

U.S. DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

FILED DEC 07 1998

RICHARD T. MARTIN
CLERK

HAYES WILLIAMS, ET AL

Plaintiffs

v.

JOHN J. MCKEITHEN, ET AL

Defendants

IN RE: JUVENILE FACILITIES

IN RE: TALLULAH CORRECTIONAL
FOR YOUTH

IN RE: JETSON CORRECTIONAL CENTER
FOR YOUTH

IN RE: SWANSON CORRECTIONAL CENTER
FOR YOUTH

IN RE: LOUISIANA TRAINING INSTITUTE
-BRIDGE CITY

BRIAN B., ET AL

Plaintiffs

v.

RICHARD STALDER, ET AL

Defendants

THE UNITED STATES OF AMERICA

Plaintiffs

v.

THE STATE OF LOUISIANA, ET AL.

Defendants

Civil Action No. 71-98-B

Civil Action No. 97-0001-B-1

Civil Action No. 97-0665-B-1

Civil Action No. 97-0666-B-1

Civil Action No. 97-0667-B-1

Civil Action No. 97-0668-B-1

Civil Action No. 98-886-B-1

Civil Action No. 98-947-B-1



CONTENTIONS OF PLAINTIFFS IN WILLIAMS V. McKEITHEN

NOW COMES Plaintiff class in Williams who respectfully sets forth the contentions of plaintiffs as follows:

Plaintiffs in *Williams* adopts the contentions of the United States in the matter entitled *United States v. Louisiana*, Civil Action No. 98-947-B-1 and plaintiffs in *Brian B.*

More expansively, the *Williams* plaintiffs contend that the population caps and staffing ratios previously ordered by the Court in *Williams* are no longer sufficient to effectively maintain TCCY in a constitutional manner and in a manner consistent with Federal law and regulations. Plaintiffs in *Williams* contend that the broad areas of violations include:

1. Protection from harm

- a. TCCY fails to adequately address acts of violence against juveniles
 - i. Numerous youths require medical care for traumatic injuries resulting from youth on youth violence.
 - ii. Institutional records will show numerous altercations among youths on a daily or almost daily basis.
 - iii. Sexual assaults occur against youth by other youth on a too frequent basis
- b. TCCY has failed to adequately address staff abuse against youths
- c. Staff turnover, difficulties in hiring, inadequate numbers of staff and inadequate

training contribute to abuse by both staff and other youth.

- d. Staff fail to prevent or control youth-to-youth violence.
- e. Inadequate investigative procedures contribute to abuse by both staff and other youth.
- f. The dorm configuration such as double bunking provides security problems that contribute to the abuse referenced above.

All of the contentions set forth above and Defendants' policies, practices, acts, and omissions complained of herein, constitute punishment and subject Plaintiffs to denial of due process of law, in violation of Plaintiffs' constitutional rights under the Fourteenth Amendment to the United States Constitution. In addition, the conditions of confinement at TCCY and Defendants' policies, practices, acts, and omissions complained of herein, are a substantial departure from accepted professional judgment, standards, and policies, and thereby subject Plaintiffs to denial of due process of law, in violation of Plaintiffs' constitutional rights under the Fourteenth Amendment to the United States Constitution.

2. **Medical care is inadequate**

- a. There is an insufficient number of physician hours. This deficiency results in problems including a lack of supervision over non-physician staff, lack of quality assurance procedures for the medical care delivery system; inadequate follow up of treatment and medications.
- b. Quality assurance is inadequate.
- c. The physician is not involved in staff training and does not monitor the LPNs

- d. There is insufficient coordination between the physician and the psychiatrist.
- e. Intake physical exams are at best cursory
- f. Lab work is delayed and not reviewed appropriately
- g. TB testing and monitoring of results is erratic.
- h. Medical records are poorly organized and unreliable.
- i. Dental exams are not provided on an adequate periodic basis.
- j. Hearing and vision screening is not timely provided or is poorly documented.
- k. Disciplinary policies discourage access to medical care.

