

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ESSEX COUNTY JAIL ANNEX INMATES,
COREY WEBB, THOMAS ARMOUR, FREDERICK
W. BOOKER, JAMES SIMON, RONALD
MCCLENDON, ROSETTA DRAKE, CANDACE
JOHNSON, ROSALIND ROBINSON, on
behalf of themselves and all other
persons similarly situated,

Plaintiffs,

v.

NICHOLAS AMATO, Essex County Executive,
THOMAS THOMPSON, Acting Administrator,
THOMAS GIBLIN, President, Essex County
Board of Chosen Freeholders,
JOSEPH PARLAVECCHIO, Vice President, Essex
County Board of Chosen Freeholders,
CARDELL COOPER, ADRIANNE DAVIS,
JOHN ALATI, JAMES CAVANAUGH
PEARL BEATTY, ARTHUR CLAY and MONROE
JAY LUSTBADER, Members Essex County
Board of Chosen Freeholders,
EMILY WEBER, Acting Director,
Department of Public Safety, and
their Successors in Office, individually
and in their official capacities,

and

WILLIAM H. FAUVER, Commissioner,
New Jersey Department of
Corrections, and his successor in
office, individually and in his
official capacity,

Defendants.

COMPLAINT

Civil No.

(Class Action)

(Civil Rights Claim)

ORIGINAL FILED

MAR - 9 1987

WILLIAM T. WALSH, CLERK

PRELIMINARY STATEMENT

1. This is a class action brought by inmates of the Essex County Jail system, in facilities located in North Caldwell known as the Jail Annex (hereinafter "Jail Annex" or ECJA). The Jail Annex is a sprawling complex

of long-neglected, decaying buildings, most of which house inmates in dark dungeon-like units that are over a century old. Numerous state and local inspections repeatedly have identified hazardous conditions and inadequate staffing levels, which conditions remain uncorrected and place inmate safety and health at serious risk. While the current conditions and problems described in this complaint have been caused by years of ineffective enforcement of applicable state regulations and the reckless inaction of prior County Administrations, immediate remedial action to correct existing problems is an absolute necessity.

2. The present crises, spawned by years of ineffective state regulation and the County's inexplicable inaction, are evident in Annex facilities that are dilapidated beyond repair, grossly overpopulated, and severely understaffed. As a result, ECJA inmates are forced to endure horrifying, inhumane and utterly intolerable conditions, including: toilets, sinks and pipes that are rusted and leaking sewage and water; walls and floors that are covered with filth; showers that are encrusted with green and black slime; rampant infestation by insects and rodents; exposed electrical wiring; crumbling ceilings, falling window panes, and rusted and rotted roofing; staffing levels for nursing and medical care that have led to knowing neglect of inmates with identified serious medical needs and a systemic inability even to identify, on admission or thereafter, inmates suffering from communicable diseases or other serious medical conditions; and other staffing shortages in security officers, maintenance workers and social service staff that have caused ECJA inmates to be denied access to important programs or care essential to their health and well-being.

3. The decaying physical plant and the inadequate supply of bunks has forced hundreds of inmates to sleep on stretchers amid litter and

puddles of water. There is also a constant atmosphere of tension, fear and hostility that prevails, interfering with supervision and protection of inmates.

4. As a result of the defendants actions or inaction, ECJA Inmates have been and are deprived of minimally adequate shelter, living space, sanitary facilities, necessities for personal hygiene, security, safety, exercise, medical care, visitation and other essential services.

5. The totality of conditions resulting from the deteriorated physical plant, the deprivation of essential services, and the tremendous overcrowding at the ECJA inflicts needless privation, suffering and hardship on inmates, creates an environment which threatens the inmates' physical and mental well-being, and results in the unnecessary deterioration of the physical and mental health of those confined there. The conditions and other practices or policies maintained at the ECJA violate the plaintiff class' rights to due process of law and to be free from cruel and unusual punishment.

