

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ENTERED

Duplicate

WAYNE COUNTY JAIL INMATES, MICHAEL HARRIS,)
JAMES JOHNSON, LAWRENCE ROBERT PLAMONDON,)
NORMAN RICHARDSON, CAROLYN TRAYLOR, AND)
NORA WARE, ipdividually and on behalf of)
all other persons similarly situated;)

GEN CIVIL

Plaintiffs,)

vs.)

Civil Action

No. 173217

WAYNE COUNTY BOARD OF SUPERVISORS; ROBERT)
E. PITEPATRICK, Chairman of the Board;)
WILLIAM LUCAS, Sheriff of Wayne County;)
FRANK WILKERSON, Administrator of the Wayne)
County Jail; ARTHUR A. STICKGOLD AND JOHN)
F. WILLIAMS, members of the Wayne County)
Board of Auditors; and GUY HARRISON,)
Director of the Michigan State Department)
of Corrections, individually and in their)
official capacity.)

Defendants.)

COMPLAINT

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There is no other Civil Action arising out of
the same transaction or occurrence as alleged in
the complaint pending in this Court nor has
any action been prosecuted filed any dis-
posed or having been assigned to a judge
for trial (1253) (2) (3) and (4)

Alan W. Houseman
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ATTORNEYS FOR PLAINTIFFS

INDEXED
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IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

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JAMES J. JONES, LAWRENCE ROBERT PLAMONDON,)
NORMAN RICHARDSON, CARMAN TRAVIS, and)
NORA WARE, individually and on behalf of)
all other persons similarly situated,)
Plaintiffs,)

-v-

WAYNE COUNTY BOARD OF SUPERVISORS;)
ROBERT E. FITZPATRICK, Chairman of the)
Board; WILLIAM LUCAS, Sheriff of Wayne)
County; FRANK WILKERSON, Administrator of)
the Wayne County Jail; ARTHUR A. SUMERACKI,)
and JOHN F. WILLIAMS, members of the Wayne)
County Board of Auditors; and GOS HARRISON,)
Director of the Michigan State Department)
of Corrections, individually and in their)
official capacities,)
Defendants.)

Civil Action

No. 173217

COMPLAINT

Now comes the Plaintiffs and allege:

I.

INTRODUCTION

1. Plaintiffs represent all persons who are now or who will be in the future confined to the Wayne County Jail and who are detained and awaiting trial. Herein they assert their most fundamental rights and freedoms and demand that this Court eliminate the depraved, inhuman, and barbaric conditions of that Jail, including the filthy, sardine-packed cells, the grossly inadequate medical care, the total lack of exercise facilities, the contaminated food, the arbitrary, punitive and unlawful summary discipline, and the unlawful restrictions on visitation, communication, association and privacy.

2. Between 1300 and 1500 persons are, at any given time, incarcerated in the Wayne County Jail. In excess of 1,000 prisoners are at all times incarcerated in the Wayne County Jail solely

because of their financial inability to post a sufficient sum of money to meet their bail bond detainers. Plaintiffs and members of their class are presumed innocent and are held only to ensure their presence at subsequent court proceedings. They are entitled to be treated as well as those who can afford bail except for such inconveniences as are necessary to ensure such presence.

II.

PLAINTIFFS

3. Plaintiffs are all adult citizens of the United States who are presently incarcerated in the Wayne County Jail.

a. MICHAEL HARRIS has been in the Wayne County Jail since October 25, 1970. He is being held in lieu of a \$2500 bond and 2 sureties on a charge of arson over \$50.

b. JAMES JOHNSON has been in the Wayne County Jail since July 16, 1970. He was arrested on a charge of first degree murder and is held without bond.

c. LAWRENCE ROBERT "PUN" PLANUNDON has been in the Wayne County Jail since July 25, 1970. He is being held on charges of conspiracy to bomb federal property and bombing federal property.

d. NORMAN RICHARDSON has been in the Wayne County Jail since January 29, 1970. He was arrested on a charge of first degree murder and held without bond.

e. CAROLYN TRAYLOR has been in the Wayne County Jail since November 18, 1970. She was arrested on a charge of sale and possession of heroin and is being held in lieu of \$10,000 bond and 2 sureties.

f. NORA WARE has been in the Wayne County Jail since December 10, 1970. She was arrested for uttering and publishing and is being held in lieu of \$300 bond and 2 sureties.

4. More than 90% of the members of Plaintiffs' class are indigent, and in a County in which no more than 20 to 25% of the citizenry is black, 85% of the members of Plaintiffs' class are black.

III.

CLASS ACTION

5. The named Plaintiffs' bring this action on behalf of themselves and all others similarly situated pursuant to G.C.R. 208.1(3). The class consists of all persons who now and will in the future be confined in the Wayne County Jail and who are detained there awaiting trial in the state or Federal Courts. The persons constituting the class are so numerous as to make it impracticable to bring them all before the court and the named Plaintiffs will adequately represent the class. The rights sought to be enforced are several and there are common questions of law and fact and common relief is sought.

IV.

DEFENDANTS

6. Defendants are adult citizens and residents of the State of Michigan and are sued individually and in their capacities as officials of Wayne County and the State of Michigan. They are either responsible for the administration of the jail and the care and custody of its inmates or have the power to alleviate conditions there but have not exercised that power.

7. Defendant Wayne County Board of Supervisors is responsible for the provision of a suitable and sufficient County Jail pursuant to Compiled Laws of 1948 § 45.16 (M.S.A. § 5.291), for the repairs thereof pursuant to Compiled Laws of 1948 § 46.7 (M.S.A. § 5.327) and under its general powers for the provision of the funds necessary to provide for the services, supplies and maintenance required by the Constitution of the United States, the laws

of the State of Michigan and the various rules and regulations enacted pursuant thereto. Defendant ROBERT E. FITZPATRICK is the Chairman of the Board.

