the Lake County Juvenile Detention Home or to the Lake County Jail without notice of charges against them, without being advised of their right to an attorney, and

without any judicial determination as to the legality of their detention or that their habits constitute a threat to themselves or other persons.

3. Cutting or shaving the hair of any child without the child's consent.

4. Prohibiting children from speaking a language other than English.

5. Preventing juveniles from worshipping or not worshipping in accordance with their own consciences or forcing them to be involved with mandatory religious activities.

6. Denying juveniles access to legal counsel.

7. Confining a juvenile in his room for more than eight (8) hours without being seen by a psychologist or a probation officer, whose approval is necessary for any further confinement; in all situations where a child is confined, a staff member shall check the child approximately every hour and release him/her as soon as the child no longer poses a threat.

8. Preventing any child from visiting with parents or guardians during regular visiting hours and from consulting with an attorney at any reasonable time.

9. Reading and censoring the mail of juveniles provided, however, that incoming mail can be inspected (in the child's presence) for contraband if there is reason to believe it might contain contraband.

10. Depriving children of full meals as a disciplinary measure.

11. Depriving juveniles of personal possessions as long as such possessions are in no way dangerous to themselves or others, will not interfere with the orderly operation of the Detention Home, and are not of sufficient value to invite theft.

12. Forcing juveniles to participate in recreational activities, particularly when the activities entail a risk of harm (e.g. boxing), provided, however, that juveniles can be encouraged to participate in recreational activities.

13. Denying juveniles the education and medical and psychological treatment and services necessary and appropriate to a short-term detention home.

14. Subjecting juveniles to supervision and discipline by a staff which is not racially and culturally integrated and which generally has no training, education, or previous experience in dealing with children such as those confined in the Detention Home.

15. Subjecting juveniles to inappropriate, harsh and/or unnecessary punishment and controls.

B. In accordance with the injunction in ¶ A above, the County defendants shall:

1. Issue an order, over the signature of defendant Lake County Juvenile Judge Joseph Meszar, concerning the pretrial holding of juveniles (see attached Exhibit "A" which is incorporated as part of this Consent Decree).

2. Within twenty-four (24) hours of their detention, or as soon as possible Monday morning if detained on a weekend, bring every detained juvenile before the court for a detention hearing at which,

- a) counsel for the juvenile shall be present;
- b) counsel will be appointed if the juvenile cannot afford a private attorney;
- c) the juvenile will be informed of the nature of the hearing and of the charges against him, of all his rights, and of the reasons for which he can be detained; and
- d) a determination concerning further detention or release to parents or guardians shall be made by the court.

3. Cease to cut the hair of any juvenile without his consent and refrain from any other form of discrimination against juveniles because of the length or style of their hair.

4. Allow juveniles to speak the language(s) of their choice and refrain from taking any other punitive measures against them because of their nationality.

5. Place absolutely no pressure upon any juvenile to participate in or attend any religious services or activities or to read a Bible or similar religious literature; no Bible or similar religious literature shall be placed in any private room used by a juvenile unless a juvenile requests it.

6. Make every effort to see that juveniles are able to worship according to their individual beliefs.

7. Allow juveniles complete access to counsel by telephone, letter, and personal contact; such contact may not be restricted to the regular visiting hours, but may be at any reasonable time.

8. Allow juveniles to send and receive an unlimited number of letters with no restrictions on who the correspondents may be; such mail may be inspected for contraband, in the presence of the child, but may not be read or censored; stationery and stamps, not to exceed three (3) of each per week, will be provided for those juveniles who cannot otherwise obtain such items because of poverty; letters received after a juvenile has been released from the Detention Home shall be forwarded to him at his/her last known address.

9. Allow juveniles two (2) free phone calls, to a parent, guardian, or other adult responsible for the juvenile, upon entering the Detention Home; juveniles may also make and receive telephone calls to any of the above individuals at times of stress or emergency for themselves or their families.

10. Allow juveniles to visit with parents, relatives, and guardians at least on Tuesday, Thursday and Saturday afternoons and evenings, from two o'clock (2:00) to three o'clock (3:00) p.m. and seven o'clock (7:00) to eight o'clock (8:00) p.m.

11. Encourage juveniles to participate in recreational activities but not force them to do so, particularly when those activities entail some risk of harm, e.g., boxing.

12. Provide juveniles with suitable clothing appropriate to health and weather.

13. Allow juveniles to retain or receive any personal possessions they wish, as long as such possessions are in no way dangerous to themselves or others, will not interfere with the orderly operation of the Detention Home, and are not of sufficient value to invite theft.

14. Post in conspicuous places in the Detention Home a list of all the Detention Home rules and regulations and punishments for infractions, which are worded and written in such a manner that juveniles can clearly understand them.

15. Provide meals at the Detention Home which are nutritious and adequate to meet the juveniles' hunger, and which are in no way-restricted in type or amount for disciplinary purposes.