6. Plaintiffs seek an order directing defendants to close sections of the ECJA immediately and to prepare a plan and timetable to replace the Jail Annex with an adequate and appropriate facility. Plaintiffs also seek an order immediately reducing the population confined in the ECJA and requiring the officials of Essex County and the New Jersey Department of Corrections to provide additional appropriate shelter for those who must be confined by Essex County. Plaintiffs further seek an order requiring the defendant Commissioner of Corrections to establish effective procedures to protect plaintiffs' rights to conditions of confinement that conform to the minimum mandatory standards promulgated by the Commissioner for jail conditions, programs and practices in New Jersey's

Adult County Correctional Facilities. This relief is sought to redress plaintiffs' rights under the First, Fifth, Sixth, Eighth, Ninth and Fourteenth Amendments to the Constitution of the United States.

JURISDICTION

7. This Court has jurisdiction under 28 U.S.C. Sections 1343 (3) and 1343 (4). Plaintiffs' request for declaratory relief is authorized by 28 U.S.C. Sections 2201 and 2202.

8. This suit is authorized by 42 U.S.C. Section 1983 to redress the deprivation under color of state law of rights, privileges and immunities secured by the Fifth, Sixth, Eighth, Ninth and Fourteenth Amendments to the Constitution of the United States.

9. This Court has pendent jurisdiction to determine the state claims, because the federal claims are sufficient to confer subject matter jurisdiction, the federal and state claims derive from a common nucleus of operative fact, and ineffective, incomplete relief will result, unless all claims are determined in a single judicial proceeding.

10. This is a proceeding for a preliminary and permanent injunction enjoining defendants from housing any inmates in certain sections of the Essex County Jail Annex and enjoining defendants from any and all actions which result in the confinement of plaintiffs and their class in such conditions of overcrowding and subject to such practices or restrictions, as to deprive them of the rights secured by the Constitution and laws of the United States. This is also a proceeding for declaratory judgment as to plaintiffs' rights to be free of such deprivations by defendants acting under color of state law.

11. There are no adequate and available state administrative remedies cognizable under 42 U.S.C. Section 1997e.

PLAINTIFFS

Essex County Jail Annex Inmates

12. Essex County Jail Annex Inmates (ECJA Inmates) include persons not convicted of any offense or crime who are detained and awaiting disposition of criminal charges in the county or municipal courts of Essex County, as well as persons convicted of a crime or disorderly persons offense who have been sentenced to serve a term in the county jail. They also include women inmates who have been sentenced to state prison, but remain confined at the Jail Annex.

13. Many ECJA Inmates may also have been confined for a time at, or are subject to transfer at any time to, the Essex County Jail in Newark, New Jersey.

14. ECJA Inmates include persons confined in cells and dormitories which are dilapidated beyond repair, in which toilets, sinks and pipes leak, where shower areas are covered with filth and slime, and where windows are so old that their panes fall down and hit inmates. ECJA Inmates are also persons confined in hazardous conditions and exposed to open sewage areas, where uncovered electrical wiring exists and has been left hanging near leaking plumbing fixtures, and where infestation by insects and rodents is rampant.

15. ECJA Inmates also include persons who are not even assigned to a cell or bunk. Instead they are confined for extended periods of time in corridor areas, where they are compelled to sleep on stretchers placed on the floor, where daytime floor space for activities is virtually non-existent and only narrow walkways between bunks or stretchers on the floor exist, all essentially because of an insufficient number of beds and

inadequate space to accommodate the number of individuals held at the Jail Annex.

16. ECJA Inmates also include inmates in other areas of the ECJA, who are or have been compelled to endure the conditions in packed dayrooms and dormitories, either directly by once having been housed there or through the impact of overcrowding on the services or activities at the Jail Annex.

Corey Webb

17. Corey Webb is a 34 year old citizen of the United States, confined at the ECJA since November 7, 1985, on criminal charges pending against him in Superior Court. He has been assigned to a cell on V-Tier of the East Wing.

18. He has seen roaches and water bugs crawling on the floors and walls of the tier. The central bathroom fixtures are leaking.

19. Upon his admission to ECJA, he spent three weeks sleeping on a stretcher on the floor of A-Tier of the West Wing.

20. He has vomited blood and has requested to be placed on sick call for a period of at least 10 days, but was not seen during that time by the jail physician.

21. He has tried to do legal research on his case, but has found there is no law library.

22. In other respects, although confined in another area of the jail, he is held in conditions essentially the same as those in the S-Tier as described in paragraphs 23 to 29.