8. Defendant WILLIAM LUCAS is the duly elected Sheriff of Wayne County, Michigan and as such has the responsibility for the charge and custody of the Wayne County Jail, and of the prisoners therein pursuant to Compiled Laws of 1948, § 51.75 (M.S.A. § 5.862). Included within his responsibilities is the proper care and treatment of the prisoners in regard to their health and safety and their basic rights as citizens, especially in light of the presumption of innocence of those prisoners who are untried citizens incarcerated in the jail while awaiting trial, and who are there solely because of their economic status.

9. Defendant FRANK WILKERSON is the Jail Administrator and as such is an agent, subordinate or employee of Defendant LUCAS and is therefore charged with the same duties to Plaintiffs and their class as is Defendant LUCAS. In addition, Defendant WILKERSON is in direct control of the jail and therefore specifically responsible for safeguarding the rights of Plaintiff and their class.

10. Defendant GUS HARRISON is the Director of the Michigan State Department of Corrections and has the responsibility pursuant to Compiled Laws of 1948 § 791.262 (M.S.A. § 28.2322) to supervise and inspect local jails with respect to the proper management thereof, to promote management thereof, to promote the proper, efficient and humane administration thereof and to promulgate rules and standards pertaining thereto.

11. Defendants ARTHUR A. SUMERACKI and JOHN F. WILLIAMS, are the members of the Wayne County Board of Auditors, which is designated by Compiled Laws of 1948 § 46.13b (M.S.A. § 5.336), to be custodians and to have charge of the operation, maintenance and repairs of the Wayne County Jail, including the power, heating and lighting plant in connection therewith.

V.

STATEMENT OF FACTUAL CONDITIONS
EXISTING AT THE WAYNE COUNTY JAIL

12. Plaintiffs and the class they represent while detained in the Wayne County Jail awaiting trial, have been, are, and will continue to be subjected to the illegal, unconstitutional, shocking, and dehumanizing conditions described in this Complaint. The conditions exist pursuant to the willful and intentional acts, practices, policies and omissions of Defendants in this action. More specifically, Plaintiffs complain, among other things, that the following conditions exist at the Wayne County Jail:

13. The Wayne County Jail consists of two sections, an original structure built in 1926 and an annex built in 1963.

a. The old section has prisoner wards beginning on the ground floor, where Trustees who work in the kitchen and the garbage detail are incarcerated, and continuing through to the sixth floor. Floors two through six are identical. Each floor contains 10 wards. The wards vary in size and correspondingly contain four, eight or ten cells. Each cell where inmates sleep is six by eight feet. Adjoining is an enclosed area known as the "rock", where inmates can co-mingle when they are not locked in their cells. The seventh floor houses the medical and dental facilities, the identification bureau and the jail records. The ground floor houses the receiving room where prisoners are booked and segregated for transfer to cells. The basement contains the kitchen and food storage facilities.

b. The annex has prisoner wards on floors two through seven. Floors two, three and four of the annex each contain nine bullpen-type wards, each ward being furnished with five double bunks. Floors five, six and seven of the annex consist of four wards apiece. The sixth floor likewise houses the maximum security ward (611), described

infra; and, the seventh floor contains the infamous ward (711) known as "the hole," which is described infra.

VI.

THE CELLS

14. Overcrowded Conditions:

The cells were designed to house two detainees at one time. However, it is often the case that three prisoners are forced to live cramped in one of these tiny six by eight foot cells. Each cell is identical in size and contains a double bunk. When three prisoners are contained in one cell, the lack of space requires that one person sleep on the floor. If the inmate sleeping on the floor has a mattress and places it under the bunk, he is left with approximately one foot of vertical head space; if he elects to place the mattress alongside the bunk, he is directly next to the coverless toilet and very much in the way of cellmates' need to use the toilet facilities in their six by eight foot quarters during the night. Plaintiffs and members of their class are confined to their cells, which are locked, from 9:00 p.m. to 6:00 a.m..

15. Unsanitary and Unsafe Conditions:

"The filth in the Wayne County Jail almost defies description." See, A Survey of The Wayne County Jail, by the National Council on Crime and Delinquency at p.67 (1968).

a. Each cell contains a toilet which is built out from the wall, small and seatless, except in those instances where inoperative toilets have been removed. A small sink is attached to the wall and dirty tap water is provided for washing and drinking.

b. The installations in the cells in the old building are more than 40 years old, and without exception every cell or sleeping facility is rotten, dirty, foul, stinking.

and not fit for human habitation. Toilet, plumbing, electrical and heating facilities are often disfunctional and fail to comply with any form of minimal health and safety standards.

c. The following conditions typify the sleeping quarters in which Plaintiffs are caged:

1. Toilets leak and overflow flooding the sleeping quarters of inmates and resulting in leakage from one floor to another, below. When the cells are locked overnight, conditions caused by overflowing toilets are not livable, particularly for inmates forced to sleep on the floor.
2. Fecal matter and urine cover the floors of most cells.
3. Rats, roaches and insects abound throughout the Wayne County Jail and Plaintiffs often must devise makeshift protections from the rats.
4. Dirty, mildewed mops are sometimes available, but disinfectants, sanitizers and toilet brushes are not available.
5. Leaking and broken pipes from the catwalk behind the cells often spray water in the cells.
6. In the summer the heat is extremely oppressive, the air rancid and the odor of these close and inhuman quarters disgusting.
7. Each cell contains only a bare lightbulb hanging from an exposed wire which is rarely insulated. And, as such, each cell's fixture is deficient. Lighting is deficient throughout the jail especially in the living quarters of Plaintiffs and their class.
8. The overall electrical circuitry and fixtures throughout the jail are in a state of deterioration and disrepair, with overloading prevalent throughout.

