



JI-WA-001-017

✓
-pb
5/2/01

FILED

CIVIL TRACK I
JUDGE DIXON

MAY 22 PM 4:07

RECEIVED
CIVIL TRACK
MAY 22 2001

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,)

NO. 90-2-16125-1

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION

Plaintiffs,

vs.

HAROLD DELIA, Director,
DEPARTMENT OF YOUTH SERVICES,
et al.,

Defendants.

I. INTRODUCTION

The King County detention facility (KCDF) is
unconstitutionally unsafe, overcrowded and understaffed.
Juveniles housed in the facility are regularly the victims of
violence and sexual assaults. Last week there were over one
hundred and forty juveniles held in the facility originally
designed to house seventy-one youth. Last Thursday another boy

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 1

C

84

1 was sexually assaulted while housed in an overpopulated cell. The
2 county defendants intend to continue housing youth under these
3 dangerous conditions until they finish building a new detention
4 facility about two years from now.

5 Plaintiffs, the class of juveniles incarcerated at the KCDF,
6 bring this motion to enjoin the King County defendants from
7 further violating their constitutional rights. To protect the
8 safety of youth in detention, plaintiffs ask the court to enjoin
9 the King County defendants from incarcerating more than seventy-
10 one juveniles in the Alder building at the KCDF, to limit to two
11 the number of youth placed in any multiple-person cells there, and
12 to require defendants to increase the number of staff responsible
13 for supervising youth. Plaintiffs also ask the court to enjoin
14 the use of the holding cells behind the courtroom as sleeping
15 cells or to punish youth. Finally, plaintiffs ask the court to
16 require the King County defendants to provide youth with a minimum
17 of at least one hour per day of large muscle exercise, outdoors
18 weather permitting.

19 II. GENERAL LEGAL STANDARDS BY WHICH TO ANALYZE CONDITIONS AT THE
20 KCDF.

21 A. Due Process

22 The due process clause protects institutionalized youth and
23 pretrial detainees from unjustifiable conditions of confinement.
24 See Bell v. Wolfish, 441 U.S. 520, 535, 99 S.Ct. 1861, 60 L.Ed.2d
25 447 (1979); Gary H. v. Hegstrom, 831 F.2d 1430, 1432-1433 (9th
26 Cir. 1987) (holding that the due process clause, which implicitly
27 incorporates Eighth Amendment cruel and unusual punishment

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 2

1 standards applicable to conditions in adult prisons, is the
2 appropriate standard for reviewing conditions at a juvenile
3 facility). See also Youngberg v. Romeo, 457 U.S. 307 (1982) (The
4 due process clause requires the state to provide involuntarily
5 committed mental patients with such services as are necessary to
6 ensure their reasonable safety from themselves and others.)

7 Some courts have held that the due process clause provides
8 youth a more favorable standard of protection by which to measure
9 conditions of confinement than that afforded to sentenced adults
10 under the Eighth Amendment.¹ Santana v. Collazo, 714 F.2d 1172
11 (1st Cir. 1983) citing Youngberg v. Romeo, supra, 447 U.S. at 321
12 and Bell v. Wolfish, supra.

13 It would not be unreasonable to assume that society's
14 conscience might be shocked by the conditions of
15 confinement imposed on a juvenile..., when it would be
unwilling to label the same treatment, given to an
adult, cruel and unusual.

16 Santana v. Collazo, supra, at 1180 (administrators of juvenile
17 institutions may be held to a higher standard regarding conditions
18 of confinement than administrators of adult facilities). We
19 agree, but as a practical matter, it makes no difference whether
20 the due process clause provides greater protection to juveniles
21 and pre-trial detainees than the Eighth Amendment: even if the
22 arguably less exacting Eighth Amendment standards explained below
23 set the benchmark, the practices and conditions at the KCDF

24
25 ^{1/} This court should more rigorously scrutinize conditions
26 at the KCDF than it would conditions at a prison because children
27 are more vulnerable than convicted adults and because many of the
youth at the KCDF are pre-trial detainees. Bell v. Wolfish,
supra.

1 described herein are unconstitutional.

2 B. Cruel And Unusual Punishment

3 The Eighth Amendment condemns as cruel and unusual punishment
4 that which involves the unnecessary and wanton infliction of pain.

5 Rhodes v. Chapman, 452 U.S. 337, 346, 101 S.Ct. 2392, 69 L.Ed.2d
6 59 (1981) (involving an adult prison); Estelle v. Gamble, 429 U.S.
7 97, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976). Courts do not employ a
8 static test to determine whether conditions of confinement are
9 cruel and unusual; the Eighth Amendment must draw its meaning from
10 "evolving standards of decency that mark the progress of a
11 maturing society." Rhodes v. Chapman, *supra*, 452 U.S. at 346.

12 In determining when prison conditions pass beyond
13 legitimate punishment and become cruel and unusual, the
14 'touchstone is the effect upon the imprisoned.' Laaman
15 v. Helgemoe, 437 F.Supp. 269 at 323. The court must
16 examine the effect upon inmates of the condition of the
17 physical plant (light, heat, plumbing, ventilation,
18 living space, noise levels, recreation space);
19 sanitation (control of vermin and insects, food
20 preparation, medical facilities, lavatories and showers,
21 clean places for eating, sleeping, and working); safety
(protection from violent, deranges, or diseased inmates,
fire protection, emergency evacuation); inmate needs and
services (clothing, nutrition, bedding, medical dental,
and mental health care, visitation time, exercise and
recreation, educational and rehabilitative programming);
and staffing (trained and adequate guards and other
staff, avoidance of placing inmates in positions of
authority over other inmates). See *ibid.*; Ramos v.
Lamm, 639 F.2d [559], at 567-581.

22 Id. at 364 (concurring opinion of Brennan, J.).²

23
24 ^{2/} The United States Court of Appeals for the Ninth Circuit
25 has cautioned "[t]o find an eighth amendment violation, courts
26 must identify specific conditions that fail to meet Eighth
Amendment requirements. We cannot rely on a vague conclusion that
the totality of conditions violates the Eighth Amendment."

27 Hoptowit v. Ray, 682 F.2d. 1237 (9th Cir. 1982). But specific

(continued...)

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 4

1 Cruel punishment is also prohibited by the State
2 Constitution. Article 1 §14 of the Washington State Constitution
3 provides: "Excessive bail shall not be required, excessive fines
4 imposed, nor cruel punishment inflicted." (Emphasis added.)
5 Unsafe institutional conditions constitute cruel and unusual
6 punishment in violation of this state constitutional guarantee
7 where conditions are so base, inhumane, and barbaric as to offend
8 the dignity of any human being. Woods v. Burton, 8 Wn. App. 13,
9 16-17, 503 P.2d 1079 (1972) (involving adult jail conditions).³

10 III. THE COUNTY DEFENDANTS HAVE VIOLATED PLAINTIFFS'
11 CONSTITUTIONALLY PROTECTED RIGHT TO BE SAFE WHILE DETAINED.

12 Youth at the KCDF are subjected to an unconstitutional level
13 of violence and risk of harm. As shown below, sexual and physical
14 violence is pervasive at the KCDF. Youth are likely to harm
15 themselves, or to be harmed by others, due to inadequate staff
16 supervision, idleness, and chronic overcrowding.

17 A. Youth Have A Clear Right To Be Free From Unreasonable
18 Levels Of Violence.

19 One of the most basic rights of juveniles who are
20 incarcerated in county detention facilities is the right to

21 ²(...continued)
22 conditions that are unconstitutional may also contribute to other
23 violations. Balla v. Board of Corrections, 656 F.Supp. 1108, 1111
(D. Id. 1987), reversed in part on other grounds, 869 F.2d 461
(9th Cir. 1989); LaMaire v. Maass, 745 F.Supp. 623 (D.Or. 1990).

24 ^{3/} Although Woods v. Burton, *supra*, involved adult county
25 jails, the restriction on a juvenile's liberty suffered by
26 pretrial detention has been defined as "punishment" by the
27 Washington Supreme Court in the context of a sentencing credit
28 case. See In re Trombitas, 96 Wn.2d 329, 333, 635 P.2d 122
(1981).

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 5

1 personal safety. As RCW 13.40.038 provides:

2 It is the policy of this state that all county juvenile
3 detention facilities provide a humane, safe, and
rehabilitative environment...

4 (emphasis added).

5 The right to be free of unreasonable levels of violence is
6 plainly constitutionally protected. Hoptowit v. Ray, 682 F.2d
7 1237, 1250 (9th Cir. 1982) (prison officials are constitutionally
8 required "to take reasonable steps to protect inmates from
9 physical abuse"). Indeed, it is unconstitutional to subject
10 involuntarily confined individuals to even the threat of harm.
11 McKinney v. Anderson, 924 F.2d 1500 (9th Cir. 1991) (holding that
12 it is cruel and unusual punishment to subject adult prisoners to
13 an unreasonable risk of serious harm possible from secondary
14 cigarette smoke.)

15 Incarcerated juveniles have at least the same federal
16 constitutional right as adults to reasonable levels of personal
17 safety. See D.B. v. Tewksbury, 545 F.Supp. 896, 905 (D. Ore.
18 1982) (the "failure to provide adequate staff supervision to
19 protect children from harming themselves and/or other children"
20 constitutes "punishment" in violation of juvenile pretrial
21 detainees' rights, citing Bell v. Wolfish, 441 U.S. 520 (1979)).

