

Juvenile Law Center

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Santiago v. Philadelphia



JI-PA-005-011

Dear Mike:

Your article is excellent. I made a few annotations throughout, including in the notes. A couple of additional points:

-- Brunner also dealt with restraints, which you might want to note in connection with your Hollingsworth observation on page 13;

-- the Education for Handicapped Act has been recodified as IDEA (Individuals with Disabilities Education Act);

-- the first three versions of our Santiago decree had detailed admission criteria, most (but not all) of which were replaced by the population cap;

-- Santiago had a major education component that was handled by the Education Law Center (sorry about forgetting to include the education decree, which is now enclosed);

-- Pennsylvania education regulations deem juvenile detainees to be "exceptional children" within the meaning of our special education laws (an anomaly that is, I believe, extremely rare in state education statutes), which therefore gives added weight to children's rights to education while in detention. 22 Pa.Code §14.1 (Definitions: "Exceptional student-- A student who meets one of the following criteria: *** (iv) A school age child in a detention home.")

One of the conclusions that Jim Anderson and I reached was the importance of judicial "ownership" to successful implementation. Judges have to want to reduce detention for litigation to succeed in the long run. Judges were defendants in

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both Santiago and Coleman, but the intervention of JCJC in Coleman (through Paul DeMuro's mediation) turned Coleman into a far more successful decree. (In addition, that judicial ownership, built because of JCJC's strong values, began in advance of the consent decree. The population dropped and leveled off before the consent decree became effective. This suggests to me that the filing of the suit and the evidence, gained through discovery, of enormous disparities in detention practices across the state, gave ammunition to judicial leaders who agreed with plaintiffs' position.) I've struggled to find a way to give similar ownership to judges in Santiago, but have been only mildly successful. (See the enclosed copy of "Overcrowded Times.")

There is another lesson from the Pennsylvania litigation. Overcrowding is the hardest issue to address, because its solution is extrinsic to the detention center itself. It is caused by extended stays in the state system, causing backup into the detention population; turnover in decision-makers; a tendency to use detention criteria as though everyone eligible should be held; absence of aftercare probation, resulting in extended stays on the corrections side, etc. Brunner was a conditions suit that had no overcrowding component (like Hollingsworth), so it was easy to settle and implement. Coleman dealt with admissions, and is therefor easily monitored, but it was not an overcrowding suit. Santiago has had the longest life, and is much like prison and jail overcrowding litigation, subject to trends and other factors such as those suggested above. It may be useful to more clearly distinguish what these cases tried to accomplish, and their different levels of success.

Sincerely,



Robert G. Schwartz
Executive Director

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