

Plaintiffs, on behalf of a class similarly situated, assert that the totality of conditions at the Reception and Diagnostic Center of the Indiana Department of Correction (hereafter "RDC"), fall below contemporary standards of human decency prescribed by the Eighth and Fourteenth Amendments of the United States Constitution. Severe and chronic overcrowding at the RDC has outstripped the existing physical plant and services, and has produced a dangerous combination of grossly inadequate conditions

in such core areas as environmental health and safety, the security and safety of the inmates, and the provision of basic medical services. The aggregation of these adverse conditions creates an experience that produces serious deprivations of basic human needs, generates unnecessary pain and suffering, and compromises plaintiffs' physical and mental well being.

Through this action, the plaintiffs seek to obtain a declaratory judgment that their constitutional rights are being violated, and a comprehensive remedial order to abate permanently the conditions that are causing the violations.

II. JURISDICTION AND VENUE

1. Jurisdiction is conferred by 28 U.S.C. §1343, which grants federal district courts original jurisdiction over suits seeking to redress deprivations under color of state law of rights, privileges, or immunities secured by the United States Constitution. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202. A federal cause of action exists in this case by virtue of 42 U.S.C. §1983 since the constitutional deprivations are being inflicted by persons acting under color of state law.

2. Venue lies in this Court pursuant to 28 U.S.C. §1392(b). Defendants Evan Bayh, James Aiken, and G. Michael Broglin reside or are employed in the Indianapolis Division of the Southern District of Indiana and each of the claims for relief arose in this judicial district.

III. PARTIES

A. Plaintiffs

1. The representative plaintiffs, Stephen M. Lecclier and James Worthington, are inmates of the RDC in Plainfield, Indiana. They propose to represent a certified class of all inmates confined at the RDC, presently or in the future.

2. Lecclier has been incarcerated at RDC since January 3, 1990.

3. The Department of Correction's evaluation and classification of Lecclier was completed on or about January 20, 1990. He has been waiting to be transferred to the Indiana State Prison since that time.

4. Worthington has been incarcerated at RDC since February 2, 1990.

5. The DOC's evaluation and classification of Worthington was completed on or about March 1, 1990. He has been waiting to be transferred to the Indiana State Prison since that time.

B. Defendants

6. Defendant Evan Bayh is Governor of the State of Indiana and head of the State's executive branch of government. As Governor, he appoints the Commissioner of the Department of Correction and retains ultimate administrative authority over the Department of Correction, a unit of the executive branch of government, as well as the RDC. Governor Bayh is sued in his official capacity.

7. Defendant James E. Aiken is the Commissioner of the Department of Correction for the State of Indiana. As Commissioner he exercises supervisory power over Indiana state prisons, including the RDC. Commissioner Aiken is sued in his official capacity.

8. Defendant G. Michael Broglin is Director of the RDC. As the prison's administrator, he has custody and control of all prisoners confined in the institution and is responsible for its daily operation. Superintendent Broglin is sued in his official capacity.

IV. CLASS ACTION ALLEGATIONS

9. Plaintiffs bring this action on their own behalf and, pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, on behalf of the class of all persons who now are or in the future will be confined at the RDC.

10. The class consists of almost 500 prisoners at any one time and joinder of all members is impracticable.

11. This lawsuit challenges various conditions of confinement at the RDC and there are questions of law and fact common to the class, including whether defendants have violated the First, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.

12. The claims of the plaintiffs are typical of the claims of the class, and plaintiffs and their counsel will thoroughly and adequately represent the interests of the class.

13. The defendants have acted and refused to act on grounds generally applicable to the class. Final injunctive and declaratory relief is appropriate on a class-wide basis.

