

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

FILED
2010 DEC 03 11:17
FBI

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 LAKE COUNTY, INDIANA;)
)
 ROGELIO "ROY" DOMINGUEZ, LAKE)
)
 COUNTY SHERIFF, in his official capacity only;)
)
 FRANCES DUPEY, President, Lake County)
)
 Board of Commissioners, in her official capacity)
)
 only; THOMAS C. O'DONNELL, President,)
)
 Lake County Council, in his official capacity only;)
)
 LAKE COUNTY BOARD OF)
)
 COMMISSIONERS, in their official capacity)
)
 only; LAKE COUNTY COUNCIL, in their)
)
 official capacity only,)
)
 Defendants.)
)
 _____)

CIVIL ACTION NO:
2 10 CV - 476

COMPLAINT FOR VIOLATIONS
OF THE CIVIL RIGHTS OF
INSTITUTIONALIZED PERSONS ACT

42 U.S.C. §§ 1997-1997j

COMPLAINT

PLAINTIFF, THE UNITED STATES OF AMERICA ("Plaintiff"), by its undersigned attorneys, hereby alleges upon information and belief:

1. The Attorney General files this Complaint on behalf of the United States of America pursuant to the Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. § 1997, to enjoin the named Defendants from depriving persons incarcerated at the Lake County Jail ("LCJ") in Crown Point, Indiana, of rights, privileges, or immunities secured and protected by the Constitution of the United States.

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JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. § 1345.
3. The United States is authorized to initiate this action pursuant to 42 U.S.C. § 1997a.
4. The Attorney General has certified that all pre-filing requirements specified in 42 U.S.C. § 1997b have been met. The Certificate of the Attorney General is appended to this Complaint as Attachment A and is incorporated herein.
5. Venue in the United States District Court for the Northern District of Indiana is proper pursuant to 28 U.S.C. § 1391.

PARTIES

6. Plaintiff is the United States of America.
7. Defendant LAKE COUNTY (the "County") is a governmental subdivision created under the laws of the State of Indiana and governed by the Defendants LAKE COUNTY BOARD OF COMMISSIONERS and LAKE COUNTY COUNCIL. Defendant LAKE COUNTY through Defendant LAKE COUNTY BOARD OF COMMISSIONERS has the responsibility to maintain LCJ. Defendant LAKE COUNTY through Defendant LAKE COUNTY COUNCIL has responsibility for funding the operations of LCJ.
8. Defendant LAKE COUNTY BOARD OF COMMISSIONERS functions as the county executive and is responsible for supervising the care and custody of all Lake County property. The Lake County Board of Commissioners is sued in their official capacity.
9. Defendant LAKE COUNTY COUNCIL functions as the County's legislative body as well as its fiscal body. The Lake County Council is sued in their official capacity.
10. Defendant FRANCES DUPEY is the President of the Lake County Board of Commissioners. Frances DuPey is sued in her official capacity.

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11. Defendant THOMAS C. O'DONNELL is the President of the Lake County Council.
Thomas C. O'Donnell is sued in his official capacity.
12. Defendant ROGELIO "ROY" DOMINGUEZ, is the Lake County Sheriff, an independently-elected constitutional officer not under the authority of the County Board of Commissioners or the County Council. IN. Const. Art. VI, § 2(a). Defendant Rogelio "Roy" Dominguez has responsibility for the operations of LCJ and to protect the safety of inmates. Sheriff Dominguez is sued in his official capacity.
13. Defendants LAKE COUNTY and Sheriff DOMINGUEZ are together responsible for the conditions of confinement and health and safety of persons incarcerated at LCJ.
14. Defendants are legally responsible, in whole or in part, for the operation and conditions of LCJ, and for the health and safety of persons incarcerated there. Defendant County owns LCJ; Defendant County Board of Commissioners is responsible for maintaining LCJ; Defendant Sheriff is responsible for the operations of LCJ, and Defendant County Council is responsible for funding the operations and maintenance of LCJ. This action concerns the administration of persons confined at LCJ, which houses adult male and female inmates who are felons, gross misdemeanants, misdemeanants, pre-trial detainees, juvenile offenders, witnesses, or others being detained in protective custody.
15. At all relevant times, defendants or their predecessors in office have acted or failed to act, as alleged herein, under color of state law.

FACTS

16. LCJ is an institution within the meaning of 42 U.S.C. § 1997(1).
17. Persons confined to LCJ include both pre-trial detainees and sentenced inmates.

