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FILED
SEATTLE 15 APR 2001
CLERK OF SUPERIOR COURT
KING COUNTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

T.I., a minor, by and through)
his mother and next friend,)
D.I.; W.F., a minor, by and)
through his mother and next)
friend, O.T.; D.I., a minor,)
by and through his mother and)
next friend, C.I., On Behalf)
Of Themselves And Others)
Similarly Situated,)

Plaintiffs,)

vs.)

HAROLD DELIA, Director,)
DEPARTMENT OF YOUTH SERVICES,)
In His Personal And Official)
Capacities, TIM HILL, King)
County Executive, In His)
Official Capacity, LOVE)
DENTON, In His Official)
Capacity, DONALD FELDER, In)
His Official Capacity, KING)
COUNTY, and the SEATTLE)
SCHOOL DISTRICT NO. 1,)

Defendants.)

CLASS ACTION

NO **90-2-16125 1**

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF

CLASS ACTION COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF-
Page 1

F I L E D

KING COUNTY SUPERIOR COURT
M. JANICE MICHELS
KING COUNTY CLERK
SEATTLE, WA 98104

90-2-16125-1

CURR. DATE	ACCT. DATE	TIME
08/10/90	08/10/90	09:55 A.M.

REG/RECEIPT #	TRAN-CODE	DOCKET-CODE
02-27874-001	1100	\$FFRC

PAID BY: EVERGREEN LEGAL SERVICES
TRANSACTION AMOUNT: \$78.00

PAID
08/10 AM 9:55
KING COUNTY CLERK
SEATTLE, WA

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I. INTRODUCTION

1. This is a class action brought by youth incarcerated at the King County Detention Facility (KCDF) on behalf of themselves and others who are and will be involuntarily confined there. Plaintiffs have been, are, or will be required to live in inhumane and unsafe conditions at the detention center. Plaintiffs seek declaratory and injunctive relief to protect themselves from physical, psychological, and emotional harm, and to stop defendants from continuing to violate their rights protected by the federal and state constitutions, as well as relevant state statutes and regulations.

II. PARTIES

A. Plaintiffs

3.1 Plaintiff T. I. was incarcerated at the KCDF in 1990. He could again be incarcerated there. D. I. is his mother and natural guardian.

3.2 Plaintiff W. F. was incarcerated at the KCDF in 1990. He could again be incarcerated there. O. T. is his mother and natural guardian.

3.3 Plaintiff D. I. was incarcerated at the KCDF in 1990. He could again be incarcerated there. C. I. is his mother and natural guardian.

B. Defendants

3.4 Defendant Harold Delia is the Director of the KCDF. As director of the facility, defendant Delia is responsible for the health, safety and treatment of youth detained in the facility, as

CLASS ACTION COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF-
Page 2

1 well as for the staffing and operation of it. He is sued in his
2 official and personal capacities.

3 3.5 Defendant Tim Hill is the County Executive for King
4 County. He has responsibility for the administration of all non-
5 judicial functions at the KCDF pursuant to RCW 13.20.060 and King
6 County Ordinance No. 3699. He is sued in his personal and
7 official capacity.

8 3.6 Defendants Love Denton and Donald Felder are responsible
9 for the administration of the detention school which is operated
10 by the Seattle School District No. 1.

11 3.7 The Seattle School District No. 1 contracts with the
12 KCDF to provide education to youth detained there.

13 3.8 King County is organized under the laws of Washington
14 and operates the KCDF.

15 **IV. CLASS ACTION ALLEGATIONS**

16 4.1 The class of youth bringing this lawsuit is comprised of
17 all individuals who are presently confined or who will be confined
18 at the KCDF. The class consists of pre-trial detainees as well as
19 youth who have been sentenced to the facility after adjudication.

20 4.2 This is an appropriate class action because the general
21 class of persons is so numerous that the joinder of all members is
22 impracticable.

23 4.3 The approximate size of the class, i.e., the number of
24 persons presently incarcerated, is 120. The size of the class
25 fluctuates from day to day depending on the number of youth
26 detained at the facility.

27 **CLASS ACTION COMPLAINT**
28 **FOR INJUNCTIVE AND**
DECLARATORY RELIEF-

Page 3

1 4.4 More than approximately 5,000 youth are detained at the
2 KCDF per year. Approximately 1,150 youth per year are sentenced
3 to the KCDF.

4 4.5 The average daily population at the KCDF in 1989 was
5 124.53. The average length of stay for non-sentenced youth in
6 1989 was 9.13 days, and 7.87 days for sentenced youth.

7 4.6 The questions of law and fact presented here are typical
8 of the class.

9 4.7 The claims of the named plaintiffs are typical of those
10 of the class.