16. Eliminate isolation or disciplinary confinement except in extreme cases of misbehavior where the juvenile poses an immediate threat to the health or safety of him/herself or others; when such confinement is required it shall conform to the following standards:

- a) it shall be imposed by a staff member only after consultation and agreement with at least one other staff member;
- b) it shall be in the child's regular, private sleeping room;
- c) it shall be continued only so long as the child poses an immediate threat to the health or safety of him/herself or others;

- d) a juvenile in isolation or solitary confinement shall be observed approximately hourly by Detention Home personnel to note his/her physical and emotional status and whether he/she has calmed sufficiently to be released from confinement; if a juvenile seems particularly depressed, he/she shall be visited more frequently; a member of the Detention Home staff shall always be within calling distance of juveniles so confined and shall respond within several minutes of being called;
- e) while in isolation or solitary confinement, a juvenile may wear regular Detention Home clothing and shall be provided with books, writing materials (at the discretion of the staff) and other such non-dangerous items as he/she requests, with which to pass the time in confinement; confined juveniles shall also be allowed to visit with parents, relatives, guardians and attorneys as often as other juveniles in the Detention Home;
- f) no such confinement shall exceed eight (8) hours without the child being seen by the psychologist or probation officer, whose approval is required for further confinement;
- g) all periods of confinement, with the reasons therefor, shall be recorded in writing on the child's record with an indication of the length of time confined, the staff member initiating it, and any involvement by the psychologist or probation officer.

17. Submit rules and regulations governing the conduct of children in the Detention Home (see attached Exhibit "B"), making

such rules and regulations reasonably available to all children; and rules and regulations governing the conduct of group leaders (see attached Exhibit "C").

18. Give counsel for the plaintiffs or their delegate regular access to all records necessary to monitor compliance with this judgment.

19. Through consultation with an education specialist, develop an education program suitable to meet the needs of children confined in the Detention Home.

20. Make available the funds in an amount sufficient to attract competent persons and make every reasonable effort to employ no later than June 1, 1978, the following staff members who shall be employed sufficient hours to maintain the following ratios of staff members to juveniles, based upon the detention home's average juvenile population for the past year and the coming year's projected average juvenile population:

- a) one (1) full time psychologist with a Ph.D. degree, whose duties shall include a complete evaluation of each child upon admission to the detention home and the development and implementation of a staff training program, for each forty-four (44) children detained in the detention home. At no time, however, shall the number of psychologists employed decrease below one (1) full-time psychologist;
- b) one (1) full time licensed teacher, preferably with special training in remedial education or the education of handicapped children, for each twenty-five (25) children detained in the detention home. At no time, however, shall the number of hours on duty of the teachers decrease below that necessary to provide each juvenile at the detention home at least two (2) hours of education per day;
- c) one (1) group leader, preferably with a B.A. degree in psychology, social work, sociology or education, for each two (2) children detained in the detention home. At no time, however, shall the number of group leaders decrease below that number necessary to

adequately supervise the juveniles detained on a twenty-four (24) hour per day basis;

- d) one (1) full time registered nurse for each eighty-eight (88) juveniles detained in the detention home whose duties shall include:
- 1) a physical examination of each child upon admission;
 - 2) conducting a daily sick call during which (s)he shall examine each juvenile who has medical complaints and talk with each juvenile who requests consultation or advice regarding medical problems;
 - 3) making arrangements for each juvenile who requires further medical attention to see a physician or, in the event of an emergency dental need, a dentist as soon as necessary and/or, if appropriate, to be admitted to a hospital;
 - 4) seeing that parents or guardians are informed of the medical conditions and needs of juveniles examined;
 - 5) supervising the administration of all medication and drugs required by juveniles;
 - 6) maintaining individual records on all juveniles seen or examined; the records shall contain the date of examination or consultation, medical observations, recommendations, and action taken to follow-up on such recommendations;
- At no time, however, shall the number of hours on duty of the registered nurse at the detention home decrease below that number required to maintain daily admission evaluations and daily sick calls for the children admitted and detained;
- e) one (1) intake supervisor with a B.A. degree, preferably in psychology, social work, sociology or education, whose duties shall include the screening of children brought to the detention home and making preliminary decisions on whether or not they shall be detained,

for each twenty-two (22) children detained in the detention home. At no time, however, shall the number of hours on duty of the intake supervisors at the detention home decrease below that number required to maintain daily screenings and preliminary detention decisions for the children admitted. At the discretion of the superintendent and the Lake County Juvenile Judge, one or more of the intake supervisors may be detached duty probation officers.

21. Make available sufficient funds for the positions of Superintendent and Assistant Superintendent of the Detention Home to make possible, at the next vacancy, the hiring of a Superintendent with at least a M.A. degree in psychology, social work, sociology or education, and an Assistant Superintendent with at least a B.A. degree in psychology, social work, sociology or education.

22. Make available sufficient funds for the purchase of such testing, educational and recreational supplies and equipment deemed necessary by the superintendent, psychologist(s) and teachers.

23. In the future, hire Detention Home staff with a goal of making the staff racially and culturally proportionate to the general racial and cultural make-up of the children detained there.

24. In the future, hire Detention Home staff with the educational backgrounds set out in §§ 20 and 21 above.

25. Allow a twice per year inspection by any qualified individual or agency to be mutually agreed upon by the parties, and/or by counsel for the plaintiffs or their delegate, in regard to the matters covered by this judgment.

C. Named minor plaintiffs are awarded damages in the amount of Seven-hundred Fifty Dollars (\$750.00) each and plaintiffs are awarded costs in the amount of Five-hundred Dollars (\$500.00); a judgment is hereby entered against the defendants in their official and representative capacities, and

not in their individual capacities, in the amount of Thirty-five Hundred Dollars (\$3,500.00), the amount of damages and costs awarded above. The judgment insofar as it relates to defendant Judge Meszar is confined to the injunctive relief provided for.

- D. The matter of plaintiffs' attorney fees will be submitted to the court for decision.
- E. The court shall retain jurisdiction over this matter for the purpose of securing final implementation of the provisions above.

Allen Aldrich

JUDGE - U.S. DISTRICT COURT

ENTERED: October 25, 1977

APPROVED:

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