22 B. Suicide Attempts And Sexual And Physical Assaults Are
23 Pervasive At The KCDF.

24 Records kept by the staff at the KCDF show that there have
25 been approximately 92 suicide attempts, threats or "gestures" by
26 youth in just the seven months between July 1, 1990 through

27
28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 6

1 January 31, 1991.⁴

2 Fights between youth also frequently occur in detention.
3 There were at least 240 fights involving youth in detention
4 between July 1, 1990 and February 13, 1991. Many of these
5 resulted in injury.⁵

6 These statistics reflect only known incidents of violence and
7 suicide attempts at KCDF. Not all such incidents are recorded by
8 staff or reported by youth. Typically, youth are afraid to report
9 abuse. (Deposition of Jesse Luna,⁶ pp. 52-53 at App. 2;
10 Declaration of B.S., at App. 8.) The high level of violence to
11 which the county defendants subject youth - which is quantifiable
12 based on records kept by detention staff - reflects only an
13 unknown percentage of the total risk of harm to youth at the KCDF.

14
15 ^{4/} A computer summary prepared by plaintiffs' counsel of
16 all suicide incidents documented by the County defendants either
17 in unit logs, supervisor logs, or incident reports for
18 approximately a six month period is attached as Ex. A to the
19 Declaration of Blair Stone, appended hereto as App. 1. While this
20 extraordinary number of suicide gestures illustrates shocking
21 deficiencies, the problems are exacerbated by the wholly improper
22 staff response to some of the suicide gestures by youth. For
23 example, youth are sometimes restrained, isolated in their rooms
24 by themselves, and not allowed to participate in any programming
25 as punishment for suicidal gestures and attempts. (Deposition of
26 Jesse Luna, pp. 30-33, 40-43 at App. 2.) T.M. was physically
27 restrained while naked for trying to hang himself. (Documents
28 relating to this incident are attached to the Declaration of
George Yeannakis, at App. 3.)

23
24 ^{5/} A computer summary prepared by plaintiff's counsel of
25 all fights documented for approximately a seven month period by
26 the County defendants either in unit logs, supervisor logs, or
27 incident reports is attached as Ex. B to the Declaration of Blair
28 Stone, appended hereto as App. 1.

27 ^{6/} Jesse Luna supervises correctional officers at the KCDF.

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 7

1 The county defendants also fail to adequately investigate and
2 document incidents of violence. For example, even though
3 detention staff were aware that B.S. was sexually and physically
4 assaulted at the facility, they did not inform his mother
5 (Declaration of Shawna Conrad at App. 16); they did not make a
6 referral to the police (Declaration of B.S., at App. 8), and they
7 did not prepare an incident report as required by detention
8 policy. Staff are sometimes too busy to record important
9 information relevant to the classification of juveniles.
10 (Deposition of Jesse Luna, pp. 28-29, at App. 2.) Custody staff
11 do not typically record follow-up information on referrals of
12 youth to mental health personnel. (Deposition of Jesse Luna, pp.
13 20-21., at App. 2.) The failure of staff to investigate and
14 document incidents, and to take reasonable steps to prevent future
15 occurrences of violence greatly enhances the risk of harm to youth
16 and jeopardizes their safety. (Declarations of Earl Dunlap and
17 David Roush, attached at App. 4 and 5.)⁷

18 Given the level of violence, youth incarcerated at the KCDF
19 have a real and legitimate fear of being harmed while in
20 detention. To assess youths' perception of their own safety in
21 detention, David Roush conducted a "Social Climate Survey" on
22 selected youth at the KCDF. This survey showed that there is
23 close to unanimous fear of physical harm among youth.

24
25 ^{7/} Earl Dunlap and David Roush are plaintiffs' experts.
26 They toured the KCDF this past winter and have reviewed relevant
27 information about the facility. Their declarations contain their
28 observations of the various problems at the KCDF.

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 8

1 (Declaration of David Roush, at App. 4.) Mr. Roush concludes that
2 "...there are too many youth in Alder to guarantee minimal levels
3 of safety. The level of danger and risk of harm to youth at the
4 KCDF is critical and well below any acceptable standard for safety
5 at a juvenile detention facility." (App. 5, at p. 13)⁸

6 While the number of fights and suicide attempts is alarming
7 in itself, descriptions of the violence by detention staff and
8 youth starkly illustrate the pervasive risk of serious harm to
9 youth at the facility. (See e.g. Deposition of Jesse Luna, pp.
10 160-166, at App. 2.) A chronological sampling of specific
11 incidents of violent occurrences since June of last year follows.

12 On or about June 12, 1990, and continuing through June 18,
13 W.F. was assaulted while incarcerated in one of the multiple-
14 person cells in lower Alder. Interviews with other youth disclose
15 that W.F. was also sexually assaulted with a toothbrush. His jaw
16 was fractured on both sides. He was hospitalized for three days
17 and surgery was performed on his jaw as a result of the final
18 assault on him. (Declaration of W.F., attached at App. 20;
19 documents produced by the county defendants relating to this
20 incident are attached as Ex. A to the declaration of Patricia J.
21 Arthur, at App. 6.) W.F. had been repeatedly hit and subjected
22 to a reign of terror by another youth for days before his jaw was
23 broken. No action had been taken by DYS staff to stop this abuse.

24
25 ^{8/} Mr. Roush also reports that in all his previous
26 experience administering his "Social Climate Survey" youth have
27 never responded that there is a risk of sexual assault, but one in
28 five youth at the KCDF stated that such a risk is real there.
(App. 5, at p. 3)

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 9

1 In fact, due to the inadequate staff supervision, staff were
2 completely unaware that W.F. was being abused.

3 [W.F.] was struck and kicked numerous times, sometimes
4 absorbing the blows through the pillow, sometimes not.
5 On at least one occasion, [D.B.] kicked [W.F.] in the
6 genitals. [W.F.] fell to the floor. [D.B.] yelled at
7 him to "get up punk." Before [W.F.] could regain his
8 balance while rising, [D.B.] hit him again.

9 This pattern went on several nights. The two nights
10 on which the most serious incidents occurred were on
11 Friday, 6/15/90 and Monday, 6/18/90. On Friday night,
12 [T.T.] saw [D.B.] hit and kick [W.F.] repeatedly. When
13 [W.F.] finally begged off, saying he would let [D.B.]
14 "practice" again the next night, [D.B.] pushed [W.F.] on
15 his bunk, pulled [W.F.'s] pants down and inserted a
16 toothbrush into [W.F.'s] buttocks area.

17 On Monday night, 6/18/90, [D.B.] forced [W.F.] to hold
18 a pillow against his face again while he struck and
19 kicked the pillow and [W.F.]. According to [W.F.] and
20 the witnesses, when [D.B.] was striking and kicking the
21 pillow, it was done with enough force to cause [W.F.'s]
22 head to bounce hard off the wall. On at least two
23 occasions, the impact against the wall was loud enough
24 to be clearly audible to the witnesses. Recounting this
25 to me, the witnesses winced when they told me about it.

26 Again, [W.F.] begged off, saying [D.B.] could resume
27 the next night, that he wanted to go to sleep. When
28 [W.F.] lay down on his bed, [D.B.] said, "O.K., I'll put
you to sleep." He pulled [W.F.] up into a sitting
position and pulled [W.F.'s] face toward him with his
left hand on the right side of [W.F.'s] face. While he
held [W.F.] with his left hand, [D.B.] struck [W.F.'s]
jaw on the left side. This caused an audible cracking
noise which [T.T.] and [B.C.] heard clearly. They both
said they knew [W.F.'s] jaw was broken with the first
punch. [D.B.] then hit [W.F.] several more times in the
jaw and face while holding him. The witnesses said the
total number of punches after they heard [W.F.'s] jaw
crack was four to six. [W.F.] was then unconscious and
[D.B.] left him alone the rest of the night. [W.F.]
then approached JCO Schneider the next morning.

Sometime during the incident on 6/18/90, a JCO whom
[B.C.] and [T.T.] referred to as "Terry," (Terry Ellison
worked night shift that night), entered the dorm to ask
what was going on. [T.T.] and [B.C.] said that at the
time [W.F.] was standing against the wall holding a
pillow, dressed in unit pants and a T-shirt. As the JCO
opened the door, [D.B.] told [W.F.] that he had better
say they were just playing. [D.B.] was dressed in his
underpants, a shower cap and his tennis shoes, nothing

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 10

EVERGREEN LEGAL SERVICES
INSTITUTIONAL LEGAL SERVICES PROJECT
101 YESLER WAY, SUITE 301
SEATTLE, WASHINGTON 98104
(206) 464-0838

1 else. The JCO asked [D.B.] what he was doing. [D.B.]
2 responded that he was just practicing kicks. The JCO
3 told him to be careful, he didn't want to have to take
him to the hospital, then left. [W.F.'s] injury
occurred afterward.

4 (Memorandum from Jim Roger, JCO Supervisor, to Bernice Gartrell,
5 Detention Coordinator, dated June 19, 1990, attached as part of
6 Ex. A to the Declaration of Patricia J. Arthur, at App. 6.)⁹

7 On about August 16, 1990, F.U. filed a complaint with the
8 Seattle Police Department alleging that he had been raped by
9 another youth in the OAU in detention (documents obtained from the
10 county defendants relating to this incident are attached as Ex. B
11 to the Declaration of Patricia J. Arthur, at App. 6.)