11 4.8 Plaintiffs will fairly and adequately protect the
12 interests of the other members of the class because they have been
13 subjected to the conditions challenged as illegal by the class as
14 a whole. These plaintiffs have available competent counsel
15 willing and able to protect the interests of the class who have
16 experience in civil rights and prisoners' rights litigation.

17 4.9 The defendants have acted and refused to act with
18 respect to the violation of legal rights on grounds generally
19 applicable to the class, thereby making appropriate final class-
20 wide injunctive and corresponding declaratory relief.

21 **V. FACTUAL ALLEGATIONS**

22 **A. Overcrowding and Understaffing**

23 5.1 All youth currently incarcerated at the KCDF are
24 confined in one unit, called Alder, originally designed to house
25 64 youth.

26 5.2 More than 115 youth are being routinely confined in the

27 CLASS ACTION COMPLAINT
28 FOR INJUNCTIVE AND
DECLARATORY RELIEF-
Page 4

1 Alder Unit, and will be confined there, until construction of a
2 new detention facility is completed on the same site in not less
3 than two years.

4 5.3 Alder living units which were designed to house 17-18
5 youth are and will be used to confine as many as 26-27 detainees.

6 5.4 Before construction began, the KCDF consisted of two
7 buildings, Alder and Spruce. Both buildings contained programming
8 and sleeping areas for detained youth.

9 5.5 The Spruce Unit has been demolished in preparation for
10 the construction of the new detention facility.

11 5.6 All youth who were previously housed in the Spruce Unit
12 were transferred to Alder.

13 5.7 Before Spruce was demolished, it had at least 94
14 sleeping spaces.

15 5.8 More than half the living unit space available before
16 construction was located in the now demolished Spruce Unit.

17 5.9 During 1990 the population in the Alder unit alone has
18 risen as high as 133.

19 5.10 Defendants Harold Delia and Tim Hill have plans to
20 house as many as 159 youth, if necessary, in the Alder Unit during
21 construction.

22 5.11 Some youth detained in Alder are forced to reside in
23 locked dormitory-style cells that house six youth which have no
24 toilets, windows, or sinks.

25 5.12 Others at KCDF are forced to live in single rooms that
26 have been double-bunked.

27 CLASS ACTION COMPLAINT
28 FOR INJUNCTIVE AND
DECLARATORY RELIEF-
Page 5

1 5.13 Youth who are double-bunked in rooms designed as single
2 occupancy rooms share one toilet and sink which are located in the
3 cell. There are no privacy dividers or curtains, so youth in
4 these rooms must use the toilet in front of each other.

5 5.14 In addition to the living units all medical,
6 educational, recreational and other program services are located
7 in the Alder Unit. The dining room where youth are fed is also
8 located there.

9 5.15 It is unsafe and inhumane, as well as counter-
10 therapeutic, for youth to be required to live in the amount of
11 space available in the Alder Unit.

12 5.16 Defendants Delia and Hill fail to employ, train,
13 maintain and adequately supervise a sufficient number of staff to
14 insure the safety and well-being of youth who reside in Alder.

15 5.17 There are insufficient numbers of staff to insure that
16 youth are provided with minimum treatment resources and
17 recreational opportunities, and reasonable contact with friends,
18 family and other members of the community.

19 5.18 The understaffing and overpopulation of the Alder unit
20 at the KCDF are due to the policy decisions of defendants Delia
21 and Hill.

22 5.19 Defendants Delia and Hill acted with wanton and
23 reckless disregard of and deliberate indifference to the legal
24 rights and safety of plaintiffs by closing Spruce and by placing
25 all youth who are detained by the KCDF into Alder.

26 5.20 There is no legitimate state objective served by the

27 **CLASS ACTION COMPLAINT**
28 **FOR INJUNCTIVE AND**
DECLARATORY RELIEF-
Page 6

1 overcrowding at KCDF.

2 **B. Physical Plant And Other Conditions**

3 5.21 The KCDF is not adequately ventilated. In the summer,
4 it is often unbearably hot in the living units, school, and other
5 locations at the facility.

6 5.22 Youth have fainted from the excessive heat.

7 5.23 The KCDF does not meet minimum standards for fire
8 safety within a juvenile correctional facility.

9 5.24 The KCDF is dirty and unsanitary. There is often grime
10 on the walls. The Alder unit is infested with mice. The holding
11 cells located in the courtroom area smell of urine.

12 5.25 Youth frequently find hair in the food.

13 5.26 Youth are required to handle dirty and blood-stained
14 laundry with their bare hands.

15 **C. Lack of Adequate Educational, Recreational, And Treatment-**
16 **Oriented Programming And Services.**

17 5.26 Defendants Delia and Hill fail to provide plaintiffs
18 with a reasonable opportunity for regular outdoor recreation and
19 large muscle exercise.

