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DJ 168-48-26

23 JUL 1986

Mr. Peter Shapiro
Essex County Executive
Hall of Records
Newark, New Jersey 07102

Re: Notice of Findings Regarding Investigation of the
Essex County Youth House at Newark, New Jersey

Dear Mr. Shapiro:

On January 6, 1986, we wrote to inform you that, pursuant to the Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. 1997, we were commencing an investigation of conditions of confinement at the Essex County Youth House in Newark, New Jersey. We have concluded our investigation and we are writing to inform you of our findings.

Our investigation consisted of a thorough tour of the Youth House by an outside consultant, as well as interviews with administrators, staff, and residents. We analyzed relevant documents, including the policy and procedures manual, population statistics, fire drill procedures, intake procedures, incident reports, rules and regulations, the New Jersey Manual of Standards for Juvenile Detention Facilities, and the most recently available report prepared by the New Jersey Juvenile Detention and Monitoring Unit of the Department of Corrections. Our consultant reviewed several forms utilized by the Youth House and examined records maintained at the facility. At all times, staff, administration and county officials were courteous and cooperative to Department of Justice representatives. Please express my appreciation to them.

It was apparent throughout our investigation that improvements have been made at the Essex County Youth House in recent months. However, we have concluded that in several discrete areas, juveniles are subjected to flagrant or egregious conditions which deprive them of certain of their constitutional rights. These conditions include:

1. Inadequate fire safety.
2. Abuse, violence and arbitrary administration of punishment.
3. Unsanitary and unsafe environmental conditions; and
4. Overcrowding.

In making these findings, we were cognizant that many juveniles held at the facility have not been convicted of any crime; rather, they are pre-adjudication detainees or only have been adjudged delinquent. The appropriate legal standard that must be applied to the treatment of these juveniles is whether restrictions on liberty beyond initial incarceration are reasonably related to some legitimate government objective -- rehabilitation, safety, or internal order and security. Bell v. Wolfish, 441 U.S. 520 (1979); see also Santana v. Collazo, 714 F.2d 1172, 1180 (1st Cir. 1983). For those juveniles who have been convicted of crimes, the broad standard to be applied is the Eighth Amendment's proscription against cruel and unusual punishment.

1. Fire Safety

Pervasive fire hazards exist at the Essex County Youth House. Flammable liquids are located in many of the living areas, often surrounded by rags, discarded paper and other combustible materials. Our consultant concluded that these items could easily become ignited. Some mattresses appear to contain polyurethane or other toxic materials. Exposed electrical wiring and exposed light sockets are present throughout the facility, most alarmingly in several shower areas. Considering that there has been a fire at the Youth House within the past year, these hazards pose an obvious and real threat.

In view of the considerable fire hazards throughout the Youth House, the facility's lack of adequate means to respond to fires represents a serious problem. Most staff and all residents interviewed were unaware of the proper procedures to be followed in the event of fire. Most staff had not received adequate training or instruction as to the procedures to be followed in event of a fire emergency. Additionally, the facility lacks an adequate, operable smoke and fire detection system. Many fire alarms and most smoke detectors are nonfunctional. Even when operable, our consultant concluded that smoke detectors are inadequate for this type of facility since they are residential-type detectors. Many emergency lights and fire doors are broken. Finally, most fire extinguishers are in need of recharging and are incorrectly positioned. These conditions pose unreasonable risks to the safety and lives of youths confined in the facility.

2. Abuse, Violence and Arbitrary Administration of Punishment

Serious incidents of violence occur with uncommon frequency in the Youth House. Moreover, many serious incidents

apparently go unreported. While many reports reviewed indicated only minor incidents, the number of serious incidents represents a significant problem at the facility. Furthermore, our consultant concluded that many incidents of abuse are inaccurately reported or not reported at all. These facts indicate a breakdown in the facility's ability to ascertain, control or correct abusive staff behavior. Indeed, the recent arrests of some staff from the Youth House highlights serious problems at the facility with respect to detecting abuse and taking sufficient steps to eliminate offensive conduct by staff.

The Youth House also lacks adequate security measures in many respects. The entrance to the facility is not adequately secured. Law enforcement officials are permitted to bring weapons into the facility, as an obvious breach of security. Security is further breached by the facility's inability to consistently conduct accurate counts of youths held there. Furthermore, the use of handcuffs and other restraints are inadequately monitored. Additionally, our consultant concluded that physical restraints are used absent adequate justification.