12 On September 2, 1990, S.K. was counseled by detention staff
13 for pushing a plastic knife up the anus of another youth. (Alder
14 South unit Log, 9/2/90 entry.)¹⁰

15 On September 8, 1990, a fight occurred in the Alder South
16 unit between two youth. "The incident started when, according to
17 (one youth), (the other youth) stuck his finger in (the first
18

19 ^{9/} After the assaults on W.F., detention staff recommended
20 that the intercom systems used to monitor the activity of youth in
multiple-person cells be replaced "ASAP". (Memo from Bernice
21 Gartrell to Dick Carlson, dated July 3, 1990, attached as Ex. A to
the Declaration of Patricia J. Arthur at App. 6.) The intercom
22 system has never been replaced. (Deposition of Richard Carlson,
pp. 89-90, at App. 7.) The intercoms used to monitor youth
23 activity in multiple cells in detention continue to be defective,
not monitored, or not turned on even after this brutal assault on
24 W.F. (Declarations of B.S., at App. 8; Declaration of Earl
Dunlap, at App. 5.)

25 ^{10/} Copies of the staff log entries referred to herein are
26 at Exhibit C attached in chronological order to the Declaration of
27 Patricia J. Arthur, at App. 6.

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 11

1 youth's) butt." (Alder South unit log, September 8, 1990 entry.)

2 On September 27, 1990, L.I. was observed by staff standing on
3 another youth's bunk in a multiple-person cell in lower Alder with
4 his underpants pulled halfway down while another youth sat on the
5 bunk behind him. (Lower Alder unit log, September 27, 1990
6 entry.) Staff wanted to move L.I. from the multiple-person cell
7 in which the incident took place to a single cell in another unit
8 but were unable to do so because no single cells were available.

9 (Id.) Later, according to staff, L.I. continued "...his perverted
10 [sic] antics. He grabbed a youth's rearend [sic]... and was
11 making inappropriate sexual remarks." (Id.)

12 On October 7, 1990, N.D. told staff that N.K. "had... been
13 tieing (sic) him up and making sexual threats to him." (Lower
14 Alder unit log entry dated October 7, 1990.) Another juvenile in
15 the same cell confirmed N.D.'s story. (Id.) N.K. was not moved
16 out of the cell that night even after staff knew of the threats
17 that were made.

18 In the lower Alder unit on October 21, 1990, staff found a
19 juvenile with his coveralls pulled down standing over another
20 youth in a multiple-person cell. (Lower Alder unit log entry
21 dated October 21, 1990.)

22 On or about October 31, 1990, youth from all units in
23 detention were brought to an assembly in the library. Fighting
24 involving 4-5 youth broke out and continued while youth were being
25 moved from the assembly. The entire facility was locked down
26 afterwards. As a result of this altercation one youth received

27
28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 12

1 stitches to his eyes, several youth received bloody noses and
2 black eyes and at least one staff tore a muscle in his leg
3 resulting in a leave of absence from work. (Declaration of S.K.
4 at App. 9; Deposition of Jesse Luna, pp. 114-117, at App. 2.) A
5 detention administrator barely even recalled this incident when
6 questioned about it three months later. (Deposition of Richard
7 Carlson,¹¹ pp. 119-120, at App. 7.)

8 On November 10, 1990, a youth was knocked unconscious by
9 other youths using sleeper holds. (Lower Alder unit log, November
10 10, 1990 entry.)

11 Staff in the Alder North unit reported the following incident
12 on November 18, 1990:

13 Late in the shift there was a problem in the condo
14 involving physical intimidation of [F.N.] by [A.I.] and
15 [T.B.]. [F.N.] claimed that he was boxed by [A.I.] and
16 threatened not to go to sleep or he would be raped by
17 them [T.B. and A.I.]. [F.N.] also claimed they have
18 been threatening him and throwing things at him.
19 [F.N.'s] story was completely verified by [S.N.] who was
20 not involved in the incidents.

21 (Alder North unit log, November 18, 1990 entry.)

22 On November 23, 1990, D.W. was making sexual advances toward
23 other youth in a multiple-person cell in lower Alder. D.W.
24 "...was grabbing other youth's behinds and flashing his penis in
25 his room." (Lower Alder unit log entry dated November 23, 1990).

26 On or about December 10, 1990, B.S. was sexually assaulted by
27 other youth in a multiple-person cell in lower Alder.

28 (Declaration of B.S., at App. 8.) Prior to being sexually

11/ Richard Carlson is the manager of the detention services
division at the King County Detention Facility.

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 13

1 assaulted, and over the course of a day or two, B.S. and his
2 friend T.D. had been repeatedly punched in the chest, arms, and
3 face by much larger youth in the cell. (Declaration of T.D., at
4 App. 10; Declaration of B.S., at App. 8.) Both boys asked staff
5 to remove them from the cell. B.S. was not moved from the cell in
6 which he was being assaulted because the detention facility was so
7 overcrowded that there was no available cell to use as an
8 alternative. (Declaration of B.S., at App. 8; Memo to Richard
9 Carlson from Jesse Luna dated 12/13/90, attached as Ex. D to App.
10 6.) Even after B.S. requested to be moved, staff did not
11 adequately monitor the activity in his cell although they were
12 aware that the situation was unsafe.

13 On December 11, 1990, the same boys who had assaulted B.S.
14 and T.D. sexually assaulted another youth in the same cell where
15 the assaults on B.S. and T.D. occurred. At approximately 10:00
16 p.m. on that day, at least two of the boys who assaulted B.S.
17 injured K.X. during an attempt to rape him. (Copies of the police
18 and DYS incident reports relating to this sexual assault are
19 attached as Ex. E to the Declaration of Patricia J. Arthur, at
20 App. 6.) Staff were aware of other incidents of violence
21 involving the youth who assaulted K.X. (Deposition of Beverly
22 Minnis,¹² pp. 6-11, see especially p. 9, at App. 11; Memo to
23
24
25

26 ^{12/} Beverly Minnis is a juvenile correctional officer at the
27 King County Detention Facility.

1 Richard Carlson from Jesse Luna, Ex. E, attached to App. 6.)¹³

2 On April 24, 1991,¹⁴ S.J. was hit in the mouth by another
3 youth while they were "problem-solving" together with staff. S.J.
4 had to have his front two teeth extracted.

5 On May 16, 1991, K.C. was beaten up in a six-person cell in
6 lower Alder. His left eye, arm and leg were bruised because he
7 was punched by other youth. One of the other youth in his cell
8 forced him while making sexual comments to take off his underwear
9 and to bend over. Staff checked his cell three times because they
10 heard K.C. being punched, but they did not remove him or any of
11 the other youth from the cell until after these assaults because
12 there was no other place to put them since the facility was so
13 crowded. (Declaration of K.C., at App. 28.)

14 Violence suffered by residents at the KCDF is not limited to
15 that inflicted by their peers. At least one male staff at the
16 KCDF has repeatedly used excessive force on youth. He has picked
17 a youth up off the floor by the neck because the youth spit on him
18 (Declaration of F.C., at App. 14) and slammed a youth against the
19 wall (Declaration of B.H., at App. 15). When T.I. was denied
20

21 ^{13/} At the time of the attempted rape, K.X. was in detention
22 for committing a second degree burglary and his sentencing judge
23 had authorized his placement in a less restrictive setting. (A
24 copy of the order is attached as Ex. F to the Declaration of
25 Patricia J. Arthur, at App. 6.)

26 ^{14/} The chronological gap here in the reporting of violent
27 incidents is a function of the cut-off date of the discovery
28 requested from the county defendants. This should not be read to
29 imply that incidents of violence other than those referred to here
30 did not occur in detention in 1991.

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 15

1 access to the bathroom, and forced to urinate on the floor in his
2 cell, a staff member slammed his face into the urine on the floor.
3 (Declaration of T.I., at App. 19)

4 The King County defendants are aware that the level of
5 violence at the KCDF is excessive and that staff use unnecessary
6 force but have failed to take adequate steps to remedy the
7 problem. Illustrative of this is that youth do not even receive
8 responses to grievances filed complaining about the use of
9 excessive force by staff. (Declarations of R.E., at App. 17;
10 B.H., at App. 15; B.S., at App. 18.)

11 C. Staffing Inadequacies Contribute To The Pervasive
12 Violence At The KCDF.

13 Staff shortages at the KCDF contribute to the pervasive risk
14 of harm at KCDF: There are not enough staff to adequately monitor
15 youth. (Declarations of David Roush and Earl Dunlap, At App. 4
16 and 5.) During the period between July 1, 1990, and February 22,
17 1991, detention staff documented staff shortages in unit logs on
18 approximately 684 occasions.¹⁵ Staff have filed grievances with
19 their union alleging that the staffing levels at KCDF are
20 unsafe.¹⁶ (Attached as Ex. G to the Declaration of Patricia J.

21 _____
22 ^{15/} A computer summary prepared by plaintiff's counsel of
23 all notations relating to staff shortages documented by the County
24 defendants either in unit logs, supervisor logs, or incident
reports during a seven month period is attached As Ex. C to the
Declaration of Blair Stone, appended hereto as App. 1.