20 5.27 Defendants fail to provide plaintiffs with adequate
21 educational assessments, opportunities and programs appropriate
22 for their respective levels of development.

23 5.28 Defendants Delia and Hill fail to provide plaintiffs
24 with minimally adequate counseling, social service and
25 rehabilitative services.

26 5.29 Substance abuse treatment is not provided to all youth

1 who need it.

2 5.30 Defendants Delia and Hill fail to provide plaintiffs
3 with a reasonable opportunity to visit with and to telephone
4 relatives or friends.

5 5.31 Some youth are confined to their rooms for up to 23
6 hours per day.

7 5.32 Defendants punish plaintiffs by denying them
8 educational, recreational, and other activities.

9 5.33 Defendants do not provide plaintiffs with a meaningful
10 opportunity to be heard prior to the imposition of punishment.

11 5.34 There is no legitimate justification for depriving
12 plaintiffs an adequate opportunity for education, recreation and
13 treatment services.

14 5.35 The lack of adequate education, recreation, visitation
15 and treatment services, and resulting idleness, harm plaintiffs.

16 **D. Violence And Safety**

17 5.36 The total number of incidents of violent and unsafe
18 episodes occurring at the KCDF, including the use of physical
19 force and aggression, physical violence resulting in injuries to
20 staff and youth, suicide attempts and gestures, and escapes and
21 attempted escapes, have significantly increased as a direct result
22 of the closure of Spruce and consequent overcrowding in the Alder
23 living unit.

24 5.37 Named plaintiff W. F. was assaulted in Lower Alder by
25 another resident. The resident broke W. F.'s jaw on both sides
26 and he was hospitalized at Harborview Hospital for three days as a

27 **CLASS ACTION COMPLAINT**
28 **FOR INJUNCTIVE AND**
DECLARATORY RELIEF-
Page 8

1 result of the assault. These assaults occurred in a six-man cell
2 located in lower Alder.

3 5.38 On June 23, 1990, two youth residing in a six-man cell
4 in Lower Alder sexually assaulted another youth by forcing one of
5 their penises into the victim's mouth.

6 5.39 The electronic audio monitoring devices located in each
7 cell are broken or not used by staff so that youth are not
8 properly monitored while in their cells. Staff do not adequately
9 visually monitor the activities of youth.

10 5.40 Defendants fail to provide reasonably adequate
11 protection from harm. Such failure subjects plaintiffs to serious
12 danger and harm. As a result of the increase in violence at the
13 KCDF, plaintiffs suffer unnecessary pain and anguish. Plaintiffs
14 fear for their safety.

15 **E. Inappropriate Classifications And Less Restrictive**
16 **Alternatives to Detention**

17 5.41 Youth are inappropriately mixed together by age,
18 offense category and adjudication status: Younger, more
19 vulnerable detainees are housed with older youth; pre-trial
20 detainees are mixed with youth sentenced to the facility, and
21 detainees charged with or found guilty of more serious violent
22 offenses are housed with youth charged with or found guilty of
23 non-violent offenses.

24 5.42 These classification practices result in or contribute
25 to excessive and unreasonable levels of violence within the KCDF.

26 5.43 Alternatives to detention are not appropriately used to

27 CLASS ACTION COMPLAINT
28 FOR INJUNCTIVE AND
DECLARATORY RELIEF-
Page 9

1 keep unadjudicated youth who are safe to be in the community free
2 from secure confinement at the KCDF.

3 5.44 Defendants have failed to fund and provide plaintiffs
4 with sufficient alternatives in the community to confinement in
5 secure detention.

6 **F. Injury To Plaintiffs**

7 5.45 The conditions of confinement described herein inflict
8 pain on the plaintiffs. The plaintiffs have suffered emotional
9 and mental harm and deterioration as a direct and proximate result
10 of the actions and inactions of the defendants described herein.

11 5.46 The conditions to which plaintiffs are subjected are
12 demoralizing, dehumanizing, debilitating and depressing. The
13 impact of these conditions threaten the health and well-being of
14 youth at the KCDF, and creates a probability of recidivism and
15 future incarceration.

16 **G. Under Color Of State Law**

17 5.47 At all times relevant herein defendants were acting
18 under color of state law.

19 **VI. CAUSES OF ACTION**

20 **FIRST CAUSE OF ACTION**

21 Plaintiffs have been, are being, and will in the future be
22 subjected to assaults, physical injuries, and unsafe, unsanitary
23 and inhumane conditions in violation of the due process clause of
24 the Fourteenth Amendment to the United States Constitution,
25 Article 1, §§3 and 14 of the Washington Constitution, and 42
26 U.S.C. §1983. These harms and violations are the proximate result

27 **CLASS ACTION COMPLAINT**
28 **FOR INJUNCTIVE AND**
DECLARATORY RELIEF-
Page 10

1 of the negligence, recklessness and/or deliberate indifference of
2 defendants.