3. Mental health care is inadequate

- a. Numerous youth at TCCY have serious mental health needs, are mentally ill and/or are mentally retarded.
 - i. The number of psychiatric hours is insufficient for the population of youth needing this type of care.
 - ii. There are insufficient trained and educationally qualified counselors to meet the minimum needs of the population at TCCY.
 - iii. There is inadequate screening of the youth to determine their needs.
 - iv. Professional therapeutic counseling is not adequately provided.
 - v. Mental health staff do not operate in a manner consistent with basic principles of adequate mental health care.
 - vi. Monitoring of psychotropic drugs is inadequate.
 - vii. Lack of individual therapy and counseling
 - viii. Lack of peer review and quality assurance

- ix. Mental health staff is not adequately involved in crisis management of suicidal youths, use of restraints and design of the stages program.
- x. Numerous youths have a history of substance abuse which is not being addressed
- xi. Numerous youths have engaged in inappropriate sexual behavior before or after their commitment to DPSC and treatment for sexually acting out behavior is inadequate.
- xii. The inadequacy of the mental health program leads to inappropriate use of punishment and disciplinary tickets, over-use of isolation, violence and self-destructive/mutilating behaviors.

5. Education

Plaintiffs in Williams defer to the United States and *Brian B.* and adopt the contentions of those plaintiffs as to education.

6. Programming

- a. Adequate counseling services are not provided to each youth in need of such services. Such services as are sometimes available are not sufficiently individualized to the youth's needs and are conducted in a group setting that is not conducive to achieving results. Documentation of the results of counseling sessions lacks sufficient individualization and details to be useful as a guide for future programming.
- b. Specialized counseling or treatment in areas relevant to the problems of these youth (e.g. AA, NA, sexual acting out or similar programs) do not exist.
- c. Idleness and lack of programming are causes of much of the youth on youth violence.

Programming is inadequate and needs to be remedied by provision of adequate and complete scheduling of appropriate activities throughout the day.

7. Use of Restraints, Chemical restraints, Isolation

- a. Youths in the Stages program have been subjected to oppressive and excessive isolation. Youths have been placed in a cell for as much as 20+ hours per day. Such isolation is detrimental to these youths' emotional and mental health.
- b. Youths with mental health and/or retardation disabilities are also placed into the Stages program and this program is particularly detrimental to them.
- c. Professional staff are not involved in implementation of isolation programs, in the decision to isolate in a particular instance or in evaluating whether continued isolation is appropriate.
- d. Youths in the Stages program were not provided adequate education. Education in some instances has been no more than giving the youth worksheets.
- e. The processes for moving a youth out of isolation are slow, thereby subjecting youths to isolation for extended periods of time even for relatively minor reasons. These extended periods of isolation encourage further disobedient, destructive or disruptive behavior.
- f. Living conditions in the isolation areas are stark both in the physical plant and in the "amenities" provided to the youth.
- g. Programming for youths in isolation is minimal.
- h. Although some changes were to have been made under the Interim Agreement to moderate this isolation, that agreement has expired and there is no commitment to

continue those changes.

6. Other Contentions

- a. Complaints about food have continued for a long time. The quality, nutritional value and the amount of food are insufficient.
- b. Clothing is inadequate in quality and amount. Defendants fail to provide Plaintiffs with adequate clothing and shoes and fail to provide adequate laundry services for Plaintiffs' clothing. The lack of clean clothes often leads to fighting among Plaintiffs: some steal others' clean clothes, even those that do not fit properly. Those Plaintiffs unwilling to fight generally have the most worn and filthy clothing. The temperatures in housing areas are extreme and sanitary conditions are poor.
- c. The Administrative Remedy Procedure is too complex for the youth who must use it and the process for conducting investigations, preparing the administrative record, and reaching a final decision are constitutionally inadequate and a violation of Due Process.

9. Knowledge

Defendants have had actual knowledge of all of the conditions referenced above. The defendants have received numerous reports from the United States Department of Justice, detailing the conditions of confinement of these youth. Further, internal documents generated by or on behalf of defendants demonstrate their knowledge of these conditions and their effects on youth.