25 ^{16/} On a particularly overcrowded day in detention, one
26 staff member made an entry in the unit log that staff should
27 "start praying" because the unit was so difficult to manage with
the number and mix of youth in it and no single cells were
available. (Deposition of Jesse Luna, pp. 60-61, at App. 2.)

1 Arthur at App. 6 are copies of these grievances.) The level of
2 staffing used to supervise youth at the KCDF is inadequate to
3 insure the safety of youth incarcerated there given the size and
4 design limitations of the building, excessive use of multiple-
5 person cells, and high population levels. (Declarations of Earl
6 Dunlap and David Roush, at App. 4 and 5.)

7 1. Staffing Levels

8 The KCDF is staffed to maintain a 10:1 staff to youth ratio
9 during active shifts, including supervisory staff as well as those
10 responsible for direct supervision of youth. (Deposition of
11 Richard Carlson, p. 206, at App. 7.) Staff who have received
12 inadequate or no training are included in the 10:1 staffing
13 formula used by the King County defendants.¹⁷ (Deposition of
14 Kwami Ellis,¹⁸ pp. 8-14, at App. 12.)

15 American Correctional Association standards for juvenile
16 detention facilities state:

17 Sufficient staff should be available so that juveniles
18 are not left unsupervised at any time. At least one
19 staff person should always be present to perform duties
20 and functions not directly connected with supervision.
21 During the day more staff will be available to provide
programs in the facility. Guidelines often used for the
ratio of youth care workers to residents are 1:8 during
daylight hours and 1:16 during sleeping hours. Ratios

22 ^{17/} In 1990 the county defendants employed a maximum of 78
23 full time equivalent (FTE) staff. (Deposition of Richard Carlson,
24 p. 205, at App. 7.) The King County defendants staffed the King
County detention facility at this level before the demolition of
the Spruce Building: Staffing levels were not increased to
25 accommodate the reduced physical space and programming.
(Deposition of Richard Carlson, pp. 196-197, at App. 7.)

26 ^{18/} Kwami Ellis is a juvenile correctional officer at the
27 King County Detention Facility.

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 17

1 of total staff to residents generally require a ratio of
2 1:1 (total staff includes maintenance personnel and
3 similar categories of personnel not working directly
with juveniles).¹⁹

4 The King County defendants do not comply with ACA standards
5 relating to staffing levels.²⁰ Most importantly, the level of
6 staffing employed at the KCDF does not assure adequate protection
7 from violence. (Declaration of Earl Dunlap, pp. 12-13, at App.
8 5.)

9 2. How Staff Are Deployed

10 Five staff are usually posted during active shifts to monitor
11 youth in the upper Alder unit (two located in Alder North and two
12 in Alder South and one who "floats" between the units).
13 (Deposition of Richard Carlson, p. 299, at App. 7.) A total of
14 five staff are usually posted in the OAU, girls unit and substance
15 abuse program unit. (Deposition of Richard Carlson, p. 298, at
16 App. 7.) Lower Alder is usually staffed on active shifts with
17 four Juvenile Correctional Officers when the unit is full or

18 ^{19/} Professional Standards for juvenile institutions have
19 been developed by several organizations. ACA standards are one of
20 the most widely used. While ACA standards do not define
21 constitutional requirements, Rhodes v. Chapman, 452 U.S. 337
(1981), Hoptowit v. Ray, supra, 682 F.2d at 1249, courts have
22 accepted ACA standards to help determine whether facilities are
23 unconstitutionally overcrowded. See e.g. Fischer v. Winter, 564
F.Supp. 281 (N.D. Ca. 1983). Moreover, in this case, where non-
24 compliance with ACA standards is not the only or even overriding
25 violation by detention officials, the standards may be relied upon
26 to help fashion a remedy.

27 ^{20/} This standard assumes that the facility also meets other
28 ACA standards such as those relating to out-of-cell activities,
minimum square footage requirements, and that less than 20% of
each living unit is multiple dwelling cells. (See below for a
more complete discussion of these related standards.) The King
County defendants comply with none of these critical standards.

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 18

1 almost full. (Deposition of Richard Carlson, p. 296, at App. 7.)
2 Approximately once a month only three staff are posted in the unit
3 even though four staff are needed to satisfy the defendants' 10:1
4 staffing formula. (Deposition of Kwami Ellis, pp. 23-24, at App.
5 12.) Staff assigned to monitor lower Alder are not assigned more
6 specific mandatory posts. (Deposition of Richard Carlson, p. 294
7 at App. 7.)

8 The staff who are assigned to a particular unit to supervise
9 youth also have responsibilities to escort them to a variety of
10 activities including the gym, meals, school and the clinic.
11 (Deposition of Richard Carlson, p. 294, at App. 7.) There are not
12 separate escort staff to perform these tasks. (*Id.*, p. 295.)
13 When three staff are in the unit, and youth need to be escorted
14 out of the unit, two staff escort and one staff remains behind to
15 supervise the youth remaining in the unit. (Deposition of Kwami
16 Ellis, p. 26 at App. 12.) Safety is compromised if any problems
17 develop when there is only one staff in a unit to supervise youth.
18 (*Id.*; Declaration of Earl Dunlap, p. 12, at App. 5.) For example,
19 when K.X. was sexually assaulted in lower Alder only one staff was
20 in the unit. (Ex. E, attached to the Declaration of Patricia J.
21 Arthur, at App. 6.)

22 3. Staff Training

23 Staff are inadequately trained to handle the dangerous and
24 demanding situations in detention. (Declaration of Earl Dunlap,
25 at App. 5; Deposition of Kwami Ellis, pp. 90-91, at App. 12.)
26 Some new staff are assigned to a unit to supervise youth without
27

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 19

1 first being trained at all. (Deposition of Kwami Ellis, pp. 8-10,
2 at App. 12.) Staff receive only two weeks of formal training at a
3 law enforcement training academy. (Deposition of Jesse Luna, pp.
4 6-8, at App. 2.) Staff are unfamiliar with KCDF policies.
5 (Declaration of Earl Dunlap, p. 13, at App. 5.) For example, one
6 supervisor in detention believes that the policy governing
7 visitation strictly prohibits youth from visiting with anyone
8 other than parents or guardians. (Deposition of Jesse Luna, pp.
9 38-39, at App. 2.)²¹ In fact, the visiting policy permits visits
10 with other family and friends as well. (The relevant policy is
11 attached as Ex. N to the Declaration of Patricia J. Arthur, at
12 App. 6.) Moreover, staff are not supervised closely enough to
13 ensure compliance with detention policies. (Declaration of Earl
14 Dunlap, p. 12, at App. 5.)

15 4. Staffing Is Constitutionally Inadequate

16 Insufficient numbers of staff lessen the ability of detention
17 administrators to protect youth. As one United States District
18 Court Judge has noted:

19 ...the failure to increase staffing and, indeed, an
20 actual reduction in staffing during the time when the
21 average population... doubled, combined with the
22 obstacles to supervision presented by the dormitory
23 configuration have lessened the ability of the jail
24 staff to protect inmates. This reduction in the level
25 of protection not only increases physical risk but also
worsens the psychological climate of the jail. Further,
the failure of the jail's separation and isolation
capacity to keep pace with the growth of population
means that more problem inmates must be housed in the

26 ^{21/} This supervisor, Jesse Luna, has more than 9 years of
27 experience at the KCDF, almost 5 of which have been as a staff
supervisor. (Deposition of Jesse Luna, p. 7, at App. 2.)

1 general housing areas where their behavior can create
2 additional stress and risk for other inmates and where
3 they are more difficult for the staff to supervise.
4 Additionally, in a facility as crowded as WDF, the staff
loses some of its ability to manage the population by
grouping inmates so as to reduce the risk of violence.

5 Fischer v. Winter, 564 F.Supp. 281, 301 (N.D.Ca. 1983).²² This
6 is true in this case. (Declarations of Earl Dunlap and David
7 Roush, at App. 4 and 5.)

8 Similarly, untrained and unsupervised staff exacerbate the
9 tense and dangerous conditions in detention. (Deposition of Kwami
10 Ellis, pp. 10-14, at App. 12; Declaration of Earl Dunlap, at App.
11 5; Declaration of David Roush, at App. 4.) The amount of training
12 given correctional staff at KCDF is far from adequate.

13 Proper in-service training for a new staff member who
14 will have contact with disturbed adolescents should take
three or four months, with further in-service training
required beyond that point.

15 Morales v. Turman, 383 F.Supp. 53 (E.D. Tx. 1974); rev'd on other
16 grounds and remanded, 562 F.2d 993 (5th Cir. 1977). In contrast,
17 correctional officers at KCDF historically have received a mere
18 two weeks of training during the course of their entire
19 employment. (Deposition of Kwami Ellis, pp. 6-8, at App. 12.)
20 ACA standards require that staff at juvenile detention facilities
21 who have regular or daily contact with youth should receive one
22 hundred twenty hours of training in the first year of employment
23 and an additional forty hours of training each subsequent year of
24 employment. (ACA Standards, 2-8091, a copy of which is attached
25

26 ^{22/} See Section III. E. below for a discussion of the impact
27 of overcrowding on youth at the KCDF.

