



JI-IN-003-001

FILED  
U.S. DISTRICT COURT  
INDIANAPOLIS DIVISION

90 JAN 16 PM 3:32

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

SOUTHERN DISTRICT  
OF INDIANA  
JOHN A. O'NEAL  
CLERK

W.C. & T.P., individually and )  
on behalf of a class of those )  
similarly situated, )

Plaintiffs, )

v. )

CIVIL ACTION NO.

JAMES AIKEN, in his official )  
capacity as Commissioner of )  
the Indiana Department of )  
Corrections, )

and )

**IP90 040C**

MICHAEL RENIHAN, in his )  
official capacity as Acting )  
Superintendent of the )  
Indiana Boys School, )

Defendants. )

COMPLAINT/CLASS ACTION

INTRODUCTION

1. This is an action by students confined at the Indiana Boys School, brought on their own behalf and on behalf of a class of those similarly situated, challenging the conditions of confinement at the Boys School as being violative of rights secured by the United States Constitution.

JURISDICTION/CAUSE OF ACTION

2. This action is brought pursuant to 28 USC §1331.

3. Plaintiffs bring this action pursuant to 42 USC §1983 to redress the deprivation, under color of State law, of rights secured by the Constitution of the United States.

4. Declaratory relief is authorized by Rule 57 of the Federal Rules of Civil Procedure and 28 USC §2201.

#### PARTIES

5. W.C. and T.P. are students confined at the Indiana Boys School in Plainfield, Indiana.

6. James Aiken is the duly appointed Commissioner of the Indiana Department of Correction which operates, and has authority over, the Indiana Boys School.

7. Michael Renihan is the Acting Superintendent of the Indiana Boys School.

#### CLASS ACTION ALLEGATIONS

8. This action is brought by plaintiffs individually, and on behalf of a class of those similarly situated pursuant to Rule 23(b)(2) of the Federal Rules of Court Procedure.

9. Said class is defined as all youths, past, present and future, who have been, are, or will be confined at the Indiana Boys School.

10. The requirements of Rule 23(a) are met with regard to the class. Specifically:

a. The class is so numerous that joinder of all members is impracticable. At the current time there are

more than five hundred (500) youths confined at the Boys School;

b. There are common questions of law or fact concerning the class; specifically, whether the current conditions of confinement at the Boys School violate the constitutional rights of the youths confined there;

c. Plaintiffs are adequate representatives of the class;

d. Plaintiffs are typical representatives of the class.

11. The further requirements of Rule 23(b)(2) are met in this cause in that defendants have acted and have refused to act in ways applicable to the class as a whole, thereby justifying final injunctive and declaratory relief.

#### FACTUAL ALLEGATIONS

12. The Indiana Boys School is a State correctional institution for boys operated by the Indiana Department of Correction.

13. Boys are placed in the Boys School only after adjudications of delinquency by Indiana courts having juvenile jurisdiction. Said Courts will commit the child to the Indiana Department of Correction which will, in turn, make the assignment to the Boys School.

14. Pursuant to Indiana law, the child's commitment to Boys School is until he is twenty-one (21) years of age, with

discretion in the Department of Correction to release the child prior to that time, if the release is deemed to be appropriate.

15. The Department of Correction has rated the current capacity of the Boys School as being two hundred fifty-five (255) boys. However, there are currently more than five hundred (500) youths confined at the Boys School and a steady increase in these numbers are projected.

16. The youths at the Boys School are confined in residential units called Cottages. Many of these Cottages are housed in buildings built in the 1930s. Some of these cottages were designed to house only thirty-five (35) youths, but now house between fifty (50) to sixty (60) youths.

17. As a result, the Cottages are extremely overcrowded. This has led to boys being forced to sleep on beds jammed next to one another and has led to increased highly inappropriate behavior.

18. The overcrowding in the Cottages has led to the inappropriate placement of youths in the Boys School's maximum security unit as a way of attempting to alleviate overcrowding.

19. The severe overcrowding at the Boys School has taxed institutional resources and has led to inadequate staffing at all levels at the School.

20. The number of correctional staff is extremely low. During early evening and night hours only one (1) correctional staff person may supervise each Cottage. This means that only one (1) officer supervises fifty (50) youths. Due to the physical layout of the Cottages, this results in the officer not being able

to see all parts of the Cottage. This supervisory inattention often leads to violence between the youths.