10. Relief desired

This Court should declare that the conditions outlined above and in the pleadings and contentions submitted by the United States and plaintiffs in *Brian B.* constitute punishment and subject Plaintiffs to denial of due process of law, in violation of Plaintiffs' constitutional rights under

the Fourteenth Amendment to the United States Constitution and are a substantial departure from accepted professional judgment, standards, and policies, and thereby subject Plaintiffs to denial of due process of law, in violation of Plaintiffs' constitutional rights under the Fourteenth Amendment to the United States Constitution. In addition, this Court should issue preliminary and permanent injunctions forcing Defendants to provide all of the following:

Protection from harm:

(1) adequate and effective policies and practices that ensure that Plaintiffs will not be subjected to use of excessive force by staff;

(2) adequate and effective means for Plaintiffs to report incidents of use of excessive force by staff, without fear of retaliation by TCCY staff or anyone else;

(3) adequate and effective investigations of reports of use of excessive force by staff, including investigations by adequately experienced, knowledgeable, and trained individuals; follow-up on all reports of use of excessive force by staff; and discipline and other sanctions for staff who use excessive force on Plaintiffs, coerce witnesses, or file false reports in connection with allegations of abuse;

(4) an adequate and effective monitoring system to ensure supervision and accountability of staff with respect to the use of excessive force, including an adequate and effective video monitoring system;

(5) adequate and effective measures to protect Plaintiffs who report staff abuse;

(6) termination of the use of mace, pepper spray, and any other chemical restraints at TCCY;

(7) adequate and effective policies and practices to ensure that staff at TCCY use handcuffs, shackles, and other mechanical restraints only in extraordinary circumstances, when individual Plaintiffs are completely out of control and a physical danger to themselves, other Plaintiffs, or staff,

and staff have exhausted all other means to bring Plaintiffs back under control; that staff use such mechanical restraints only so long as the individual Plaintiffs are out of control, and staff remove the restraints as soon as the individual Plaintiffs are back in control or are returned to their rooms; that staff may use mechanical restraints for security purposes in moving individual Plaintiffs from one area of TCCY to another or for moving Plaintiffs to locations outside of TCCY such as hospitals; and that all incidents in which staff use mechanical restraints are documented by the staff directly involved and reviewed by the Superintendent;

(8) adequate and effective policies and practices to ensure that staff at TCCY use isolation to control behavior only when individual Plaintiffs are out of control and a physical danger to themselves, other Plaintiffs, or staff, and staff have exhausted all other means to bring Plaintiffs back under control; that staff use isolation only so long as the individual Plaintiffs are out of control, and staff release Plaintiffs from isolation as soon as the individual Plaintiffs are back in control; that any Plaintiff held in room isolation for more than two hours will be interviewed by medical or mental health staff; that staff may use room confinement as a sanction as part of an adequate disciplinary system that includes full due process protections for Plaintiffs; and that all incidents in which staff use isolation are documented by the staff directly involved and reviewed by the Superintendent;

(9) an adequate and effective disciplinary system that includes full due process protections for Plaintiffs prior to receiving sanctions for conduct;

(10) adequate and effective policies and practices to ensure that staff do not engage in abusive and demeaning practices toward Plaintiffs, including yelling, cursing, using racial epithets, requiring Plaintiffs to perform abusive and demeaning physical acts;

(11) adequate and effective policies and practices to ensure that staff do not engage in sexual

activities with Plaintiffs or otherwise sexually abuse Plaintiffs;

(12) adequate and effective policies and practices to ensure that staff conduct strip searches on Plaintiffs only when justified by legitimate security concerns;

(13) adequate staffing levels in the living areas at TCCY sufficient to protect Plaintiffs from risk of harm;

(14) a system to adequately classify Plaintiffs according to legitimate security and safety needs;

(15) adequate pre-hiring screening, monetary compensation, pre-service and in-service training, and supervision of staff at TCCY.