1 at App. 23.) Defendants admit they have not complied with these
2 ACA training standards.

3 The failure to train correctional or law enforcement officers
4 violates 42 U.S.C. §1983 "where the failure to train amounts to
5 deliberate indifference to the rights of persons with whom [law
6 enforcement officers] come into contact." Davis v. Mason County,
7 927 F.2d 1473, 1481 (9th Cir. 1991) citing City of Canton v.
8 Harris, 489 U.S. 378, 388, 109 S.Ct. 1197, 103 L.Ed.2d 412 (1989).
9 In this case, the training given to juvenile correctional officers
10 at the KCDF is so woefully inadequate as to amount to deliberate
11 indifference.

12 D. Idleness Or The Lack Of Out-of-Cell Activities For Youth
13 Contribute To The Pervasive Violence At The KCDF.

14 The amount of time juveniles are allowed out of their cells
15 for activities, including exercise, directly affects the violence
16 and suicide risk at the KCDF. (Declarations of Earl Dunlap and
17 David Roush, at App. 4 and 5.) Staff at the KCDF agree that less
18 violence would occur in detention if youth were allowed out of
19 their cells more often. (Deposition of Kwami Ellis, pp. 48-50, at
20 App. 12.)

21 ...[W]hen the normal means of discharging accumulated
22 tension through exercise is not available [in prison],
inmates often express this tension with physical
violence and aimless destruction of property.

23 LeMaire v. Maass, 745 F.Supp. 623, 641, 642 (D. Or. 1990).

24 Youth at the KCDF are allowed out of their cells for varying
25 lengths of time, depending on their classification or custody
26 level, but most juveniles are out of their cells for only about

27
28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 22

1 four hours per day on weekdays. (Deposition of Kwami Ellis, pp.
2 84-85, at App. 12.) Youth are confined to their cells for even
3 longer periods on weekends when there is no school. The King
4 County defendants never allow many youth outdoors for exercise or
5 fresh air.²³ (Declarations of B.S., at App. 18; R.E., at App.
6 17; Deposition of Richard Carlson, pp. 305-306, at App. 7.) Those
7 youth who are allowed to go outdoors are not allowed to stay
8 outside for a reasonable time. Youth are allowed to go to the gym
9 for exercise for only about one half of an hour per day, unless
10 they are on "room confinement". (Deposition of Kwami Ellis, p.
11 84-85 at App. 12.) If they are on room confinement they are not
12 allowed to go to the gym at all.²⁴

13 ACA Standards suggest that youth in single cells should be
14 afforded activities and services outside their cells at least 14
15 hours a day. (ACA Standard 2-8138, at App. 24.)²⁵ Many
16 juveniles at the KCDF spend over eighteen hours a day confined to
17 their cells. This degree of idleness increases the level of
18 violence at the KCDF. (Declaration of Earl Dunlap, at App. 5.)

19 E. Overcrowding Contributes To The Pervasive Violence At
20 The KCDF.

21
22 ^{23/} This practice is itself unconstitutional. (See section
23 v below). It is discussed here because it contributes to the
24 threat of violence at the KCDF as well.

25 ^{24/} Youth are placed on room confinement as punishment or
26 for behavioral reasons.

27 ^{25/} The ACA Standards make no specific recommendation for
28 youth in multiple-person cells, but given the increased safety
concerns raised when youth are housed in multiple cells,
presumably even more out-of-cell time would be required.

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 23

1 A critical factor that also contributes to the unsafe
2 conditions at the KCDF is that the facility is overcrowded: the
3 county defendants house too many youth in too little space.²⁶
4 Plaintiffs' expert concludes that "[t]he single most obvious
5 factor contributing to violence at [the] KCDF is overcrowding."
6 (Declaration of Earl Dunlap, p. 4, at App. 5.)

7 1. Relevant Facts

8 Prior to 1990, the KCDF consisted of two buildings, Spruce
9 and Alder. The Spruce building was demolished in 1990 in order to
10 build a new juvenile detention center on its site. Before
11 demolition, Spruce had the space and the staff to house up to
12 forty youth. The Alder unit could house up to seventy-one youth.
13 Thus, the maximum juvenile population of the facility before the
14 demolition of Spruce was one hundred eleven. (1989 Annual Report,
15 of DYS, p. 5, attached as Ex. H to the Declaration of Patricia J.
16 Arthur, at App. 6.)

17 The DYS did not build temporary substitute housing or
18 facilities to accommodate the detention population and youth
19 activities once Spruce was destroyed. Instead, the Alder building
20 was converted to accommodate all youth. (See Ex. J attached to
21 the Declaration of Patricia J. Arthur, at App. 6.) A section of
22 the detention school in Alder was converted into a thirty-six bed
23

24
25 ^{26/} Not only does overcrowding engender an
26 unconstitutionally unsafe environment for youth, the defendants'
27 failure to provide enough living space also violates the
constitutional rights of plaintiffs. (See Section III. E. 2.
below.)

1 living unit.²⁷ Single cells were converted for multiple person
2 occupancy. (Annual Report, Ex. 1, p. 8 attached as Ex. H to the
3 Declaration of Patricia J. Arthur, at App. 6.)

4 Activities and services at the KCDF were consolidated and are
5 now all provided in the Alder building. Space available for
6 programs in the Alder building, however, was reduced by twenty-
7 five hundred square feet as a result of the creation of the Lower
8 Alder living unit; the closure of Spruce resulted in a reduction
9 by half of the total space previously used for programming.

10 ("Alder Facility", attached as Ex. I to the Declaration of
11 Patricia J. Arthur, at App. 6.) Only about ten thousand square
12 feet of space is currently available for all programming including
13 school, gym, library and other leisure time activities. ("Alder
14 Facility", Ex. I attached to the Declaration of Patricia J.
15 Arthur, at App. 6.)

16 The detention population in the Alder building now far
17 exceeds its capacity. (Memo to Tim Hill from Harold Delia, dated
18 October 9, 1989 Re: Bed Capacity during Transition, attached as
19 Ex. J to the Declaration of Patricia J. Arthur, at App. 6.) The
20 total population in the Alder building, which was originally
21 designed to house seventy-one detainees, has been as high as one
22 hundred forty-three. (See, Daily Population Sheet for May 17,
23 1991, attached as part of Ex. K to the Declaration of Patricia J.
24 Arthur, at App. 6.) The average daily population at the KCDF in
25

26 ^{27/} This unit is called lower Alder and is described more
27 fully below.

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 25

1 1989 was approximately one hundred twenty-five youth. (Annual
2 Report, Ex. 1, p. 12, attached as Ex. H to the Declaration of
3 Patricia J. Arthur, at App. 6.) In May of 1991 there have
4 consistently been more than one hundred twenty youth in detention.
5 Last week there were over one hundred forty youth detained at the
6 KCDF. (Attached as Ex. K to the Declaration of Patricia J.
7 Arthur, at App. 6, are the monthly detention population totals for
8 1990 and the "day sheets" for May 1 - May 17, 1991, which reflect
9 the population during that time period.)

10 In demolishing the Spruce facility and reconfiguring
11 Alder to house the entire juvenile population, KCDF now
12 holds too many kids in too little space. The Alder
13 Building has a design capacity of 71 youth. Both Mr.
14 Delia and Mr. Carlson represented to me that the
Division of Youth Services ("DYS") believes Alder can
hold 140 to 143 youth -- or twice Alder's design
capacity.

15 (Declaration of Earl Dunlap, p. 4, at App. 5.)

16 After modification the Alder building now consists of five
17 units: Alder North, Alder South, the orientation and assessment
18 unit (OAU), the girls unit (which also houses the drug and alcohol
19 unit), and the lower Alder unit. Each unit contains both single
20 and multiple cells except for lower Alder which contains only
21 multiple person cells. Cells originally designed to house only one
22 youth are now used to sleep two. Up to six youth are housed in
23 newly created multiple-person cells. There are more than twenty-
24 five youth in every unit.

25 The lower Alder unit contains a total of six cells. Each
26 cell is used to house up to six youth. The dormitory-type cells
27 in lower Alder are located off both sides of a straight hallway.

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 26

1 The staff office is located at the end of the hallway adjacent to
2 the dayroom. The cells in lower Alder are each approximately one
3 hundred ninety-two square feet. Each contains three bunk beds
4 arranged along the perimeter of the cell. There are no other
5 fixtures or furniture in the room. (Declaration of George
6 Yeannakis, attached as App. 3.) Toilets and showers are located
7 off the hallway to the left at the entrance of the unit. Youth
8 living in lower Alder have no access to a toilet without staff
9 opening the door to their cell.

10 The cell doors in lower Alder are solid except for one window
11 which is approximately 12" x 18" in size. The windows do not have
12 glass. A brown mesh screen covers the windows. Lower Alder is
13 noisy, making it difficult to hear. (Declaration of George
14 Yeannakis, at App. 3.)

15 The units in Upper Alder contain cells which are used to
16 house one to four youth. The single person cells used to house
17 one or two persons are approximately seventy-five square feet.
18 The three person cells are one hundred seventy-one square feet.
19 The four person cells (also called "condos") are approximately
20 three hundred four square feet. (The layout of the facility is
21 depicted in Ex. L, attached to the Declaration of Patricia J.
22 Arthur, at App. 6. The square footage measurements of the cells
23 used at the KCDF are at Ex. I, attached to App. 6.)