21. A Governor's Task Force has recently issued a report on Indiana's Juvenile Institutions, including the Boys School. On the subject of correctional officer shortages, the Task Force's Report concerning the Boys School states that:

It is not unusual to have one (1) officer supervising fifty (50) to sixty (60) boys. On a Sunday afternoon, one (1) Indiana Boys School officer was found to be supervising fifty (50) boys with visitors, a total of one hundred fifty (150) to two hundred (200) persons. It is an impossibility to control the passing of contraband under such circumstances.

22. Despite the fact that the Boys School draws youths from all over the State of Indiana, the overcrowding and concomitant lack of correctional offices has led to very limited visitation periods. Visitation is permitted for only three (3) hours on each Saturday and Sunday afternoon.

23. The overcrowding has also led to a severe shortage of counselors whose jobs are to deal with the youths on a day-to-day basis, handle correspondence with committing courts, work on community placements, etc. Correctional standards dictate that there should be one (1) counselor for every twenty-five (25) youths. However, most counselors handle between forty (40) to sixty (60) youths. This results in the needs of the individual youth not being met.

24. The overcrowding has exacerbated an already

deficient health delivery system at the Boys School. There is no medical doctor at the Boys School, although a contract physician is on call. There is not a nurse at the School at all times. On weekends, if the nurse is not present, ill youths must be confined in the maximum security unit.

25. The staff at the Boys School has estimated that it is short three (3) nursing staff persons.

26. The infirmary at the Boys School is ill equipped to handle the medical needs of the institution.

27. The Governor's Task Force, on the issue of medical services, found that:

The improvement of health care delivery services in juvenile institutions centers on the need to expand these services to provide twenty-four (24) hour a day, seven (7) days a week medical services personnel availability. This availability does not exist in any of the juvenile institutions.

The Task Force has found that the physical space for the delivery of health care services is inadequate at . . . the Indiana Boys School.

28. The medical needs of the youths at the Boys School are therefore being neglected.

29. At least forty-seven percent (47%) of the youths at the Boys School have received outpatient mental health services prior to their incarceration, and at least twenty-five percent (25%) have had psychiatric hospitalization.

30. The staff at the Boys School have estimated that fifteen percent (15%) of the youths there have need of a specialized program for the mentally ill.

31. No such program exists at the Boys School because of staffing deficiencies.

32. In this regard, the Governor's Task Force noted that

[a]s a result, mentally ill students at the Indiana Boys School . . . are often housed in the same areas as are those with disciplinary problems. Staff and facilities are not adequate to meet these student's special needs when this occurs.

33. Nor are there adequate mental health services for the youths in general at the Boys School. A psychiatrist is available on a part-time contract basis. The bulk of the psychiatric work is done by psychologists and social workers.

34. Because of other duties (testing and evaluating) the time that the psychology staff has to devote to ongoing therapy is limited.

35. Because of staff shortages and overpopulation, the psychology staff has a long waiting list of students who requested treatment. This list does not include students who are perceived by the staff as needing treatment, but also refuse it.

36. Because of staff shortages and overpopulation, the psychology staff is forced to place more persons in group therapy groups than is therapeutically recommended and desirable.

37. The overwhelming majority of youths at the Boys School have a substance abuse problem. In fact, eighty percent (80%) of the youths were under the influence of drugs or alcohol when they were committed.

38. Despite this, there are insufficient staff at the Boys School to handle the substance abuse treatment needs of the youths. The staff at the Boys School have estimated that the substance abuse staff are able to serve only twenty percent (20%) of the students referred.

39. Youths confined to the Boys School are educated there in a self-contained school.

40. Although eighteen percent (18%) of all youths at the School have been classified, for educational purposes, as having a mild to severe mental handicap, and eleven percent (11%) have been classified as learning disabled, no special education is being provided at the School.

41. Due to overcrowding, inadequate staff and inadequate space, vocational education at the Boys School is grossly insufficient to meet either the need or demand. Vocational classes are now closed and more than fifty (50) youths are assigned to maintenance, as a substitute for vocational training. These youths often have nothing to do.

