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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

A. THOMAS HUNT
(formerly KERBY T. ALVY)
Plaintiff

No. C 547 483

~~(PROPOSED)~~
STATEMENT OF DECISION

v.

COUNTY OF LOS ANGELES; SHERMAN
W. BLOCK, in his official capacity
as Sheriff of Los Angeles County;
PETER SCHABARUM, KENNETH HAHN,
EDMUND EDELMAN, DEANE DANA, and
MICHAEL ANTONOVICH, in their
official capacities as members of
the Los Angeles County Board
of Supervisors; EDDY TANAKA, in his
official capacity as Director of
the Los Angeles County Depart-
ment of Public Social Services;
ROBERT CHAFFEE, in his official
capacity as the Director of the
Los Angeles County Department
of Children's Services; and
Does 1 through 50, inclusive,

Defendants.

FILED

JUN 10 1986

FRANK S. ZOLIT, County Clerk

BY C. PENS, DEPUTY

1 This matter was tried commencing April 21, 1986 and con-
2 tinuing through May 1, 1986 on which date this Court announced
3 its oral Tentative Decision. On May 12, 1986, Plaintiff
4 requested that the Court issue a Statement of Decision, pursuant
5 to Code of Civil Procedure Section 632 and Rule 232, California
6 Rules of Court.

7
8 INTRODUCTION AND STATEMENT OF THE CASE

9 This is a taxpayer action filed on May 14, 1985, pursuant to
10 Code of Civil Procedure Section 526a, alleging that the policies
11 and practices of Defendants County of Los Angeles and Sheriff
12 Sherman W. Block in detaining and incarcerating minors (persons
13 under 18 years of age) at the Sheriff's Substation in Lennox,
14 California, violate state law as well as Constitutional due
15 process guarantees.

16 Specifically, Plaintiff alleges the following:

17 1. That the conditions under which minors (all unconvicted
18 and uncharged) are detained and incarcerated at the Lennox
19 facility constitute punishment of such minors in violation of
20 their Constitutional rights to due process of law (First and
21 Second Causes of Action);

22 2. That minors detained and incarcerated at the Jail are
23 allowed to come and remain in contact with adult prisoners in
24 violation of Welfare and Institutions Code Section 208 (Fifth
25 Cause of Action);

26 3. That minors are detained and incarcerated at the Jail
27 without a prior determination by the Juvenile Court that no other
28 proper and adequate facilities exist for the care and detention

1 of such minors, in violation of Welfare and Institutions Code
2 Section 207 (Sixth Cause of Action); and

3 4. That minors who are the victims of abuse and neglect (as
4 described in Welfare and Institutions Code Section 300(a), (b)
5 and (d)) are securely detained at the facility in violation of
6 Welfare and Institutions Code Section 206 (Seventh Cause of
7 Action).^{*}

8 Plaintiff seeks a permanent injunction prohibiting any
9 further alleged statutory and Constitutional violations.

10 The facts presented at trial are, for the most part, uncon-
11 troverted. The Lennox Substation includes a secure short term
12 holding facility operated by the Sheriff. In 1985, the facility
13 incarcerated over 7000 adult prisoners. At the same time, the
14 jail detained a total of 1425 minors ranging in age from several
15 days old to 17 years old. Of this total, 185 were detained
16 pursuant to W & I Code Section 300 (abused and neglected
17 children); the remaining 1240 were minors who had been accused of
18 a crime (W & I Code Section 602). The Section 300 minors were
19 detained at the facility ^{for various periods of time which on occasion might be as} ~~up to~~ six hours, usually in the coffee-
20 room or in one of the offices used by detectives or clerical
21 personnel. ^{The average stay for Section 300 minors was less than two hours.} ~~The Section 602 minors were for the most part booked~~