24 Placing youth in cells that do not provide minimal square
25 footage of floor space, coupled with excessive periods of idle
26 time, increase stress and induces or increases the risk of

27
28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 27

1 suicidal and assaultive behavior. (Declarations of David Roush
2 and Earl Dunlap, at App. 4 and 5.) Plaintiffs' expert concludes:

3 The housing of youth in rooms with more than two persons
4 with inadequate square footage in too large living units
5 clearly contributes to the level of violence at KCDF.
6 Many of the examples of violence at KCDF occur in Lower
7 Alder or other multiple-occupancy rooms at the facility,
8 and it has been well-established that housing youth in
9 rooms with an occupancy of more than two increases
10 significantly the potential for violence in the room.
11 In all my experience, I am unaware of any detention
12 facility, other than KCDF, that uses "dormitory"
13 sleeping rooms for pre-adjudicated youth such as those
14 in Lower Alder and the "Condos" in Upper Alder. This is
15 an essential ingredient for violence, as confirmed by
16 the historical data at KCDF.

17 (Declaration of Earl Dunlap, pp. 5-6, at App. 5.)

18 2. The KCDF Is Unconstitutionally Overcrowded.

19 American Correctional Association (ACA) Standards require
20 that single sleeping rooms in juvenile detention should provide at
21 least seventy square feet of floor space. (ACA Standard 8162, at
22 App. 25.) ACA standards further require that multiple occupancy
23 rooms must not exceed twenty percent of any living unit (ACA
24 standard 8138, at App. 24.)

25 Most cells at KCDF do not meet ACA space standards. The
26 single cells at KCDF that are used to house two youth have only
27 seventy-five square feet of floor space, whereas ACA standards
28 require at least seventy-five square feet per juvenile. The six-
person cells used in lower Alder provide only one hundred ninety-
two square feet of floor space; applying ACA standards, only a
maximum of two youth should be confined in those cells. More than
fifty percent of the cells in the Alder building are multiple
occupancy cells, when ACA standards require that no more than

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 28

1 twenty percent of all cells in each living unit may be used as
2 multiple dwelling cells.

3 Most importantly, plaintiffs' experts have concluded that the
4 use of multiple-person cells at the KCDF creates an unreasonable
5 risk of harm due to the space limitations and physical design of
6 the facility. (Declaration of Earl Dunlap, at pp. 5-6, at App.
7 5.) Juveniles who should not be classified to live in multiple
8 person cells are placed there because the facility is overcrowded
9 and no single cells are available.²⁸ Regarding the
10 classification system at the KCDF, plaintiffs' experts note:

11 Classification is the method by which youth are
12 categorized and placed into specific living units in the
13 juvenile detention facility. It is an important
14 component of maintaining a safe institution because
15 erroneous classification decisions or the failure to
16 make them will result in dangerous youth being placed
17 with kids who are likely victims. The policies in place
18 at KCDF for classification appear adequate on paper.
The problem is that the policies cannot be implemented
because of the overcrowded physical plant that simply
cannot support an adequate classification system. The
staff's classification decisions are driven by space
constraints. It is not administratively feasible to
provide reasonable assurance that youth will remain safe
given the physical plant limitations at KCDF.

19 (Declaration of Earl Dunlap, p. 7, at App. 5.)

20 Two examples of the failure of the classification system at
21 the KCDF are the assaults on B.S. and K.X. As shown above,
22 detention staff did not move B.S. from a six-person cell due to
23 the unavailability of space, even though they knew that the

24
25 ^{28/} A supervisory staff testified that staff "do not have
26 the luxury" of moving youth into single rooms because "[w]e don't
27 have the space" even when youth ask to be moved from a particular
multiple cell. (Deposition of Jesse Luna, p. 56, at App. 2.)

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION--
Page 29

1 situation in his cell was dangerous. B.S. was then sexually
2 assaulted. (Declaration of B.S., at App. 8.) The same boys who
3 assaulted B.S., and who staff knew to be assaultive, remained
4 classified to a multiple-person cell only to seriously sexually
5 assault K.X. a few days later.

6 [O]vercrowding clearly brings on many problems,
7 including idleness, frustration, stress, discomfort,
8 edginess, and fear... [and] it is one of the principal
9 causes of the effect of violence, fights, stabbing, and
10 of course, extreme management problems."

11 Balla v. Idaho State Board of Corrections, 595 F.Supp. 1558, 1573
12 (D.Id. 1984) (Balla I).

13 Overcrowding not only contributes to stress and the
14 unconstitutionally unsafe conditions at the KCDF, the county
15 defendants have also violated plaintiffs' constitutional rights by
16 detaining them in a constitutionally impermissible amount of
17 space.

18 The amount of time youth are required to spend in overcrowded
19 cells is a relevant factor in determining whether people in
20 institutions are being provided the minimal constitutionally
21 required space. See e.g. Lareau v. Manson, 651 F.2d 96 (2nd Cir.
22 1981); Bell v. Wolfish, supra, 411 U.S. at 542.

23 As stated above in Section IIID, youth normally spend only
24 about four hours out of their cells on weekdays. (Deposition of
25 Kwami Ellis, p. 84, at App. 12.) Youth who are on dorm
26 restriction or room confinement for behavioral reasons do not get
27 to eat meals outside of their cells, or go to any activity. They
28 are let out only for about six minutes a day to shower.

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 30

1 (Declaration of R.E., at App. 17.) Many youth in the KCDF are
2 never let outdoors for exercise and fresh air during their entire
3 stay at the facility. (Declarations of B.S., at App. 18, R.E., at
4 App. 17; see also Section D below discussing defendants' denial of
5 plaintiffs' constitutionally protected right to reasonable
6 exercise.)

7 In Balla v. Idaho State Board of Corrections, 869 F.2d 461
8 (9th Cir. 1989) the court stated: "Only when overcrowding is
9 combined with other factors such as violence or inadequate
10 staffing does overcrowding rise to an Eighth Amendment violation."
11 (citing Hoptowit v. Ray, supra, 682 F.2d at 1246-49.) In Balla,
12 the United States Court of Appeals for the Ninth Circuit upheld
13 the lower court's determination that an Idaho prison with a
14 population of seven hundred forty-one (designed to hold four
15 hundred ninety-five prisoners) was unconstitutionally overcrowded.
16 Balla, supra, 869 F.2d at 471. In this case, defendants routinely
17 house in excess of one hundred twenty youth in a facility designed
18 to hold seventy-one. Given the little amount of time youth are
19 allowed out of their overcrowded cells, and the high levels of
20 violence at the KCDF, plaintiffs here have shown that the Alder
21 building is unconstitutionally overcrowded.²⁹

22 F. The Practices Of Defendants Discussed Above Result In

23
24 ^{29/} The overcrowding at the KCDF also contributes to the
25 other dehumanizing conditions at the facility. (Declaration of
26 Earl Dunlap, p. 6, at App. 5.) There is clutter and trash in
27 dayrooms, algae, mildew and wet underwear in showers, and laundry
strewn on floors. (Id.; see also, Declarations of S.K., at App.
9; and B.S., at App. 18.) Youth complain about smelly and unclean
underwear as well. (Declaration of David Roush, at App. 4.)

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 31

1 Unconstitutionally Unsafe Conditions In Detention.

2 Juveniles at the KCDF are exposed to an unreasonable amount
3 of violence and threat of harm as a result of the practices of the
4 county defendants and the resulting unsafe conditions at the KCDF.
5 The level of violence and suicide attempts at the KCDF exceed that
6 found in other facilities. (Declaration of Earl Dunlap, p. 4, at
7 App. 5.) Youth, especially those confined in multiple-person
8 cells in detention, have a legitimate fear that they will be
9 physically or sexually harmed while at the KCDF because there are
10 not enough single cells in which to isolate aggressors from
11 victims. (Declaration of David Roush, at App. 4.)

12 To determine whether the level of violence at the KCDF is
13 unconstitutional, this court must ascertain whether the county
14 defendants have been deliberately indifferent to the personal
15 safety of youth. See, e.g., Capps v. Atiyeh, 559 F.Supp. 894, 903
16 (D.Or. 1982); Richardson v. Penfold, 839 F.2d 392,395 (7th Cir.
17 1988) (deliberate indifference is shown by proof of recklessness).

18 Deliberate indifference may be manifested by a "series of
19 incidents closely related in time, or by systematic deficiencies
20 in staffing, facilities or procedures [that] make suffering
21 inevitable...". Fisher v. Koehler, 692 F.Supp. 1519, 1561.
22 (S.D.N.Y. 1988) and cases cited therein. As in Fisher, plaintiffs
23 here have shown that fights, sexual assaults and self-inflicted
24 injuries have repeatedly occurred over the past year due to
25 deficiencies in staffing and procedures at the KCDF. Since
26 plaintiffs here have shown both that violent incidents have and

1 continue to occur at KCDF, as well as expert opinion that the
2 facility is systemically and structurally incapable of providing
3 protection to its residents, the deliberate indifference of the
4 county defendants is evident.