42. There is a shortage at the Boys School of industrial arts, vocational and academic teachers.

43. In this regard, the Governor's Task Force stated that:



The educational program at the Indiana Boys School appears to be in critical need of attention. The Task Force has been presented with evidence that:

1. Indiana Boys School may not be in compliance with Public Law 94-142 which essentially says that special needs students are to be educated in the least restrictive environment of their special need, and Rule S-1 of the Indiana State Board of Education which cites the general provisions for Special Education in Indiana schools;

2. Academic, industrial technology and remedial programs offered to (sic) not appear to meet the needs of some students;

3. Some student placements within the school do not appear appropriate.

44. Food for the Boys School is prepared at the nearby Indiana Youth Center and transported to the Boys School for distribution.

45. Because of overcrowding, the youths at the Boys School are forced to eat in three (3) shifts. Even though the population is split in this manner, the dining areas during meal time are crowded and extremely noisy.

46. Because of the overcrowding, recreational time has been curtailed.

47. Because of the overcrowding, many of the youths at the Boys School do not receive adequate programming.

48. Plaintiff W.C. has been at the Boys School for more than three (3) months. He is sixteen (16).

49. He is currently confined to a residential cottage at the Boys School that has more than fifty (50) youths in it

50. In the evening and nighttime hours there is only one (1) correctional officer supervising all the boys in the cottage. As a result there are frequent confrontations between the youths in the cottage.

51. Because of the severe overcrowding in the cottage, the daily conditions of W.C.'s life are adversely affected. He is forced to share a locker so he has no place for his personal possessions. He is forced to sleep in a bunk bed which is jammed up next to other bunk beds so that there is little, if any, room between the beds. He has very little time to shower.

52. On one (1) occasion W.C. became ill on a Friday. There was no sick call until the next Monday since there was no nurse present at the institution.

53. Because of the overcrowding, mealtimes are rushed, crowded and noisy.

54. Plaintiff T.P. has been at the Boys School since August of 1989. He is seventeen (17).

55. He is currently confined to a residential cottage that has more than fifty (50) boys in it. At times, the cottage has been so crowded that boys have had to be shifted to other cottages at nighttime.

56. In the evening and nighttime hours there is only one (1) correctional officer watching the youths. As a result of this inattention there are physical confrontations between the

youths in the cottage two (2) to three (3) times a week.

57. T.P. must take his shower in three (3) minutes, and is afforded very little privacy.

58. T.P. has been to see the nurse on a number of occasions. On one (1) occasion he was prescribed over-the-counter medication which was not delivered to him for a week. He has become ill on weekends and has had to wait until Monday since no nursing staff is present on the weekend.

59. Because of the severe overcrowding, T.P. is able to see his counselor only once every two (2) weeks.

60. T.P. is involved in a GED class in the afternoon but spends most of his day working with the maintenance staff doing odd jobs around the Boys School.

61. The actions and inactions of the defendants are causing plaintiffs, and the class irreparable harm to which there is no adequate remedy at law.

62. The actions and inactions of the defendants have been taken under color of federal law.

#### CLAIMS FOR RELIEF

63. The overpopulation at the Indiana Boys School has affected all aspects of institutional life to the extent that the plaintiffs' and class' rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution have been violated.


64. The conditions at the Indiana Boys School violate

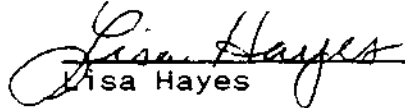
the plaintiffs' and class' rights to treatment as secured by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.


PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that this Court:

1. Accept jurisdiction over this cause and set it for a prompt hearing;
2. Certify this cause as a class action pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure with the class defined as specified above;
3. Enter a declaratory injunction declaring that the actions and inactions of the defendants have violated the rights of the plaintiffs and the class as specified in paragraphs 64-65 above;
4. Enter a preliminary injunction, later to be made permanent, enjoining defendants to:
  - a. Operate the Indiana Boys School in a constitutional manner and to take all steps necessary to effectuate this;
  - b. Reduce the population of the Indiana Boys School to two hundred fifty-five (255);
5. Award plaintiffs their costs and attorneys' fees pursuant to 42 USC §1988.
6. Award all other proper relief.

  
Kenneth J. Falk

  
Lisa Hayes

  
Grace Jubinsky

Legal Services Organization of  
Indiana, Inc.  
107 North Pennsylvania Street  
Suite 300  
Indianapolis, Indiana 46204  
639-4151

ATTORNEYS FOR PLAINTIFFS