V. FACTUAL STATEMENT

A. Preliminary Statement

14. The RDC is a maximum security prison located in Plainfield, Indiana, and operated by the Indiana Department of Correction. It is a receiving point where state-sentenced inmates are evaluated and classified before transfer to one of Indiana's facilities for sentenced prisoners. Opened in 1971 as a single-celled facility with a capacity of 204 prisoners, the RDC now has a population of nearly 500, resulting in total double-celling and the housing of prisoners on the open tiers. The crowding has its genesis both in the increased number of sentenced prisoners coming into the system in recent years and the lack of available bedspace in the facilities for sentenced prisoners. Not surprisingly, the average length of stay at the RDC has increased dramatically from two or three weeks to three or four months; prisoners not infrequently stay much longer.

15. The overcrowding has severely overtaxed the physical plant to the point that it poses an imminent public health and safety threat to the prisoners. The high density occupancy poses a grave threat of loss of life in the event of a fire or other emergency, and is an ideal breeding ground for the development and spread of contagious disease. Shower and toilet fixtures are

dilapidated and inadequate, and other measures of environmental health, such as ventilation, lighting, and sanitation, all fall dangerously below minimum standards.

16. Similarly, because the RDC is not designed as a long-term facility, essential basic services are not being provided. There is no formal classification system to identify and separate dangerous or hardened prisoners from those less dangerous. Indeed, there is no meaningful way to segregate predatory inmates from the general population or even from those who have sought protection. Beyond the provision of diagnostic and emergency medical services, no meaningful medical or other health care is provided. Prisoners are expected to wait until they are transferred to a permanent facility to receive care. Prisoners are confined to their cells more than twenty hours a day without any programming opportunities whatsoever, except two hours a week of outdoor recreation during warm weather and being permitted to watch a video movie two hours each night. There are no provisions for visits, phone calls (except after 60 days), newspapers, periodicals, religious services, or meaningful legal access. In short, the prisoners are warehoused in their cells with nothing to do for months until a bed becomes available elsewhere.

B. Overcrowding and Physical Environment

17. The RDC is designed to house 204 prisoners in a series of individual cells located on four tiers, each three stories

high. At present, approximately 500 men are confined in converted double-bunked cells and temporary beds placed on the open tiers.

18. The individual cells are approximately 56 square feet and contain a toilet and lavatory. All of the cells are double-bunked, except for a half dozen set aside for special management prisoners including two death-sentenced prisoners permanently assigned because of health reasons.

19. Approximately one hundred prisoners are housed on the facility's four bottom tiers in cots lined-up in the open central corridors and ranges; these make-shift dormitories have no walls or areas for privacy. These prisoners are routinely subjected to harassment, and objects and liquids, including urine, are thrown at them from the cells located above them. Urine, garbage, and lit cigarettes are most commonly things thrown.

20. High density confinement of this sort promotes the spread of airborne infectious disease and poses a grave threat of loss of life in the event of a fire or other emergency requiring immediate evacuation.

21. On each of the four tiers where the dormitories are located, twenty-five men must share a single toilet and lavatory in a cell that has been abandoned for this purpose. The shower situation is even worse, as these men must share a single shower with the thirty-six prisoners housed in the cells on the tier. As a result, prisoners are not allowed more than three showers a week.

22. To compound matters, the toilets are in a constant state of disrepair, with as many as half inoperable at any given time. In these cases, prisoners in the cells must share the single toilet set aside for prisoners on the tier. Even this is dependent on whether the prisoner is able to get the attention of the correctional officer to release him from his cell.

23. The toilets are uniformly filthy, corroded, and damaged to the extent they leak at the base, causing waste to pool in the cells.

24. There are not enough toilets, sinks and showers to accommodate the bloated population, and the state of the deterioration of the plumbing is symptomatic of this. These inadequacies negatively affect inmate hygiene and promote the continuation and spread of diseases.

25. Heating and ventilation in the living units is inadequate. As a result, temperatures are often unbearably hot in the summer and cold in the winter. Because of the stifling conditions, the potential for disseminating contagious airborne diseases is magnified. Also, since open windows are the primary source of ventilation in the warm weather months, and since these windows have no screens, the housing is infested with mosquitos and other pests.