5 Failure to properly classify prisoners and separate the
6 particularly violent or vulnerable is also indicative of
7 deliberate indifference. See, e.g., Walsh v. Mellas, 837 F.2d
8 789, 797-98 (7th Cir. 1988) (failure to screen for gang
9 involvement); Fisher v. Koehler, supra, 692 F.Supp. at 1547;
10 Withers v. Levine, 449 F.Supp. 473, 478 (D.Md. 1978), aff'd, 615
11 F.2d 158 (4th Cir. 1980) cert. denied, 449 U.S. 849 (1980).
12 Plaintiffs here have clearly established that defendants acted
13 with deliberate indifference to the safety concerns of youth by
14 refusing to remove vulnerable juveniles from multiple cells staff
15 knew to be unsafe. (See, e.g., Declarations of B.S., at App. 8,
16 and facts relating to W.F. and K.X above.)

17 The failure of the county defendants to provide adequate
18 supervision is also indicative of deliberate indifference. See,
19 e.g., Vosburg v. Solem, 845 F.2d 763, 766-67 (8th Cir. 1988)
20 (limited guards stationed where they could not see into cells);
21 Alberti v. Klevenhagen, 790 F.2d 1220 (5th Cir. 1986) (inadequate
22 staffing, inadequate supervisory techniques, poor sight-lines,
23 unreliable communication system); Martin v. White, 742 F.2d 469,
24 471 (8th Cir. 1984); Fisher v. Koehler, 692 F.Supp. at 1549, 1562
25 (inadequate staffing, poor sight lines aggravated by double
26 bunks). Plaintiffs here, through the declarations of experts and
27

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 33

1 through statements of staff at the KCDF, have clearly established
2 that inadequate staffing levels jeopardize the safety of youth at
3 the KCDF. (See also Section IIIC above.)

4 The general failure to respond to high rates of assault or to
5 particular patterns of assault is also probative of the deliberate
6 indifference of defendants. Roland v. Johnson, 856 F.2d 764, 770
7 (6th Cir. 1988) (failure to reclassify exploitative inmates);
8 Randall v. Thompson, 635 F.Supp. 145 (N.D.Ill. 1986) (sealing of
9 exits in area with history of attacks); LaMarca v. Turner, 662
10 F.Supp. 647 (S.D.Fla. 1987) (little action against contraband, no
11 system for investigating rapes). As shown above, staff at the
12 KCDF systematically fail to respond to grievances concerning staff
13 abuse. Plaintiffs' expert determined that staff do not know of or
14 follow detention policies relating to the reporting and
15 investigation of incidents. (Declaration of Earl Dunlap, p. 8, at
16 App. 5.) The county defendants continue to use multiple-person
17 cells placing up to six youth in them even though they are aware
18 of the repeated harm inflicted upon youth in those cells.

19 In sum, the county defendants created and persist in
20 maintaining the unsafe conditions to which plaintiffs are
21 subjected: They demolished a large portion of the KCDF, and
22 crammed youth into the remaining portion of the facility
23 significantly increasing their reliance on multiple-person cells
24 without increasing staff. They deliberately ignore complaints
25 about staff abuse; they fail to supervise youth to insure
26 reasonable safety; they fail to adequately train staff, and they

27
28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 34

1 place dangerous youth - or refuse to move them - in cells with
2 other vulnerable youth because the facility is overcrowded and no
3 other cells are available.

4 These factors all engender violence and contribute to an
5 atmosphere in detention where the risk of harm to youth is
6 unconstitutionally high.³⁰ The county defendants' knowledge of,
7 and failure to act on, the demonstrably dangerous conditions they
8 themselves created demonstrates exactly the sort of "deliberate"
9 or "callous" indifference to plaintiffs' rights to be reasonable
10 safe that establishes a constitutional violation. See Leer v.
11 Murphy, 844 F.2d 628, 633 (9th Cir. 1988) (in request for
12 injunction, the focus is "on whether the combined acts or
13 omissions the state officials responsible for operating [the
14 prison] created living conditions that violate the Eight
15 Amendment").

16 IV. THE USE OF THE HOLDING CELLS BEHIND THE COURTROOM IS
17 UNCONSTITUTIONAL.

18 A. Relevant Facts

19 The county defendants place youth overnight in cells located
20 behind the courtrooms that are unsafe and not adequately monitored
21 by staff. These cells are barren: They contain no furniture or

22 ^{30/} Courts have held that conditions are unconstitutionally
23 unsafe at facilities with quantitatively fewer incidents of
24 violence than at the KCDF. See, e.g., Fisher v. Koehler, 692
25 F.Supp. 1519, 1529-32, 1560-61, (1,300 reported incidents annually
26 in a population of 2,500-2,600 showed pervasive risk); Alberti v.
27 Klevenhagen, 790 F.2d 1220, 1225-26 (5th Cir. 1986) (over 1,200
acts of violence annually in a population over 4,000 showed
pervasive risk); Fisher v. Winter, 764 F.Supp. 281, 291, 300-301
(N.D.Ca. 1983) (1 or 2 incidents of assault per month in a women's
prison per month offends the public's view of decency).

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 35

1 water supply. The only place to sit or lie down in the cell is on
2 a raised carpeted platform on the floor. The floors are linoleum.
3 The cells are painfully cold. (Declaration of George Yeannakis,
4 at App. 3; Declaration of F.C., at App. 14.) The county
5 defendants have placed kids in these cells because the facility is
6 overcrowded. (Deposition of Jesse Luna, pp. 77-79, 97-98, at App.
7 2; Declaration of Earl Dunlap, p. 6, at App. 5.) All of these
8 cells were used as sleeping cells just last week because the
9 facility was so overcrowded. Plaintiffs' experts describe these
10 rooms and counsel against their use: "These cells do not have
11 beds, furniture, or a water supply and are isolated from the rest
12 of the facility. Their use violates ACA standard 2-8139 and
13 should not be permitted even on a temporary basis." (Declaration
14 of Earl Dunlap, p. 6, at App. 5.)

15 The holding cells are also used to punish youth. Youth
16 placed in them overnight as punishment are denied a mattress,
17 blankets, pillows, and access to the bathroom. (Declaration of
18 F.C., at App. 14.) Youth urinate on the floor because staff
19 either refuse to let them out to use the bathroom or are not
20 present and available to escort youth to the toilet. (Declaration
21 of F.C., at App. 14.)³¹

22
23 ^{31/} The practice of denying youth access to toilets is not
24 limited to youth confined in the holding cells at DYS. T.I. had
25 to urinate on the floor of his cell when he was not allowed to go
26 to the bathroom. (Declaration of T.I., at App. 19.) Another
youth had to defecate in a box in his cell which he then stored
under his bed because he was denied access to the bathroom.
(Deposition of Jesse Luna, pp. 166-169, at App. 2.) Additionally,
youth are sometimes isolated in other rooms besides the holding
(continued...)

27
28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 36

1 B. The Law

2 The use of the isolation cells behind the courtroom at the
3 KCDF is unconstitutional because it is barbaric to force youth at
4 KCDF to sleep in isolation cells without a bed, blanket, or access
5 to the bathroom or water, even for one night.

6 Courts have consistently prohibited the use of juvenile
7 isolation cells in deplorable condition such as those used at the
8 KCDF. Inmates of Boys' Training School v. Affleck, 346 F.Supp.
9 1354, 1365-1367 (D.R.I. 1972) (use of stripped solitary
10 confinement or isolation-cells furnished with a mattress and
11 toilet-constitute cruel and unusual punishment); Lollis v. New
12 York, 322 F. Supp 473, 482 (S.D.N.Y. 1970), remedy modified on
13 rehearing, 328 F. Supp. 1115 (S.D.N.Y. 1971) (isolation of 14 year
14 old for two weeks in stripped room without recreational facilities
15 and reading materials held unconstitutional); Morgan v. Sproat,
16 432 F.Supp. 1130, 1139 (S.D. Miss. 1977) (isolation in cells
17 without furnishings and with hole in the floor to use for bathroom
18 held cruel and unusual).

19 It is an unnecessary infliction of pain to force juveniles to
20 sleep in a cold cell without a mattress, bedding or even access to
21 a bathroom. Forcing youth to urinate on the floor is cruel under
22 any standard.

23 V. INCARCERATED JUVENILES ARE CONSTITUTIONALLY ENTITLED TO
24 REASONABLE ACCESS TO EXERCISE, OUTDOORS WEATHER PERMITTING.

25 ³¹(...continued)
26 cells located behind the courtroom. (Declaration of B.S., at App.
27 18.) B.S. saw a small boy placed naked in a time-out room for one
28 day. (Id.)

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 37

1 A. Relevant Facts

2 It is the policy of the KCDF to deny access to outside
3 recreation to all youth charged with Class A felonies, all
4 adjudicated youth who have been sentenced to the Division of
5 Juvenile Rehabilitation, and all youth on "special programs".
6 (Deposition of Richard Carlson, pp. 305-306, at App. 7.) All
7 other youth are denied a reasonable amount of time for outdoor
8 exercise. No youth were allowed outdoors for about four months
9 prior to November, 1990, because the outside yard was unavailable
10 due to asbestos removal and fence repairs being performed at the
11 facility. (Deposition of Richard Carlson, pp. 311-312, at App.
12 7.)³² (See also, section IIID above.)

13 B. The Law

14 The ACA standards provide that all youth should be permitted
15 a minimum of one hour of large muscle activity and one hour of
16 constructive leisure activity (not including time spent watching
17 television) per day. (ACA Standard 8363, a copy of which is
18 attached at App. 27.) "Large muscle development and opportunities
19 for play and creative activity are essential for the growing
20 child." Id.