(9) Though each person is to be supplied with a towel, blanket, sheet and mattress, these materials are not adequately supplied. Rags, 18 by 24 inches, are euphemistically called towels, and one rag is to serve an inmate for a week for purposes of both washing and drying. At the end of a ward is either a single shower or a two-spigot shower serving anywhere from 20 to 42 persons, who are theoretically entitled to shower every other day when the water is turned on. However, in practice showers are often not turned on every other day, and when they are, the water is run only for 20 minutes. The chronic lack of an adequate hot water supply further serves to discourage prisoners from showering.

(10) There is an inadequate supply of mattresses and due to overcrowded conditions numerous prisoners, particularly new inmates, often have to spend a number of nights sleeping on the concrete floors. The mattresses supplied are in most instances old and rotten, and they are never aired out or given any hygienic treatment whatever. The mattresses reek from the odor of vomit, sweat and body excretions.

16. Failure to Comply With State Housing and Health Codes

The above enumerated conditions violate the basic human and constitutional rights of Plaintiffs and their class to live in decent, safe, and sanitary conditions as well as specific state statutory requirements of housing and health laws applicable to jails. The following are examples of specific statutory violations:

- (1) Overcrowded cells: M.S.A. § 5.2855
- (2) Rats and Roaches: M.S.A. § 5.2846
- (3) Toilet disrepair: M.S.A. § 5.2843
- (4) Fecal matter and urine on floor without disinfectant being supplied: M.S.A. § 5.2646
- (5) Wash basin disrepair: M.S.A. § 5.2843

- (6) Heating disrepair: M.S.A. § 5.2843
- (7) Lack of adequate ventilation: M.S.A. § § 5.2790 and 5.2796.
- (8) Pipes in disrepair preventing carrying of hot water: M.S.A. § 5.2843
- (9) Electrical wiring, circuitry and fixtures in a state of disrepair: M.S.A. § 5.2843.

17. The Rock:

The rock is that limited area outside of the individual cells but enclosed within the ward. It contains either one or two metal tables and benches secured to the concrete floor. Each table can accommodate no more than four persons. Lighting is provided by small bulbs widely placed in the catwalk and is woefully inadequate.

VII.

ISOLATION CELLS

18. The isolation ward is used to punish persons who allegedly violate internal jail rules which rules are not published and are therefore unknown to many prisoners. Violations are determined according to the discretion of a command officer on duty.

19. The isolation ward contains eight individual cells, known as "the hole". The bars to each cell are internally covered by heavy steel mesh except for a small slot at the bottom which is used to pass in food and water. The interior of the cell is bare concrete with a slightly elevated slab at the rear. There is a small hole in the floor which serves as a "toilet", and defecation and urine are to be automatically flushed down the hole, though in practice the size of the "toilet" causes excrement to be sprayed and washed into the cell. There is no lighting in the hole, and the heating facilities are separated and constructed in such a manner so that the cells are exceptionally cold and drafty during

wintertime.

20. Prisoners are denied mattresses, blankets, sheets, reading material, personal property, cigarettes, and they are sometimes placed and kept nude in the cell. They are denied all visitation rights except by attorneys. They are not allowed to receive or send mail. Prisoners incarcerated in this horror chamber are not furnished eating utensils and must eat like dogs or (despite the lack of any washing facilities or towels) with their hands. Prisoners are dependent upon the deputy to bring them water.

VIII.

MENTAL (non-patient) WARDS

21. There are three so-called mental wards on the seventh floor annex to the Wayne County Jail. The effect of placement of a person in any of these wards is a form of mental torture, without treatment, on prisoners who by the jail's own definition ought to be mental patients.

22. The decision to commit persons to the mental wards is made by persons with no medical training. In fact, many persons are often placed in such wards for strictly punitive and vindictive reasons.

23. Though known as a "mental" ward, persons confined therein receive no diagnosis or treatment, though they are often drugged, a method used to handle those suspected of being mentally diseased. At present there is not even a single psychiatrist who works out of the medical office at the Jail, nor has there been for more than two months. Previously, there was a part-time psychiatrist who spent a limited amount of time, two days a week.

24. Ward 712 is reserved for those thought to be the most seriously psychotic inmates. These sick prisoners are denied a mattress, blanket, sheet and, sometimes, any clothing. They are

not permitted to smoke, read or write. They are kept in their individual cell 24 hours a day. Food and medicine ^{is} distributed by a trustee and the deputies refuse to enter the area adjacent to the cells ostensibly because of their fear or distaste for flying fecal matter directed at them. Trustees are not closely supervised and do not always deliver food and medicine.

25. Wards 713 and 714 are usually reserved for less dangerous mental prisoners, and sometimes persons who cannot adapt to conditions on the "open" wards are placed here upon their own request. In these wards, some prisoners are locked up 24 hours a day while others are free to walk on the rock.

26. Supervision on the mental wards is, by even Wayne County Jail standards, abominably bad. Nearly all suicides occur on these wards, and persons who hang themselves may not be discovered or cutdown for hours. Those who require the greatest care and supervision are thus left to suffer alone or die. No effort is made to transfer mentally ill persons to proper mental health facilities.

IX.

THE MAXIMUM SECURITY WARD

27. Ward 611 contains those prisoners who, without even the guise of due process, are summarily and capriciously labeled maximum security risks and placed in this section of the annex. Political prisoners are frequently held here. Also, when there is an overflow from the seventh floor mental wards these latter classified prisoners are detained here too.

28. Each prisoner on the ward is confined to this individual cell 22 hours a day and never allowed off the ward except when visited by an attorney. Two hours a day prisoners are, one at a time, permitted to walk the narrow passageway that is about three feet wide and is directly in front of the individual cells which are in a single file row.