(16) Decreased population density in the dormitory areas.

Mental Health Care:

In addition, this Court should issue preliminary and permanent injunctions forcing Defendants to provide adequate mental health services for Plaintiffs, including adequate assessments upon admission, sufficient numbers of qualified mental health professionals at the facility, treatment plans for youth with mental health needs, individual counseling by mental health professionals, group counseling by adequately trained staff, adequate consultation for Plaintiffs who are suicidal or homicidal or who are held for extended periods in isolation, adequate training for staff to care for Plaintiffs with mental health needs, and preventive measures to remove dangers to Plaintiffs with mental health needs from TCCY's physical structures.

Medical care:

This Court should issue preliminary and permanent injunctions forcing Defendants to provide adequate medical services for Plaintiffs, including sufficient numbers of qualified medical professionals and other staff at the facility to provide timely medical treatment to Plaintiffs with

medical needs, adequate monitoring of Plaintiffs who take medications, adequate training for TCCY staff to recognize and respond to health problems of Plaintiffs, elimination of penalties such as "tickets" for Plaintiffs who report illnesses or injuries, adequate vision and hearing examinations and treatment, adequate dental examinations and appropriate treatment.

Adequate nutrition:

This Court should issue preliminary and permanent injunctions forcing Defendants to provide a nutritionally adequate diet for Plaintiffs, including sufficient quantities of food for adolescent males and ensure that food is prepared and served under sanitary conditions and practices. This Court should issue preliminary and permanent injunctions forcing Defendants to develop adequate and effective sanitation practices in the facility, including regular cleaning of bathrooms and dormitories, control of vermin, and ensure the availability of basic hygiene supplies, adequate clothing and shoes, and adequate laundry services.

Finally, this Court should order such amendments to the Administrative Remedy Procedure to ensure that, in both policy and practice, it complies with Due Process.

BY ATTORNEYS:



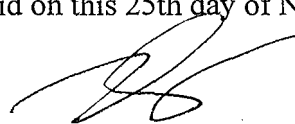
Keith B. Nordyke, Bar Roll 8556
June E. Denlinger, Bar Roll 1823
NORDYKE AND DENLINGER
P. O. Box 237
Baton Rouge, Louisiana 70821
(504) 383-1601

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

HAYES WILLIAMS, ET AL)	Civil Action No. 71-98-B
v.)	
JOHN J. MCKEITHEN, ET AL)	
)	
IN RE: JUVENILE FACILITIES)	Civil Action No. 97-0001-B-1
)	
IN RE: TALLULAH CORRECTIONAL FOR YOUTH)	Civil Action No. 97-0665-B1
)	
IN RE: JETSON CORRECTIONAL CENTER FOR YOUTH)	Civil Action No. 97-0666-B-1
)	
IN RE: SWANSON CORRECTIONAL CENTER FOR YOUTH)	Civil Action No. 97-0667-B-1
)	
IN RE: LOUISIANA TRAINING INSTITUTE -BRIDGE CITY)	Civil Action No. 97-0668-B-1
)	
_____)	
BRIAN B., ET AL)	Civil Action No. 98-886-B-1
v.)	
RICHARD STALDER, ET AL)	
)	
_____)	
THE UNITED STATES OF AMERICA)	Civil Action No. 98-947-B-1
v.)	
THE STATE OF LOUISIANA, ET AL.)	
)	
_____)	

CERTIFICATE

I HEREBY CERTIFY that a copy of the above and foregoing Contentions of *Williams* plaintiffs was served on the counsel listed on the attached page by placing same in the United States mail properly addressed and postage prepaid on this 25th day of November, 1998.