23 ^{*} The Third and Fourth Causes of Action alleging cruel and
24 unusual punishment were dismissed by stipulation based on
25 the fact that all minors were detained pre-conviction.
26 Defendants members of the Board of Supervisors and Eddy
27 Tanaka, Director of the County Department of Public Social
28 Services, were also dismissed by stipulation.
The Eighth Cause of Action against Robert Chaffee, the
Director of the County Department of Children's Services,
based on allegations that the child welfare statutes had
been violated, was severed and continued. This cause of
action remains.

generally

1 ~~was~~ detained at the facility in the same manner and in the same
2 ~~locations as the adult prisoners.~~ ^{They were booked generally in the same manner as adult prisoners, sometimes when adult prisoners are booked and sometimes otherwise.} After processing, the minors
3 were typically locked in cells 5 or 2 (the "Juvenile Cells" for
4 males and females, respectively, but on occasion were locked in
5 any of the seven jail cells. There are five cells in the west
6 cellblock of the facility for adult and juvenile males and two
7 cells in the east cellblock for adult and juvenile females. At
8 least 1006 of the Section 602 minors were locked in one of the
9 cells. While there was testimony at trial by one male juvenile
10 that he was locked in the same cell with an adult, it is the
11 policy and practice of the facility personnel to keep minors and
12 ^{The juvenile testimony was doubtful in the light of the records of the facility.} adults in separate cells. As many as five minors can be detained
13 together in the same cell. The Section 602 minors are kept in
14 ^{for various periods of time which on occasion can be as much as} the facility ~~for up to~~ 24 hours, although the ~~majority (68%)~~ ^{average stay is less than six hours.} are
15 ~~kept under 8 hours.~~ Approximately 72% of the minors were released
16 directly from the jail back to their parents.

17
18 Alleged Violations of Due Process
19 (The First and Second Causes of Action)

20 The Lennox facility is used for the detention of pre-
21 adjudication minors -- indeed, the minors booked and incarcerated
22 there have been arrested but not yet charged and in many cases
23 will not be charged with a crime.

24 Plaintiff alleges, and it is uncontroverted, that the minors
25 incarcerated at the facility are not provided with any of the
26 following:

- 27 - screened toilets or other privacy;
28 - opportunities for exercise or recreation;

- 1 - reading or writing materials;
2 - showers, ~~soap~~, towel, hot water, or toothbrush.

3 Furthermore, more than one minor is often locked in a cell at a
4 time and minors accused of felonies can be locked in the same
5 cell with minors accused of misdemeanors. Finally, The food
6 served to minors is the same food served to adult prisoners.
7 ~~The Court does not find that~~ ^{generally} ~~Plaintiff argues that incarceration of minors in an adult~~ ^{for the period}
8 ~~of time and~~ ^{of time and} ~~facility and confinement~~ under the conditions which exist at
9 Lennox constitute punishment and thereby violate the minors'
10 rights to due process of law. ~~This Court disagrees.~~ ^{for various periods of time} The minors
11 are kept at the facility, under 24 hours and are typically in
12 cells ^{six} hours or less, are frequently monitored by Sheriff's
13 personnel to assure their welfare, and are otherwise in a
14 suitably safe and clean albeit jail-like environment. Given the
15 totality of circumstances which exist at the Lennox facility,
16 this Court's conscience is not shocked by the conditions of
17 confinement. As such, this Court finds no violation of due
18 process.

19
20
21 Alleged Violations of W & I Code Section 208
(The Fifth Cause of Action)

22 The record is uncontroverted that minors detained at
23 the Lennox station are able to see and hear adult prisoners
24 ~~during virtually every stage of~~ ^{at various times during} processing and confinement.
25 Minors enter the facility through the same entrance as the adult
26 prisoners ~~and are~~ ^{maybe} interviewed, fingerprinted and searched in the
27 same interview rooms and booking areas as ^{are used for} the adult prisoners
28 (males in the west cellblock area, females in the east

room during booking of juveniles. *... or not now will not persons in the same*

Juveniles were generally interviewed, searched and booked in a report writing or briefing room. They were sometimes fingerprinted there and sometimes in the adult booking area (cellblock area). *When fingerprinting of juveniles occurred in the adult booking area, all juveniles were taken past the adult booking area, and were able to look into cells housing adults and are locked into adjacent cells. While in their cells, minors can hear adults in the adjacent cells. In the west cellblock area, male minors locked in a cell are able to look across the hall and see into the adult cell and to signal and converse with adult prisoners therein. In addition, minors are typically fed their meals by adult prisoner trustees, accompanied by a deputy and trustees clean and maintain the entire facility, including the entrance, booking and cellblock areas.*