29. Services on this ward--e.g., mail, the food wagon, and requests directed to officers downstairs or for medical care--are worse than elsewhere.

X.

LACK OF DUE PROCESS IN JAIL DISCIPLINE

30. As previously stated, jail rules are not published, nor are Plaintiffs and their class informed thereof, until such time as violations allegedly occurs. The "procedure" which results in persons being sent to the hole is initiated by a deputy on the floor. The alleged violation, may be any act which, in the deputy's judgment, is worthy of the "hole". Thus, whether or not a violation occurs will depend upon who the deputy is at the time of the violation, his mood and his personal feelings toward the individual. Members of Plaintiff's class are thus subjected to arbitrary discipline without notice of rules. Isolation in the barbaric "hole" often results from minor incidents such as name calling or minor insolence.

31. Once a deputy decides that a prisoner should be punished, he summons a command officer who comes up to the floor with additional manpower. The officer will confront the prisoner with the allegations made and thereafter determine whether or not to convey him to the hole. Sometimes entire wards are sent to the hole, and the individual, tiny cells are occupied by several persons for days on end.

32. Grievance procedures are theoretically available for the benefit of prisoners but these procedures, which are rarely used, are in derogation of constitutional guarantees in the following respects:

- a. There are no standards or objective criteria upon which decisions to place or keep people in the hole are based.
- b. There are no standards or provisions for giving such inmates even a modicum of due process, such as

proceedings wherein they might be represented, be able to confront their accusers or be able to call witnesses.

33. Further, the "grievance procedure" itself is most often inoperative and Plaintiffs and members of their class are thus subjected to or threatened with the above-described form of medieval torture (the "hole") with no procedural or substantive safeguards except the whim or desire of the deputy and commanding officer on duty.

34. Though there is a rule that persons are to be kept in the hole for no more than seven consecutive days, this "rule" too is violated and Plaintiffs and members of their class are subjected to and threatened with substantially longer terms of incarceration.

35. As a further example of the total disregard of the constitutional rights of the individual plaintiffs, due process is completely ignored by the group discipline measures which are practiced at Wayne County Jail. Entire wards are placed on restrictions for alleged offenses or misconduct on the part of individuals in the ward. Restrictions take the form of prohibiting visitation rights, mail and wagon privileges, and sometimes result in a denial of shower privileges and the total confinement to individual cells 24 hours a day. Restrictions and lock-ups may last for any determined period of time, including weeks, and are meted out without any hearing or modicum of due process.

XI.

WOMEN INMATES: THE ISOLATION WARD AND MISTREATMENT OF WOMEN PRISONERS

36. Women prisoners are housed on the second floor of the jail in the new or annex section. There are approximately 50 women inmates incarcerated in 9 wards, each of which contain 5 double bunk beds. Women prisoners spend 24 hours every day in their ward, which is a dormitory-type bullpen containing the bunk

bed, toilets, wash basins and a shower. The toilet in each ward is not enclosed and does not provide for any privacy; moreover, as in the men's wards, there is no toilet seat.

37. Plaintiff(s) NORA WARE and CAROLYN TRAYLOR, and all women inmates, are class members to all allegations in this lawsuit save for those physical conditions exclusively confined to the old section of the County Jail and to the detention facilities referred to as Ward 611 ("maximum security") and "the hole" and mental detention facilities for men. Women prisoners are subjected to the same abominable food, inadequate or non-existent medical care, arbitrary and unconstitutional punishments and discipline procedures, mistreatment and abuse, physically and verbally, by matrons and deputies, and other general conditions complained of herein.

38. Women placed in isolation, under procedural processes identical to those of men, supra, are detained on the first floor of the jail in the old section of the building, usually in Wards 101 or 102. They are locked 24 hours a day in individual 6 by 8 foot cells as described, supra, and they are deprived of visitation privileges, reading and writing materials, mail, the wagon, cigarettes, blankets, eating utensils, towels, and sometimes the water from the wash basin is purposefully shut off and mattresses removed or not provided. Women have been placed in "isolation" for weeks on end and denied throughout any showers and personal necessities such as sanitary napkins. Oftentimes women placed in isolation are on a Ward all by themselves with not a single person to speak to except for jail personnel delivering the food, which is served in paper cups.

XII.

DEPUTIES AND MATRONS

39. There is an inadequate number of jail personnel to serve the needs of the populace, and the manner in which the jail is constructed makes it additionally difficult if not impossible

for Plaintiffs to obtain the minimal level of service and emergency assistance which is needed.

40. Many deputies and matrons purposely ignore the needs of prisoners and many are neither trained nor -qualified to serve prisoners in a minimally adequate, humane manner.

41. Medical treatment, relief from flooding toilets and other equipment breakdowns, delivery of property and money for wagon privileges, forwarding of mail and messages, are inter alia, among the myriad daily services which the jail personnel do not adequately provide.

42. Some personnel in the jail, including high ranking officers in jail, are overt racists or sadists, or both, and they commit acts of non-feasance and misfeasance upon prisoners, including physical and verbal abuse and the invocation of undeserved, disciplinary actions. These activities are the outward manifestations of a continuing psychological and physical harassment on the part of jail personnel which is designed to break the spirit of those inmates incarcerated therein.

43. There are no adequate measures for Plaintiffs and members of their class to obtain from the jail administrators redress against the misconduct of jail personnel.

XIII.

LACK OF RECREATIONAL, EDUCATIONAL AND TRAINING FACILITIES

44. The "rock" is the only area where the prisoners are permitted outside of their cells (with the exception of seeing visitors once every 2 weeks or seeing an attorney, see infra). There is no educational or training program for inmates. Over one-third of the inmates are less than 21 years old. Plaintiffs and members of their class may seek to wrestle, run or engage in some form of physical exercise that might release energy, anxiety,

tension; such activities are, of course, sometimes dangerous in such a setting, but most often, whether dangerous or not, they are prohibited by the deputy on the floor.