3 **SECOND CAUSE OF ACTION**

4 Defendants have denied, and will again in the future deny,
5 plaintiffs' their right to treatment and rehabilitation in
6 violation of the due process clause of the Fourteenth Amendment to
7 the U.S. Constitution and Article 1, §3 of the Washington
8 Constitution, 42 U.S.C. §1983, and RCW 13.40.038.

9 **THIRD CAUSE OF ACTION**

10 Defendants have deprived plaintiffs of their right to an
11 education in violation of the due process clause of the Fourteenth
12 Amendment to the United States Constitution, Article 9, §1 of the
13 Washington Constitution, 42 U.S.C. §1983, and RCW 13.04, RCW 13.40
14 and RCW 28A.

15 **FOURTH CAUSE OF ACTION**

16 By failing to provide plaintiffs with a reasonable
17 opportunity for exercise and outdoor recreation defendants have
18 violated the due process clause of the Fourteenth Amendment to the
19 United States Constitution, Article 1, §§3 and 14 of the
20 Washington Constitution, 42 U.S.C. §1983, RCW 13.16.040, and RCW
21 13.40.038.

22 **FIFTH CAUSE OF ACTION**

23 By failing to provide plaintiffs with a safe, humane and
24 rehabilitative environment defendants have violated RCW 13.40.038.

25 **SIXTH CAUSE OF ACTION**

26 Defendants have violated the Fourteenth Amendment to the

27 CLASS ACTION COMPLAINT
28 FOR INJUNCTIVE AND
DECLARATORY RELIEF-
Page 11

1 United States Constitution, Article 1, §§3 and 14 of the
2 Washington Constitution, 42 U.S.C. §1983 and RCW 13.40.038 by
3 confining at the KCDF unadjudicated youth who could safely remain
4 in the community.

5 **SEVENTH CAUSE OF ACTION**

6 Defendants have failed to provide adjudicated youth with
7 access to consolidated juvenile services funds and programs in
8 violation of RCW 13.06 and WAC 275-35 et seq.

9 **EIGHTH CAUSE OF ACTION**

10 Defendants' restriction on plaintiffs' access to telephone
11 communications and visits with family, friends and other members
12 of the community violates the First and Fourteenth Amendments of
13 the United States Constitution, and Article 1, §5 of the
14 Washington Constitution and 42 U.S.C. §1983.

15 **VII. PRAYER FOR RELIEF**

16 **WHEREFORE**, plaintiffs on their own behalf and on behalf of
17 all others similarly situated, ask this court to:

18 A. Issue an order certifying this action to proceed as a
19 class action pursuant to CR 23;

20 B. Issue a judgment declaring that by subjecting plaintiffs
21 to the conditions of confinement described in this complaint,
22 defendants have violated plaintiffs' rights guaranteed by the
23 First and Fourteenth Amendments to the United States Constitution,
24 Articles 1, §§3 and 14, and Article 9, §1 of the Washington
25 Constitution, 42 U.S.C. §1983, and RCW 13.04, 13.06, 13.16, 13.40
26 and Title 28A.

27 CLASS ACTION COMPLAINT
28 FOR INJUNCTIVE AND
DECLARATORY RELIEF-
Page 12

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C. Issue preliminary and permanent injunctions enjoining the defendants, their agents, employees, successors in office and assigns from engaging in unconstitutional and unlawful acts and practices including, but not limited to:

- 1) Confining plaintiffs in an unsafe, overcrowded, unsanitary and unhealthy facility;
- 2) Failing to provide plaintiffs with a reasonable opportunity for exercise including outdoor recreation and for personal and telephone contact with family and other members of the community;
- 3) Failing to provide adequate numbers of staff with appropriate training, experience and supervision to insure plaintiffs' safety and to provide plaintiffs with rehabilitative treatment;
- 4) Failing to adequately screen and evaluate plaintiffs to insure that they are not inappropriately confined at the KCDF;
- 5) Failing to provide plaintiffs with appropriate less restrictive community-based alternatives to confinement;
- 6) Failing to provide plaintiffs with appropriate educational services including academic, vocational and special education;
- 7) Failing to provide plaintiffs with appropriate rehabilitative services and programming.

D. Award plaintiffs reasonable attorneys' fees and costs pursuant to 42 U.S.C. §1988.

E. Award such other and further relief as this Court may

* * * * *
* * * * *
* * * * *
* * * * *

1 deem necessary.

2 DATED: August 10, 1990

3 Respectfully submitted,

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6 Services Project
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27 CLASS ACTION COMPLAINT
28 FOR INJUNCTIVE AND
DECLARATORY RELIEF-
Page 14

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