Section 208(a) of the California Welfare and Institutions Code provides, in relevant part:

When a person under 18 years of age is detained in or sentenced to any institution in which adults are confined, it shall be unlawful to permit such person to come or remain in contact with such adults. (Emphasis added.)

Plaintiff contends that Section 208 prohibits any and all minor-adult prisoner "contact" throughout the entire facility, by sight or sound, no matter how fleeting or transitory and no matter whether a deputy sheriff is present or not.

Defendants contend that Section 208 does not apply to *temporary custody by police officers in a police station* facilities holding minors for less than 24 hours. ~~This contention is based upon Defendants' interpretation of the words "detain" and "institution" as terms of art in the Juvenile Court Law and as encompassing only longer term detention in a facility which houses post adjudication minors. In addition, Defendants contend that Section 208 is not intended to prohibit contact occurring while a deputy sheriff is present, or "supervised"~~

1 contact. Finally Defendants contend that Section 208 prohibits
2 only the incarceration of a minor in the same cell or living area
3 as an adult prisoner and does not prohibit temporary or
4 transitory contact during booking and processing.

5 ~~There are no reported decisions interpreting the meaning or~~
6 ~~scope of Section 208. There is also a paucity of legislative~~
7 ~~history to guide the Court. The only prior interpretation of~~
8 ~~Section 208 of which this Court is aware was in Baumgartner v.~~
9 ~~City of Long Beach, LASC No. 0547582, wherein Judge Warren~~
10 ~~Deering, in granting plaintiff's Motion for a Preliminary~~
11 ~~Injunction, broadly interpreted Section 208 to prohibit all~~
12 ~~contact between adults and minors except for contact which occurs~~
13 ~~while a trustee, under direct deputy supervision, delivers meals~~
14 ~~to the minors. Based on this Court's reading of the statute and~~
15 ~~related statutes and California Administrative Code regulations,~~
16 ~~this~~ *The* Court finds that the Lennox facility is an "institution" as
17 that term is used in Section 208 and that the short-term
18 confinement of Section 602 juveniles under the conditions which
19 exist at Lennox falls within the meaning of the term "detain" as
20 used in the statute. Therefore, the Section 208 does apply to
21 the Lennox facility even though the minors are held pre-
22 adjudication and for less than 24 hours.

23
24 The Court also finds that "to come and remain in contact
25 with" an adult means such an opportunity for association as to
26 permit mutual communication, orally or in writing or by signals
27 or signs, but does not include seeing or hearing an adult
28 prisoner while the juvenile is in the immediate presence and
custody of a deputy sheriff. *who prohibits such communication between the*
Thus, it is unlawful under Section *prisoner*
or adult
prisoner.

1 208 for a minor to be confined in a cell under circumstances
2 which would allow that minor to communicate, verbally or
3 visually, with an adult in a nearby cell and while unsupervised
4 by a deputy sheriff. Conversely, it is not unlawful under
5 Section 208 for a minor to see or hear adult prisoners during the
6 minor's entry into the facility, during the booking process or
7 while being fed ~~by trustees~~ or while trustees are cleaning the
8 facility so long as the minor is, at all times, in the immediate
9 physical presence of a deputy sheriff and so long as ~~no~~ verbal or
10 visual communication ~~can occur~~ ^{is prohibited by the} between the minor and the adult
11 prisoner ^{is prohibited by the deputy sheriff.}

12 Alleged Violations of W & I Code Section 207
13 (Sixth Cause of Action)

14 Section 207(a) of the Welfare and Institutions Code provides
15 in part:

16 No Court, judge, referee or peace officer shall
17 knowingly detain in any jail or lockup any person under
18 the age of 18 years, unless a judge of the juvenile
19 court shall determine that there are no other proper
20 and adequate facilities for the care and detention of
21 such persons. (Emphasis added.)