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18. Defendants have repeatedly, deliberately, and consistently disregarded known or serious risks of harm to inmates at LCJ.
19. Defendants have repeatedly failed to take reasonable measures to protect inmates against the serious harm from suicide and self harm due to, but not limited to: (1) inadequate suicide prevention measures; (2) lack of appropriate screening by a qualified mental health professional to assess suicide risk; (3) lack of appropriate supervision, observation, and monitoring of inmates identified as at risk of suicide; (4) inadequate communication between correctional health care and correctional staff; (5) the lack of appropriate multi-disciplinary treatment plans; and (6) the lack of appropriate medication administration.
20. Defendants have repeatedly failed to provide adequate mental health services, including psychological and psychiatric services, to inmates with serious psychiatric needs that are known or obvious due to, but not limited to, insufficient and inadequate: (1) staffing; (2) intake and referral processes; (3) sick call process; (4) treatment planning and services; (5) medication management; and (6) quality improvement and quality management programs.
21. Defendants have repeatedly failed to provide adequate medical care to address inmates' serious medical needs and have caused inmate harm and created an unreasonable risk of harm due to, but not limited to: (1) insufficient medical staffing; (2) inadequate access to medical care; (3) inadequate acute and chronic medical care; (4) inadequate comprehensive health assessments; (5) poor medication administration; (6) inadequate medical records; and (7) lack of a quality improvement system to monitor for and correct inadequate care.

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22. Defendants have pervasively failed to provide adequate fire safety, resulting in risks of grave harm to inmates and staff from smoke, fire, and the serious security concerns that arise during an emergency due to fire.
23. Defendants have pervasively maintained a physical environment at LCJ that causes harm and poses an unreasonable risk of serious harm to inmates' health and safety by failing to correct facility housing and maintenance problems in addition to inadequate housekeeping, laundry and food services that causes harm or poses a risk of harm to the inmates and staff within the facility.
24. The factual allegations set forth in paragraphs 16 through 23 have been obvious and known to Defendants for a substantial period of time, yet Defendants have deliberately failed to adequately address the conditions described.

VIOLATIONS ALLEGED

25. The allegations of Paragraphs 1 through 24 are hereby re-alleged and incorporated by reference.
26. Through the acts and omissions alleged in paragraphs 16 through 24, Defendants have exhibited deliberate indifference to the health and safety of CCH inmates, in violation of the rights, privileges, or immunities of those inmates as secured or protected by the Constitution of the United States. U.S. Const. Amends. VIII and XIV.
27. Unless restrained by this Court, Defendants will continue to engage in the acts and omissions, set forth in paragraphs 16 through 24, that deprive persons confined in LCJ privileges or immunities secured or protected by the Constitution of the United States.

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PRAYER FOR RELIEF

28. The Attorney General is authorized under 42 U.S.C. § 1997 to seek equitable and declaratory relief.

29. WHEREFORE, the United States prays that this Court enter an order:

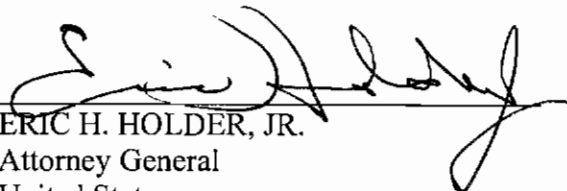
a. declaring that the acts, omissions, and practices of Defendants set forth in paragraphs 16 through 24 above constitute a pattern or practice of conduct that deprives inmates confined at LCJ of rights, privileges, or immunities secured or protected by the Constitution of the United States and that those acts, omissions, and practices violate the Constitution of the United States;

b. permanently enjoining Defendants, their officers, agents, employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the acts, omissions, and practices set forth in paragraphs 16 through 24 above and requiring Defendants to take such actions as will ensure lawful conditions of confinement are afforded to inmates at LCJ; and

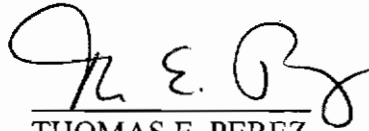
c. granting such other and further equitable relief as it may deem just and proper.

Respectfully submitted,

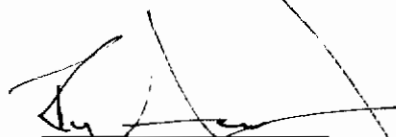
FOR THE UNITED STATES:


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CERTIFICATE OF THE ATTORNEY GENERAL

I, Eric H. Holder, Jr., Attorney General of the United States, certify that with regard to the foregoing Complaint, United States v. Lake County, Indiana, I have complied with all subsections of 42 U.S.C. § 1997b(a)(1). I certify as well that I have complied with all subsections of 42 U.S.C. § 1997b(a)(2). I further certify, pursuant to 42 U.S.C. § 1997b(a)(3), my belief that this action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution.

In addition, I certify that I have the "reasonable cause to believe," set forth in 42 U.S.C. § 1997a, to initiate this action, and that all prerequisites to the initiation of this suit under 42 U.S.C. §§ 1997a and 1997b have been met.

Pursuant to 42 U.S.C. § 1997a(c), I have personally signed the foregoing Complaint. Pursuant to 42 U.S.C. § 1997b(b), I am personally signing this Certificate.

Signed this 23rd day of November, 2010, at Washington, D.C.


ERIC H. HOLDER, Jr.
Attorney General of the United States