Other measures imposed on juveniles are tantamount to punishment without any reasonable governmental objective. For example, although the Essex County Youth House has an extensive set of rules, these are never provided to the resident youths. In most units, rules are learned only when broken. This creates an arbitrary system for disciplining residents. Moreover, the actual punishments imposed by staff are arbitrary and capricious. The arbitrary imposition of punishment by staff is inconsistent with the proper legal standard which requires that such acts be justified by some reasonable governmental objective and be undertaken in a non-capricious manner.

3. Environmental Conditions

The Essex County Youth House is unsanitary and unsafe. Conditions subject residents to serious risk to their health. During our tour, our consultant noted mice droppings and roach infestation throughout the facility. While the facility has apparently made an effort to exterminate these pests, such efforts have been unavailing due to the absence of adequate housekeeping policies, reasonable sanitation practices, an adequate waste disposal system, and other measures designed to maintain the facility in a sanitary condition.

During our tour, some living areas and nearly every bathroom reeked of an overwhelming smell of urine. This problem is caused, in part, by inadequate maintenance and

housekeeping practices and the lack of access by residents to toilets during evening hours. Moreover, many youths sleep on torn mattresses, ripped sheets or no sheets at all. Frequently, essential supplies, including toilet paper, are lacking at the facility. The facility does not provide basic personal hygiene materials to youths held at the facility for as long as several months. These deficiencies, taken together, represent serious threats to the health of residents.

4. Overcrowding

Many of the unconstitutional conditions of confinement described above stem directly from or are exacerbated by severe overcrowding at the Youth House. The county has been consistently confining youths at the Youth House at over 200% of its capacity. This crowding has strained the facility's ability to provide adequate sanitation and permit essential personal hygiene. The overcrowded conditions contribute to the high incidence of violence, make safe emergency evacuation less probable, and place considerable stress on an already rapidly deteriorating physical plant. Finally, during severe periods of crowding, youths are forced to sleep on the floor without mattresses, and basic linens and blankets have been unavailable. The impact of crowding on the facility's ability to protect youths from undue risks to their safety and health is so severe as to constitute a constitutional deficiency.

Minimally Required Remedies

The conditions described above have been present at the Youth House for some time and at least since September 1984. They are flagrant as well as egregious, and deprive the youths confined at the Essex County Youth House of their constitutional rights. The conditions require the immediate remedial action by county officials.

Remedial measures must be taken to ensure that the youths are not deprived of the rights guaranteed them under the Constitution of the United States. We propose to enter into a legally binding and judicially enforceable agreement with Essex County designed to eliminate violations of the youths' rights, achieve constitutionally adequate conditions, and provide a means by which compliance may be verified. The following minimum measures are necessary to remedy the violations described above:

1. Adequate fire safety practices and procedures, including those for emergency evacuation, must be implemented as soon as practicable. Sufficient and functional fire

safety equipment must be provided and staff must be trained in their use. Fire hazards must be removed immediately;

2. Rules governing punishable offenses and the administration of punishment must be made available to all staff and youths;

3. Measures must be taken, including the promulgation and implementation of security procedures and the development of an accurate incident reporting system, to protect the youths from unreasonable risks of harm;

4. Sanitation and hygiene measures must be improved;

5. Policies and procedures designed to prevent unconstitutional overcrowding must be developed and implemented. During periods of crowded conditions, the Youth House must implement procedures designed to reduce the effects of overcrowding.

To the extent possible and in the spirit contemplated by the Civil Rights of Institutionalized Persons Act, we wish to cooperate with the government of Essex County to seek adequate remedies which do not compromise the legitimate security and administrative needs of the Youth House. We stand prepared to make our expert consultant's report available to assist you in devising remedies necessary to eliminate the unconstitutional conditions at the Essex County Youth House.

Our attorneys will contact the Office of the County Counsel within the next two weeks to discuss this matter further. I look forward to working with you to resolve these matters in an amicable and reasonable manner.

Sincerely,

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Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: David Ben-Asher
County Counsel

Jessica DeKoninck
Assistant County Counsel

Ronald Mansella
Director, Youth Services Division

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