26. Prisoners are issued inadequate clothing and are not allowed to keep their own clothes. They are issued one pair of light cotton slacks, a T-shirt, underwear, white cotton socks and plastic flip-flop style slippers. In the winter they are issued

a long-sleeved thermal undershirt. No jackets, shoes/sneakers, outer shirts, winters slacks or jeans are issued. Additionally, when laundry exchange occurs, there are typically not enough clothes and linens to go around so that prisoners frequently wear the same clothes for weeks at a time.

27. Numerous mattresses in the housing units are torn, soiled and stained. They are not cleaned between uses or shielded by mattress covers. Mattresses in these conditions offer harborage for disease-carrying insects and promote the transfer of disease organisms from one bed user to the next. Torn mattresses also pose fire hazards through the exposure of highly combustible materials.

28. Noise is constant and regularly reaches unreasonable and stress inducing levels.

29. Lighting in the living areas is inadequate, particularly at night, causing eyestrain, headaches and other medical problems.

30. Fire safety measures have not been developed or have not been meaningfully implemented. Fire drills have not been conducted in years; secondary exits are not immediately accessible; evacuation plans are not posted; and fire safety equipment such as extinguishers, hoses or detectors are not maintained or do not exist. This situation, combined with the severe overcrowding, creates a serious risk of loss of life in the event of fire.

C. The Safety and Security of the Inmates

31. The safety and security of the prisoners are seriously jeopardized by the current conditions and practices at the RDC. Extreme tensions and hostilities are engendered by the crowding of too many people in too little space. Forced idleness generated by the lack of any meaningful programming at the prison and inadequate staff supervision has resulted in an increase in the level of inmate-on-inmate violence in recent years.

32. This dangerous situation also stems from the lack of any meaningful classification process and from the failure to adequately separate predatory and violent prisoners from non-violent prisoners. Inmates are routinely assigned to housing based on a first-come-first-serve basis -- regardless of the nature of their crime, length of sentence, prior prison experience, or institutional record.

33. The level of danger is exacerbated by the lack of any meaningful programming, including the total absence of any outdoor recreation, except when weather permits -- and then only two hours a week -- or any indoor physical recreation. Indeed, the only out-of-cell time available is fifteen minutes for meals, and a video movie for two hours each evening. There are no religious services, no educational opportunities, and no work programs.

34. Visits are not permitted. After sixty days, a prisoner is allowed one 10-minute telephone call every thirty days. Additionally, newspapers, books, or packages from home are

prohibited. Radios are not allowed. Mail that is permitted is distributed at 4:30 a.m. Other than letters from home, prisoners have virtually no contact with the outside world during their stay. Even television news is not broadcast.

35. Since January 3, 1990, Lecclier has not received any family visits even though his mother had a stroke in December of 1989 and would like to visit her son.

36. An inadequate number of cells are set aside for special management prisoners. As a result, inmates in need of protection and inmates who are the cause of violence must be housed in the general population.

37. Staffing levels are inadequate. Only three correctional officers are actually assigned to each tier in the housing area. Frequently, there are even fewer. Additionally, these officers do not routinely enter the lower tiers for fear of their own safety.

38. Inmates living on the bottoms tiers on open cots are not sheltered from the objects and liquids, including urine and garbage, that are routinely thrown from the two top tiers. Lit cigarettes and other ignited materials, such as rolls of toilet paper have been thrown from above.

39. As a result of this combination of factors, the safety and security of the prisoners is gravely endangered.

D. Medical Care

40. Severe overcrowding at the RDC strains the prison's medical resources to a dangerous level and jeopardizes the health of its prisoners.

41. There are systemic deficiencies in medical staffing at the prison. There is no full-time physician, and only approximately 40 hours of part-time physician coverage per week. A substantial portion of this time is devoted to conducting intake physicals, rather than providing primary care. Nursing and other support staff are also seriously understaffed.

42. The current level of staffing at RDC is grossly inadequate to tend to the serious medical needs of the institution's nearly 500 prisoners. As a result, the diagnosis and treatment of serious medical conditions are routinely delayed and often unsatisfactory. As a result, prisoners have suffered unnecessary injury and needless suffering.