45. As a result of the lack of recreational facilities, prisoners, who are presumed innocent, must spend months in jail without physical exercise, in idleness and boredom which inevitably lead to discipline problems and to psychological and even physical disturbances (see, infra). Defendant LUCAS himself has stated:

What the hell do they do up there? They sit, and did you notice how young they are? They're young guys, active guys, strong guys . . . It's hard and it's dangerous. It's dangerous as hell.

Detroit Free Press, November 20, 1970, p. 2(a).

46. There are no educational, vocational work or other training programs available for Plaintiffs and their class. The reading materials are wholly inadequate in both quantity and quality, and for the most part books are not available for prisoners. Thus, persons confined in their tiny cells at the Wayne County Jail are deprived of any intellectual stimulation and unable to pursue any personal development.

XIV.

MEDICAL FACILITIES AND CARE

47. "Inadequate and inhumane are the terms which best describe the existing medical care in the Wayne County Jail." Report of the National Council on Crime and Delinquency, A Survey of the Wayne County Jail, p. 29, 1968.

48. One doctor works at the Wayne County Jail for four hours a day, five days a week. He works out of a very small office on the seventh floor which provides only the most substandard care.

49. The clinic on the seventh floor, consisting of a dental examining room, a medical examining room, a pharmacy and supply room, and a receiving room which doubles as a record room.

does not approach even the minimum standards of sanitation for a permanent medical clinic. The floors, walls, and furnishings are heavily stained with spilled medication, splattered blood, and just plain dirt.

50. After the physician's hours, medication prescribed by the doctor is distributed to deputies who administer it to prisoners. Distribution is dependent upon the wishes and needs of the deputies and not on the medical needs of the prisoners. When medication is delivered at the wrong times, the prisoner is not even allowed to delay taking the medication to conform with medical requirements.

51. The method for obtaining medical attention is for the inmates to write out their complaints which are given to the deputies on duty. The deputies, who have little or no medical training, then decide which complaints are bona fide and only these are forwarded to the Jail's medical staff. The doctor will only see those inmates that the deputies decide he should see.

52. Twenty hours a day and 24 hours each weekend day prisoners have no medical facilities available except for those of Detroit General Hospital, located one-half block from the jail. Emergency patients are taken to Detroit General Hospital. On weekends the decision to transfer the prisoner is made by the command officer on duty who is medically untrained. Standards for transference that are applied (if there are any) are unduly strict and do not conform to the medical needs of the inmates.

53. There are two prison wards in the hospital, and there inmates are shackled to their hospital beds or wheelchairs. Medical attention provided in these wards is wholly inadequate.

54. Arrangements exist to send prison-patients from Detroit General Hospital to the City's Vocational Rehabilitation Institute, but such procedures are often not pursued when it

is medically necessary or desirable, and when pursued such transfer is almost always done tardily.

55. 50% or more of the inmates in the Wayne County Jail go through some form of drug addiction withdrawal, but the medical attention provided is medically unsound and disgracefully indifferent to the inmate's needs. Prisoners going through withdrawal are treated for only four days; this "treatment" consists of a vitamin pill, a relatively ineffectual pill to ease stomach cramps, and a low-level synthetic narcotic.

56. Dental care is provided only one day a week by a dentist from Wayne County General Hospital. There are no trained dental assistants and insufficient dental instruments and supplies. Because of the dentist's attitude and lack of necessary facilities, staff and equipment, the most expedited methods of dental care, (i.e. dental extractions) are utilized when other options and services would normally be provided.

57. No thorough medical examination is made of incoming inmates and preventive care is totally non-existent. No action is taken to prevent epidemics.

58. Prisoners known to have tuberculosis are not removed from the jail premises.

XV. FOOD AND ITS DISTRIBUTION

59. The diet provided in the Wayne County Jail is deficient and fails to meet the nutritional needs of adult persons living in a civilized society.

60. Kitchen facilities are completely inadequate and fail to comply with minimal health standards.

61. Foreign materials are frequently found in the food, and rats, roaches and insects often find their way into those

substances which Plaintiffs and members of their class must eat in order to survive.

62. Food is distributed from the kitchen at hours that necessitate the very early awakening of inmates and terminate in the mid-afternoon thereby leaving inmates a 15 hour period each day in which they receive no meals and are entirely dependent upon what is known as the "wagon".

63. The wagon distributes certain edibles, such as miniature pies and candy bars, along with cigarettes and other matters such as toiletries which inmates can buy within the jail.

64. The wagon is supposed to circulate three times a week for each ward, but inmates in many wards are often denied such regular service.

65. Persons have to pay for items on the wagon, including stationery and stamps without which they cannot write their attorneys, families or friends, and the profits from the wagon are to derive to the benefit of inmates. However, prices on the wagon are well above those that prevail in the local market, and the "profit" obtained from these sales is not known to Plaintiffs or members of their class.

65

XVI.

UNCONSTITUTIONAL CENSORSHIP OF BOOKS, PAPERS, MAGAZINES AND MAIL

66. The prisoner registration card which inmates sign, routinely, contains a small, unobtrusive line which reads: "I hereby authorize the Wayne County Sheriff's Office to censor all my mail." Prisoners signing such a card do not do so in a free and voluntary manner which may knowingly serve as a waiver of the fundamental freedoms protected by the First Amendment to the United States Constitution.

67. All mail and printed material, incoming and outgoing, is subject to censorship by jail personnel and to photographic reproduction by the administration. Mail often does not reach the persons for whom it is intended.