Richard Curry
MCGLINCHEY, STAFFORD
One American Place Suite 9000
Baton Rouge, La. 70825
*Counsel for the Department of Public
Safety and Corrections
(also by fax)*

Cheney Joseph, Jr.
900 3rd St. 4th Floor
Baton Rouge, LA. 70802
Executive Counsel to the Governor

Judy Preston
United States Department of Justice
Civil Rights Division
Box 66400
Washington, D.C. 20035-6400
Counsel for the United States

L. J. Hymel
United States Attorney
Middle District of Louisiana
757 Florida Blvd.
Baton Rouge, LA. 70802
Counsel for the United States

Michael D. Skinner
United States Attorney
Western District of Louisiana
3201 Federal Bldg
300 Fannin St.
Shreveport, LA. 71101
Counsel for the United States

Eddie J. Jordan, Jr.
United States Attorney
Eastern District of Louisiana
210 Hale Boggs Blvd.
501 Magazine St.
New Orleans, LA. 70130
Counsel for the United States

Richard Simmons
Hailey, McNamara, Hall, Larmann
& Papale
Box 8288
Metairie, LA. 70011-8288
*Counsel for Trans-America Development
(also by fax)*

Charles Roberts
Wray and Kracht
5643 Corporate Blvd.
Baton Rouge, LA. 70898-0239
Counsel for Trans-America Development

David Utter
Juvenile Justice Project of Louisiana
822 Camp St.
New Orleans, LA. 70130
Counsel for plaintiffs in Brian B.

Richard Curry
MCGLINCHEY, STAFFORD
One American Place Suite 9000
Baton Rouge, La. 70825
*Counsel for the Department of Public
Safety and Corrections*

Cheney Joseph, Jr.
900 3rd St. 4th Floor
Baton Rouge, LA. 70802
Executive Counsel to the Governor

Robert Bowsher
Breazeale, Sachse & Wilson
One American Place 23rd Floor
Baton Rouge, La. 70821-3197
Counsel for Wackenhut Corrections Corp.

John Whitley
660 Laurel St.
Baton Rouge, LA. 70821-5631
Court Expert

Judy Preston
United States Department of Justice
Civil Rights Division
Box 66400
Washington, D.C. 20035-6400
Counsel for the United States

L. J. Hymel
United States Attorney
Middle District of Louisiana
757 Florida Blvd.
Baton Rouge, LA. 70802
Counsel for the United States

Michael D. Skinner
United States Attorney
Western District of Louisiana
3201 Federal Bldg
300 Fannin St.
Shreveport, LA. 71101
Counsel for the United States

Eddie J. Jordan, Jr.
United States Attorney
Eastern District of Louisiana
210 Hale Boggs Blvd.
501 Magazine St.
New Orleans, LA. 70130
Counsel for the United States

Richard Simmons
Hailey, McNamara, Hall, Larmann
& Papale
Box 8288
Metairie, LA. 70011-8288
Counsel for Trans-America Development

Charles Roberts
Wray and Kracht
5643 Corporate Blvd.
Baton Rouge, LA. 70898-0239
Counsel for Trans-America Development

David Utter
Juvenile Justice Project of Louisiana
822 Camp St.
New Orleans, LA. 70130
Counsel for plaintiffs in Brian B.

Nordyke and Denlinger

Attorneys at Law
427 Mayflower Street
Baton Rouge, Louisiana 70802

U.S. DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

FILED DEC 07 1998

TELEPHONE:
(225) 383-1601
FAX: (225) 383-2725

RICHARD T. MARTIN
CLERK

MAILING ADDRESS:
P. O. BOX 237
BATON ROUGE, LA 70821-0237
KNORDYKE@IX.NETCOM.COM

KEITH B. NORDYKE
JUNE E. DENLINGER

RECEIVED
NOV 25 1998
FRANK J. POLOZOLA
U.S. DISTRICT JUDGE
MIDDLE DISTRICT OF LOUISIANA

November 25, 1998

Honorable Frank J. Polozola
United States District Court
Middle District of Louisiana
777 Florida Street
Baton Rouge, Louisiana 70801


db
97-665
98-886
98-947

Dear Judge Polozola:

Enclosed please find Plaintiffs' Contentions per the recent order.

Very truly yours,

NORDYKE AND DENLINGER


Keith B. Nordyke

Enclosure

cc: Magistrate Judge Riedlinger
Attached