43. Because the RDC is not designed as a long-term facility, non-emergency routine medical and dental care is frequently delayed until the prisoner is transferred to a permanent facility. This is particularly true with respect to eye care, as eyeglasses are not routinely provided at the RDC.

44. The lack of medical leadership at RDC has resulted in the absence of a comprehensive or organized system of care.

45. Lecclier had a boil under his arm which was lanced by a physician without the application of novocaine. The wound was

not properly cleansed or bandaged, resulting in infection and pain.

46. In the recent past, a prisoner died as a result of the failure of the medical services.

E. Legal Access

47. Legal access is virtually non-existent at RDC. A small closet has been set-up as a law library with a totally inadequate collection of materials. Prisoners do not have access to this area and must rely on the assistance of one prisoner/clerk to provide copies of whatever materials or information is requested.

48. This practice denies direct access and is fraught with delay and error, making meaningful legal research impossible.

49. The restriction on telephone privileges makes it impossible for prisoners to speak with their attorneys by telephone.

50. Because no visits are allowed, there are no separate attorney-client conference rooms where confidential communications can occur.

VI. CLAIMS FOR RELIEF

51. The totality of conditions at RDC is incompatible with contemporary standards of decency and results in unnecessary and wanton infliction of pain and suffering. By depriving plaintiffs of such basic human needs as adequate shelter, personal safety and medical care, the defendants are violating plaintiffs' rights

to be free from cruel and unusual punishment as proscribed by the Eighth Amendment to the United States Constitution.

52. By operating a prison health care system that is deliberately indifferent to the serious medical and psychiatric needs of prisoners, the defendants are violating plaintiffs' right to be free from cruel and unusual punishment as proscribed by the Eighth Amendment to the United States Constitution.

53. The denial of reasonable access to attorneys or to a prison law library deprives plaintiffs of their right of meaningful access to the courts as guaranteed by the Sixth Amendment and the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

V. NO ADEQUATE REMEDY AT LAW

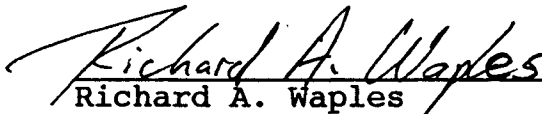
As a result of defendants' policies, practices, acts, and omissions, plaintiffs are being irreparably harmed. They are suffering unnecessary pain and anguish, psychological as well as physical harm and impairment, and the loss of their right to be imprisoned under conditions that do not inflict cruel and unusual punishment. Plaintiffs have no adequate remedy at law to redress the wrongs described herein. Plaintiffs will continue to be irreparably injured by defendants' policies, practices, acts, and omissions unless this Court grants comprehensive injunctive relief to abate the unconstitutional conditions that now exist in the institution.

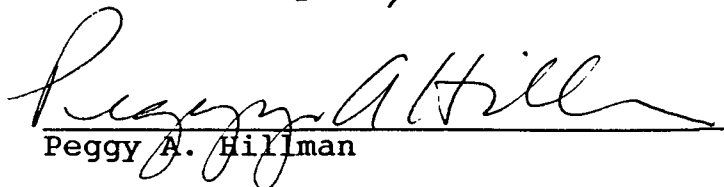
VI. PRAYER FOR RELIEF

On the basis of the foregoing, the plaintiffs respectfully ask the Court to:

1. Certify this cause as a class action.
2. Declare that the conditions described above violate the constitutional rights of the plaintiffs to be free from cruel and unusual punishment.
3. Declare that defendants have denied plaintiffs and the class they represent their constitutional right to procedural due process and their right of access to the courts.
4. Enjoin the defendants, their agents, employees and all persons acting in concert with them from subjecting the plaintiffs to the unconstitutional conditions and practices described above.
5. Enjoin the use of double-celling and the housing of prisoners on the open tiers.
6. Retain jurisdiction of this case until all remedial orders have been fully implemented.
7. Award plaintiffs their reasonable costs and attorneys' fees.
8. Grant whatever additional relief may be just and appropriate.

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