68. No books, papers, or magazines are, according to jail policy, permitted to be brought by persons to Plaintiffs and members of their class, for the alleged reason that local papers can be purchased, daily, and books may be procured from a mobile, jail library. Such rules, in a facility detaining more than 1300 persons, presumed innocent, solely because of their impoverishment, are blatantly unconstitutional, and serve as a personal and scarring affront to every inmate who is thus denied the opportunity to even minimally feed his or her intellectual or artistic spirit while incarcerated in a horrid jail and denied all forms of constructive recreational and educational programs or activities. The library provided by the jail is ridiculous and insulting, and, in particular, it is totally devoid of any political content that might speak to the interests, beliefs, and propensities of persons such as Plaintiffs, all of whom are politically oppressed, as is made manifest by the conditions complained of herein.

XVII.

VISITATION RIGHTS AND COMMUNICATIVE RIGHTS

69. Plaintiffs and members of their class, living under the conditions complained of herein, have an enormous need for some contact with persons whom they love and with whom they can share some form of respectable, human exchange.

70. Defendants not only fail to provide any satisfactory fulfillment of such needs, but to the contrary have reduced visiting privileges to once every 2 weeks.

71. Contacts with the outside world are made especially difficult for this principally indigent class of Plaintiffs by their inability to ever speak to anyone directly by telephone and

by the imposition of a 10 cent cost for every telephonic message to be communicated; frequently such communications are never made. Costs are imposed for persons to obtain writing paper, envelopes or stamps, and censorship in violation of constitutional rights is imposed by the jail administration upon outgoing communications.

72. Incoming mail is likewise censored and restricted in violation of constitutional guarantees; and, as stated, supra, jail personnel mishandle both incoming and outgoing mail.

73. Conversations with visitors are conducted through small glass booths by telephone, and visitors stand in a corridor alongside other visitors, all of whom have to speak loudly in order to make themselves heard. Privacy is virtually impossible.

74. The jail administration has a monitoring system by which they can and do illegally listen into the private telephone conversations of visitors and inmates.

XVIII.

PSYCHOLOGICAL EFFECTS OF DETENTION IN WAYNE COUNTY JAIL

75. The damage caused to prisoners by the jail conditions outlives their stay therein. Long term psychological damage results from degradation and demoralization secondary to the intense overcrowdedness, the totally unsanitary living conditions, the lack of adequate recreational facilities, the long hours of idleness, the deficient health programs, the almost total denial of contact with the outside, and the continuing harassment by jail personnel. The atmosphere thus created deprives Plaintiffs and their class of all dignity while creating a great possibility of damage to their mental and emotional well-being.

XIX.

IMPAIRMENT OF DEFENSE AT TRIAL BY PRE-TRIAL DETENTION

76. Detention prior to trial inherently impedes a prisoner's efforts at preparing his defense. See e.g. Foote, "The

Coming Constitutional Crisis in Bail: I," 113 U. of Pa. L. Rev. 959, 960 (1965); Rankin, "The Effect of Pre-Trial Detention," 39 N.Y.U.L. Rev. 641, 655 (1964). In this case, Defendants have unconstitutionally compounded that injury and impaired prisoners' rights to a fair trial by imposing conditions and restrictions beyond those which are necessary to assure a prisoner's appearance at trial:

a. Prisoners are unable to exercise their constitutional right to represent themselves or, even their right to lend legal assistance to counsel or ascertain, independently, the legal authenticity of their attorney's representations, because of their imprisonment in a jail facility that offers no legal textbooks, cases or statutes whatsoever.

b. Inmates are further impeded from seeking necessary assistance and help, and from finding witnesses, because they have no direct access to a telephone and can only request that calls for which they must pay be made by the deputies; such calls are, in fact, often never made. Further, inmates suffer a like disability because to send letters to persons entails an expense for both paper and stamps, which inmates cannot always afford.

c. The psychological and physical debilitation suffered by inmates enduring the unconstitutional conditions complained of herein further serves to greatly hinder the likelihood of the in-court success of Plaintiffs and members of their class because:

1. Substantial numbers of persons who would never plead guilty if they were free on bond or imprisoned under tolerable, constitutional conditions do, in fact, plead guilty solely because of the extraordinary and coercive pressure to get out of the Wayne County Jail;

2. Substantial numbers of persons are rendered less effective as witnesses at trial in their own defense.

because of the aforesaid injuries suffered, and thereby suffer from the inability to relate to the jury as dignified human beings worthy of belief.

77. Recent studies document and confirm the unfavorable effects of pre-trial detention upon the ultimate disposition of jailed defendants' cases. See Foote, The Coming Constitutional Crisis in Bail: I, 113 U. Pa. L. Rev. 959, 960 (1965). One study concludes that a causal relationship exists between detention and unfavorable disposition of the issues of guilt and punishments. Rankin, The Effect of Pre-Trial Detention, 39 N.Y.U.L. Rev. 641, 655 (1964). Courts have a direct responsibility to supervise conditions of pre-trial detention in order to preserve the integrity of the guilt determining and punishment setting process through which unbailed accused persons must pass. At the very least, a court of equity must strive to eliminate those conditions of pre-trial detention which are not necessary to ensure their presence at subsequent court proceedings.

XX.

FIRST CAUSE OF ACTION

As a First Cause of Action, Plaintiffs allege as follows:

78. The overcrowding, unsanitary conditions, non-hygienic toilet and cleansing facilities, lack of light and air, inadequate and often complete lack of health and dental care, lack of recreation, restrictive visitation, communication and association privileges, punitive and unlawful detention and sundry other inhumane conditions (taken together with the failure of the deputies and jail administrators to protect, maintain, and care for prisoners incarcerated therein) are so extreme as to constitute a denial of due process guaranteed to each citizen by the Fourteenth

Amendment and the infliction of punishment both cruel and unusual in violation of the Eighth and Fourteenth Amendments.