21 Courts have held that youth are constitutionally entitled to
22 a specific minimum amount of outdoor recreation or exercise per
23

24 ^{32/} Youth who do not go outside but who are permitted to
25 exercise indoors are subjected to a dangerously slippery gym floor
26 resulting from a leaky roof. (Declaration of B.S., at App. 18;
27 Deposition of Richard Carlson, pp. 313-314, at App. 7.) Juveniles
are given only about half an hour of indoor recreation.
(Deposition of Kwami Ellis, pp. 84-88, at App. 12.)

1 day, weather permitting. See e.g., Thomas v. Mears, 474 F.Supp.
2 908, 912, (e.D. Ark. 1979) (2 hours per day required). Inmates of
3 Boys' Training School v. Affleck, 346 F.Supp 1354, 1369 (D.R.I.
4 1972) (requiring 3 hours of outdoor daily exercise). Other Courts
5 have required administrators of juvenile facilities to increase
6 youth's access to recreation and leisure time. See e.g. Morgan
7 v. Sproat, 432 F.Supp. 1130, 1154 (D.C. Miss. 1977) (more than 9
8 hours of recreation per week required); Nelson v. Heyne, 355 F.
9 Supp. 456, aff'd., 491 F.2d 352 (7th Cir. 1974), cert. denied, 417
10 U.S. 976 (daily exercise required). See also Yockey v. Toussaint,
11 722 F.2d 1490 (9th Cir. 1984) (involving an adult prison).

12 Especially where, as in King County, a fenced outdoor
13 recreation area is available, there can be no legitimate reason
14 for denying youth the opportunity to go outdoors to relieve some
15 of the stress and tension imposed by overcrowded conditions. The
16 county defendants' denial of a reasonable opportunity for large
17 muscle exercise is unconstitutional.

18 VI. THIS COURT SHOULD ENJOIN THE UNCONSTITUTIONAL PRACTICES OF
19 DEFENDANTS.

20 Plaintiffs have met the criteria for the issuance of an
21 injunction.

22 '...[O]ne who seeks relief by temporary or permanent
23 injunction must show: (1) that he has a clear legal or
24 equitable right, (2) that he has a well-grounded fear of
25 immediate invasion of that right, and (3) that the acts
26 complained of are either resulting in or will result in
27 actual and substantial injury to him.'

28 Tyler Pipe Industries v. Dept. of Revenue, 96 Wn.2d 785, 792, 638
P.2d 1213 (1983), quoting Port of Seattle v. International

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 39

1 Longshoremen's and Warehousemen's Union, 92 Wn.2d 317, 324 P.2d
2 1099 (1958). These criteria must be examined "in light of equity
3 including balancing the relative interests of the public." Tyler
4 Pipe v. Dept. of Revenue, 96 Wn.2d at 793. Whether to grant a
5 preliminary injunction lies within the sound discretion of this
6 court, to be exercised according to the circumstances of each
7 case. Alderwood Asso. v. Environmental Council, 96 Wn.2d 230,
8 233, 635 P.2d 108 (1981).

9 A. Clear Legal And Equitable Right

10 Plaintiffs have shown above that they have a well-grounded
11 fear of immediate invasion of their clear legal and equitable
12 right. The following sections address the additional injunction
13 criteria.

14 B. Actual And Substantial Injury

15 Youth have been hospitalized as a result of assaults
16 committed against them at the KCDF. For example, K.X. was
17 "shaking uncontrollably", "sobbing", and "could not talk" after
18 other youth attempted to rape him. (Ex. D, at App. 6.) W.F.
19 suffered a broken jaw as a result of the attack on him in
20 detention. The psychological effects on youth of sexual attacks
21 in detention are undoubtedly serious. (Ex. A, at App. 6.) If
22 this court does not enjoin the county defendants, plaintiffs will
23 continue to suffer immediate and irreparable harm.

24 C. Balancing The Equitable Factors

25 The outcome of balancing the county defendants' interest in
26 saving the money it would cost to increase staff in detention
27

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 40

1 and/or to reduce the number of youth confined in the cells there,
2 against plaintiffs' right to personal safety favors the issuance
3 of an injunction. The cost of hiring additional staff to more
4 closely monitor youth activity in detention barely even weighs in
5 the balance compared to the physical safety of children in the
6 legal custody of the county. The public interest would best be
7 served by requiring the county defendants to take measures to keep
8 safe any youth placed in detention. In the long run, the cost to
9 the public of damages awarded to injured youth will surely
10 outweigh the cost of hiring more staff and reducing the number of
11 youth confined in the Alder building at the KCDF. But most
12 importantly, it serves the public's interest for the county to
13 operate a safe and humane juvenile detention facility.

14 VII. CONCLUSION AND REMEDY SOUGHT

15 As shown above, the Plaintiff class have a legitimate fear of
16 invasion of their constitutionally protected rights, and those
17 rights are being invaded daily as they are forced to live in an
18 unsafe, overcrowded and understaffed facility. Youth are isolated
19 in cells without even a mattress to sleep on or access to a
20 bathroom. They are denied reasonable opportunity for recreation
21 and outdoor exercise.

22 As relief, plaintiffs ask the court to require the county
23 defendants to house no more than two youth in any cell in
24 detention, to utilize more staff to monitor youth, to limit the
25 number of youth placed in the Alder Building at the KCDF to
26
27

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 41

seventy-one,³³ to enjoin the county defendants from using the holding cells behind the courtroom as sleeping cells and/or to punish youth, and to require defendants to afford all youth in detention the opportunity to have at least one hour of daily exercise, outdoors weather permitting.

DATED: May 22, 1991

Respectfully submitted,

EVERGREEN LEGAL SERVICES
Institutional Legal Services Project
101 Yesler Way, Suite 301
Seattle, WA 98104
(206) 464-0838

By: 
PATRICIA J. ARTHUR
WSBA #13769
JOHN MIDGLEY, WSBA #6511
On Behalf Of The Plaintiff
Class

^{33/} This request would not necessarily limit the number of youth committed to the Department of Youth Services. Plaintiffs ask the court to enjoin the county defendants from dangerously overpopulating the Alder building. The county has other options, such as temporary housing modules, which could be used as alternative housing. Numerous federal courts, including the United States Court of Appeals for the Ninth Circuit, have approved lids on prison populations or prohibitions against double celling to remedy Eighth Amendment violations. See, e.g., Balla v. Idaho State Bd. of Corrections, 869 F.2d 461, 472 (9th Cir. 1989); Toussaint v. Yockey, 722 F.2d 1490 (9th Cir. 1984); Tillery v. Owens, 907 F.2d 418 (3rd Cir. 1990); Duran v. Carrothers, supra; Twelve John Does v. District of Columbia, 861 F.2d 295 (D.C. Cir. 1988); Badgley v. Santacroce, 853 F.2d 50 (2d Cir. 1988) (vacating lower court's modification of consent decree which increased population cap); Inmates of Allegheny County Jail v. Wecht, 754 F.2d 120 (3rd Cir. 1985); Duran v. Elrod, 713 F.2d 292 (7th Cir. 1983); Benjamin v. Koehler, 710 F.Supp. 91 (S.D.N.Y. 1989); Palmagiano v. DiPrete, 700 F.Supp. 1180 (D.R.I. 1988); Ruiz v. McCotter, 661 F.Supp. 112 (S.D. Tex. 1986). Cf. Morales-Feliciano v. Parole Board of Com. of P.R., 887 F.2d 1 (1st Cir. 1989) (court approved contempt finding when prisoners not allowed minimal square feet per prisoner required by decree).

MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 42

EVERGREEN LEGAL SERVICES
INSTITUTIONAL LEGAL SERVICES PROJECT
101 YESLER WAY, SUITE 301
SEATTLE, WASHINGTON 98104
(206) 464-0838

1
2
3 HELLER, EHRMAN, WHITE & MCAULIFFE
4 6100 Columbia Center
5 Seattle, WA 98104
6 (206) 447-0900

7 By: John W. Phillips (by B.M.)
8 JOHN W. PHILLIPS
9 WSBA #12185
10 BLAIR C. STONE
11 WSBA #17741
12 Cooperating Attorneys for the
13 Washington Chapter of the
14 American Civil Liberties Union
15 On Behalf of Plaintiff W.F.
16
17
18
19
20
21
22
23
24
25
26
27

28 MEMORANDUM IN SUPPORT OF
MOTION FOR AN INJUNCTION-
Page 43

EVERGREEN LEGAL SERVICES
INSTITUTIONAL LEGAL SERVICES PROJECT
101 YESLER WAY, SUITE 301
SEATTLE, WASHINGTON 98104
(206) 464-0838

1 Prosecuting Attorneys, Civil Division, E550 King County
2 Courthouse, Seattle, WA 98104-2312.

3 David Burman, Attorney at Law, 1201-3rd Avenue, 40th Floor,
4 Seattle, WA 98103.

5 I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE
6 STATE OF WASHINGTON THAT THE ABOVE IS TRUE.

7 DATED: May 22, 1991

8 
9 MAUREEN JANECA

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28 CERTIFICATE OF
PERSONAL SERVICE-
Page 2