22 ^{admitted at the trial}
23 Defendants ~~admit~~ that, with regard to the Lennox facility,
24 there had been no determination by the Juvenile Court that no
25 other proper and adequate facilities for the care and detention
26 of minors exist. They argue, however, that the minors are not
27 "detained", as that term is used in the statute. Their rationale
28 is the same as that urged by Defendants in interpreting Section
208 -- that "detained" does not apply to short-term or pre-
adjudication detention.

This Court rejects Defendants' contention and finds that the

1 cages, cells and cellblock areas of the Lennox facility,
2 excluding the booking hallway area, is a "jail or lockup." As
3 such, it is unlawful for minors to be detained in those areas
4 absent a prior determination by the Juvenile Court that no other
5 proper and adequate facilities exist. This Court further finds
6 that such prior determination need not be on an individual or
7 case-by-case basis, but that it may be by category of minors.

8
9 Alleged Violations of W & I Code Section 206
10 (Seventh Cause of Action)

11 Section 206 of the Welfare and Institutions Code prohibits
12 minors falling within the definition of W & I Code Section
13 300(a), (b) and (d) (abused and neglected minors) from being
14 detained in a "secure facility". "Secure facility" is defined as

15 a facility which is designed and operated so as to
16 insure that all entrances to, and exits from, the
17 facility are under the exclusive control of the staff
of the facility, whether or not the person being
detained has freedom of movement within the perimeters
of the facility. . .

18 It was shown at trial that some 185 Section 300 minors
19 ranging in age from infants to adolescents were taken to the
20 Lennox facility in 1985 and detained for up to six hours. The
21 practice was to hold these children in the coffee room or in
22 interview rooms or offices while efforts were made to locate and
23 arrange placements for the children.

24 Plaintiff contends that the coffee room is part of the
25 secure facility. The children detained therein are not free to
26 leave, and the entrance to and exit from the coffee room are
27 under the exclusive control of the staff.

28 Defendants, on the other hand, contend that the coffee room

1 and other rooms in which Section 300 children are held are not a
2 "secure facility" and that the children are simply being held in
3 protective custody pending placement with a relative or Department
4 of Children's Services worker.

5 This Court agrees with Defendants that the coffee room is
6 not a "secure facility". The Section 300 children are detained for
7 brief periods of time only and, given the circumstances of their
8 detention, Defendants do not violate Section 206.

9

10 Permanent Injunction

11 Accordingly, an injunction should issue enjoining defendants
12 County of Los Angeles and Sheriff Sherman W. Block from:

13 1. Confining or detaining any juvenile in the booking
14 cages, cells or cellblock areas, or in any other locked
15 room at the Lennox Substation unless and until a judge
16 of the Juvenile Court makes a prior determination
17 pursuant to Section 207 that no other proper and
18 adequate facilities for such juvenile exist;

19 2. Confining or detaining any juvenile in any cell
20 which is located in a cellblock where any of the cells
21 are reserved or utilized for the incarceration of
22 adult prisoners; and

23 3. Confining or detaining any juvenile in any area
24 of the Lennox facility where the opportunity
25 may exist for such juvenile to communicate orally or in

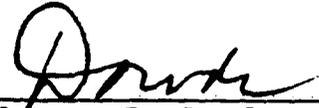
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writing or by signals or signs with an adult prisoner
while such minor is not in the immediate presence and
custody of a deputy sheriff. *who prohibits such
communication*

Dated: *June 10*, 1986
~~May~~



Norman R. Dowds
Judge of the Superior Court