XXI.

SECOND CAUSE OF ACTION

As a Second Cause of Action, Plaintiffs allege as follows:

79. The severity of conditions at the Wayne County Jail forces and coerces a substantial number of persons to plead guilty, thereby depriving members of plaintiffs' class of their constitutionally protected rights to a fair trial in violation of the Sixth and Fourteenth Amendments.

XXII.

THIRD CAUSE OF ACTION

As a Third Cause of Action, Plaintiffs allege as follows:

80. The detention of citizens under the conditions of the Wayne County Jail, when compared to the freedom of other citizens awaiting trial, violates the rights of Plaintiffs and their class to the equal protection of the laws as guaranteed by the Fourteenth Amendment; although the government's interest is to ensure appearance at trial, it can not constitutionally, incarcerate persons who can not afford to pay bail in barbaric and inhuman jails.

XXIII.

FOURTH CAUSE OF ACTION

As a Fourth Cause of Action, Plaintiffs allege as follows:

81. The arbitrary, capricious and unlawful summary discipline administered by personnel of the Wayne County Jail, including summary punishment and transfer to Ward 611, the 7th floor, or the 1st floor womens' isolation wards, substantially more punitive than incarceration elsewhere in the jail, without the existence of any code of intra-jail behavior, and without

notice, a hearing before an impartial official, the assistance of counsel, the confrontation of accusers, the right to cross-examine, or a written record of a hearing decision, reasons therefore and evidence relied upon, constitutes a denial of rights guaranteed to citizens of the United States by the Sixth and Fourteenth Amendments to the United States Constitution.

XXIV.

FIFTH CAUSE OF ACTION

As a Fifth Cause of Action, Plaintiffs allege as follows:

82. The lack of access to the library and to law books, the restricted, limited and inhibited access to legal materials and legal counsel, the lack of access to telephones on the wards, and the restrictions on visiting and mailing privileges, deprives Plaintiffs and the class they represent of effective assistance of counsel, and the ability to assist in the preparation of a defense and to secure witnesses in their behalf, in violation of their rights under the Sixth and Fourteenth Amendments to the United States Constitution.

XXV.

SIXTH CAUSE OF ACTION

As a Sixth Cause of Action, Plaintiffs allege as follows:

83. The censorship of all mail, the lack of access to telephones on the wards, the lack of access to reading matter of the prisoner's choice, and the arbitrary and capricious limitations on access to families and friends, deprives Plaintiffs and their class of their rights under the First and Fourteenth Amendments.

XXVI.

SEVENTH CAUSE OF ACTION

As a Seventh Cause of Action, Plaintiffs allege as follows:

84. Defendants have, by their acts and admissions, intentionally inflicted emotional harm on the Plaintiffs and the members of their class. As a proximate result thereof, Plaintiffs and the members of their class have sustained damages as follows:

- a. permanent and severe psychological and emotional trauma;
- b. pain and suffering, past and future;
- c. loss of earnings and economic capacity;
- d. hospital and medical expenses, past and future.

XXVII.

EIGHTH CAUSE OF ACTION

As an Eighth Cause of Action, Plaintiffs allege as follows:

85. The overcrowded cells, deteriorated and dilapidated conditions, complete lack of sanitation, lack of proper ventilation and lighting, defective electrical fixtures and wiring, inadequate and disfunctional heating facilities constitute conditions hazardous to the health, safety and well-being of Plaintiffs and their class and violate rights secured to them by the Michigan State Housing law.

XXVIII.

EQUITY

86. No effective administrative remedies are available to the Plaintiffs; the conditions which they protest have been forcefully brought to the attention of the Defendants by recent reports and newspaper articles, either directly or indirectly affording Defendants ample opportunity to institute improvements in these conditions, but Defendants have failed to respond.

87. Plaintiffs have no plain, adequate, or complete remedy at law to redress these wrongs; Plaintiffs and the class they represent will continue to suffer irreparable harm from the

conditions set forth above unless and until the declaratory and injunctive relief sought herein is granted by this Court. The rights of the untried, unsentenced and presumed innocent Plaintiffs and the class they represent are among the most fundamental in nature. Defendants' past and continuing conduct will irreparably injure Plaintiffs' fundamental Constitutional rights to be free from arbitrary and capricious governmental actions and irreparably injure the public's interest in ensuring that its fundamental laws are obeyed by government. The interest of the public in bringing an end to uncivilized treatment of poor, presumably innocent prisoners will be significantly advanced by the Court's exercise of its equity powers.

XXIX.

REMEDIES AND RELIEF

WHEREFORE, PLAINTIFFS, on behalf of themselves and all other detainees and prisoners similarly situated, pray that this Court:

1. Assume jurisdiction of the cause and set this case down promptly for a hearing.
2. Determine by order, pursuant to Rules 208.1 and 208.4 of the General Court Rules of 1963 that this action be maintained as a class action, that all members of the class be notified of the action by the posting of 1 copy of the complaint and a copy of this Court's order on this motion in a conspicuous place in each section of every floor, in both the old section and the annex of the Wayne County Jail, and that several attorneys designated by plaintiffs' attorneys and several attorneys designated by defendants' attorneys be permitted to move through the jail so as to answer questions by members of the class and circulate petitions wherein class members can by their signature express their desire to either intervene or not intervene in this cause. (Any attorneys so designated by counsel, must, prior to such visits, offer opposing counsel the opportunity to accompany them).

3. Pending a full hearing and determination by the court, grant a temporary restraining order, restraining Defendants LUCAS and WILKERSON, their successors in office, agents and employees, and all other persons in active concert and participation with them, from:

a. Threatening or punishing the Plaintiffs and their class and all others cooperating with them for initiating, prosecuting and investigating the present action.

b. From prohibiting Plaintiffs attorneys, any designated representative of such attorneys, and any expert witnesses potentially available for use in this case, from inspecting the Wayne County Jail, including all wards, punishment cells, isolation cells, and food and medical areas, in order to interview clients and witnesses for all purposes relating to this litigation, and in order to insure that the provisions of this protective injunction are complied with.

c. From incarcerating any additional persons within the Wayne County Jail until all present and incoming prisoners are provided with a clean mattress, a bed, and bedding.

4. That the Court declare that through the individual and collective effect of their acts, practices, and omissions, the Defendants:

a. have subjected Plaintiffs and the class they represent to punishment without Due Process of Law, and to cruel and unusual punishment within the meaning of the Eighth and Fourteenth Amendments to the United States Constitution;

b. have subjected Plaintiffs and the class they represent to summary discipline without due process in violation of the Sixth and Fourteenth Amendments;

c. have deprived Plaintiffs and their class of their constitutionally protected rights to a fair trial.

guaranteed by the Sixth and the Fourteenth Amendments;

d. have deprived Plaintiffs and their class to the equal protection of the laws to which they are entitled under the Fourteenth Amendment;

e. have deprived Plaintiffs and their class of their rights to counsel and assisting in their defense in violation of the Sixth and Fourteenth Amendments;

f. have deprived Plaintiffs and their class to their rights under the First and Fourteenth Amendments.

5. That a preliminary and permanent injunction be issued, enjoining and restraining Defendants from engaging in any of the unlawful acts, practices or omissions complained of in this complaint.

6. That the Court order that within 30 days, Defendants submit to the Court a plan for assuring that all Plaintiffs and the class they represent are accorded all of the rights and privileges of the innocent; and that they be subjected only to such inconveniences necessary to ensure their presence at subsequent court proceedings. More specifically, the Plaintiffs and the class they represent should be assured by the plan:

a. that the Wayne County Jail and the cells therein be kept in safe and sanitary conditions, with proper electrical connections, plumbing, heating and ventilation, and at a minimum that the jail's conditions be maintained in accordance with the Michigan State Housing Law (M.S.A. § 5.2772 et seq.);

b. that prisoners not be overcrowded in the Wayne County Jail and that each cell and ward contain no more prisoners than the designed capacity of the cell and cellblock;

c. that a regular recreational and exercise program, outside of the cells, be established and that prisoners be permitted outside of the jail for sufficient periods to ensure their continuous physical and mental well-being;

- d. that the isolation and punishment of prisoner in the "hole", the 7th floor mental wards, and the womens' isolation cells be terminated;
- e. that all prisoners be fed in suitable, sanitary facilities outside of their cells and that edible food in accordance with recognized nutritional needs be maintained;
- f. that the prisoners be permitted enough showers to ensure that they remain clean;
- g. that the prisoners be furnished clean mattresses and beds, a complete set of bedding and clothing, including socks and undergarments, which are cleaned and changed at least once weekly, adequate towels, proper cleaning equipment, and other personal necessities (such as tooth paste, soap, sanitary napkins, etc.);
- h. that prisoners be accorded essential preventive medical practices and receive adequate and sound medical, dental and mental health care;
- i. that an educational and vocational program and voluntary work program be established;
- j. that prisoners have continuous opportunity to talk and associate with each other;
- k. that prisoners have access to a sufficient quantity and quality of books, magazines and newspapers, law books and legal materials;
- l. that visiting conditions be established which ensure decency, comfort, privacy of conversations, conjugal rights, and additional visiting periods;
- m. that no limitations be placed as to whom an inmate may see;
- n. that no person because of political beliefs be isolated from the general jail population or otherwise discriminated against;
- o. that there be no censorship or limit on income mail of all sorts, including letters, magazines, newspapers,

books, and periodicals; that the only control on incoming mail be for inspection of contraband such as drugs or weapons; that there be no censorship or limitation on outgoing mail; that adequate phones be installed and the prisoners have access to them in order to make local, outgoing calls without charge; and that such phones not be wiretapped or monitored in any manner;

p. that a code of intra-jail behavior providing for inmate rights be promulgated and provided to every prisoner upon entry into the jail;

q. that no discipline on inmates be inflicted without first affording them notice, a hearing, the assistance of counsel, the confrontation of accusers, the right to cross-examine, written records of a hearing decision, reasons therefore and evidence relief upon, and a hearing before an impartial official.

7. That the Court order the Defendants to implement the plans submitted pursuant to paragraph 6.

8. That if a satisfactory plan cannot be submitted and implemented, the Defendants be enjoined and restrained from incarcerating or detaining any and all of the Plaintiffs and members of the class they represent in the Wayne County Jail and further enjoined from transferring Plaintiffs and their class to a suitable alternative facility unless Defendants can provide evidence satisfactory to the court that the alternative does not suffer from the conditions herein complained of and is accessible to visitors and counsel needed for preparation of defenses to criminal charges.

9. That this Court order Defendants to prepare, within 30 days, a plan delineating standards for the setting of the bail and detention of unconvicted persons awaiting trial and presumed to be innocent which will protect the rights of the Plaintiffs and the class they represent.

10. That after submission and approval of plans assuring detention and bail programs which do not infringe upon Plaintiffs' constitutional rights, this Court grant such damages as will compensate Plaintiffs and the members of their class for the psychological, physical and economic losses incurred as inmates of the Wayne County Jail.

11. That the Court retain jurisdiction over Defendants, and each of them, until such time as the Court is satisfied that the practices, policies, acts and omissions alleged herein no longer exist and will not recur.

12. For such other and further relief as may be just and proper.

Respectfully submitted,

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