Thomas Armour

23. Thomas Armour is a 19 year old citizen of the United States, admitted to the Essex County Jail Annex on April 22, 1986, on charges pending against him in municipal court.

24. At the jail, he was been assigned to a dorm on S-Tier, East Wing. He shares the dormitory with 29 other inmates.

25. There are only two working toilets, two working showers and four sink faucets to be shared by all 30 inmates in the dorm. The walls in the shower area are filthy and the paint is peeling off. The floors are dangerously slippery.

26. When he was first admitted to the ECJA, Thomas Armour was assigned to B-Tier, West Wing. There, he slept for 20 days on an army-type stretcher on the floor of the dayroom area, an area he had to share with up to 17 other inmates. All of the men sleeping on stretchers in the dayroom area had to use the toilet and sink in one cell. With the additional 17 inmates confined in the cells of B-Tier, Armour and 35 other inmates had to share the one shower out of three that was still partially functioning.

27. On July 4, 1986, he slipped on the wet floor near the shower area, hitting his head on the floor. He was sent for emergency treatment to the University Hospital in Newark. Seven stitches were needed to close the wound in the back of his head.

28. He has tried to get access to a law library since his admission to ECJA, but has not been successful and consequently, has been unable to do any research on his criminal case.

29. He has been a mess hall worker for about two months and found that the whole dining area emits a foul odor and is infested with water bugs, which often walk across the eating and preparation tables.

Frederick W. Booker

30. Frederick W. Booker is a 27 year old citizen of the United States. He was admitted to the ECJA on April 29, 1986 on criminal charges

pending in Superior Court. He was held in lieu of bail of \$12,000. He was assigned to a cell on F-Tier, West Wing.

31. There have been 16 other inmates in the cells of F-Tier and 14 men sleeping on stretchers in the dayroom area. He has seen ants crawling on the floor and walls of his cell and water bugs in the toilet bowl. The sink in the cell above overflows from time to time, causing water to leak through the ceiling into his cell. The toilet in his cell also floods over. The water in the cell's sink flows continually and is always cold.

32. He must share the one working shower with the 16 other inmates in cells, as well as up to 14 men sleeping on the stretchers on the floor. The floor of the shower area is covered with slime. In August 1986, he fell while leaving the shower area and hit his head and shoulder on the floor.

33. When he was first admitted to ECJA, he was assigned to sleep on a stretcher on the floor of the dayroom area of F-Tier. He shared the floor space with up to 15 other inmates. All 16 men on the stretchers had to use the sink and toilet in the one cell kept empty for their use and, together with the 17 men assigned to cells, they all shared the one working shower on the tier.

34. Frederick W. Booker has tried to get access to law books so that he can research issues in his criminal case, but has not been able to obtain a single book. He has not been able to get access to a typewriter to type legal Motions he desires to make. He has been trying since he was admitted in April to see a social worker, but has been unable to do so.

35. He was not given a medical examination at the jail before being placed into general population and was not administered a blood test upon admission, or at any time since.

James Simon

36. James Simon is a 24 year old citizen of the United States, confined at the ECJA from June 10, 1986 to November 6, 1986, on municipal court criminal charges. He was held in lieu of a cash bail of \$2,500.

37. At the jail, he was assigned to a cell on B-Tier of the West Wing. There were 17 inmates sleeping on stretchers on the floor of the dayroom area of B-Tier. Three cells on the tier were unoccupied because the plumbing was in such an extreme state of disrepair.

38. On or about October 7, 1986, a radiator pipe broke near the stretchers where men slept and water flowed out constantly. The inmates put a bucket on the floor to catch the water, but at night it flooded onto the floor.

39. Water often leaked through the ceiling of James Simon's cell from the cell above.

40. When he was first admitted to ECJA, he was assigned to sleep on one of the stretchers on B-Tier, together with as many as 23 other inmates. He slept on a stretcher on the floor for about 3 1/2 weeks. All 24 men sleeping on stretchers had to share the one toilet and sink in the cell kept open for their use. That toilet constantly overflowed and water flooded onto the cell floor. The 24 men on stretchers, together with the 17 men assigned to cells, all shared the one working shower on B-Tier.

41. Sometime in July 1986, when his wife came to visit him in the mess hall area used for contact visits, she fell on the floor which was wet and slippery.

42. For several months after he was first confined, he tried unsuccessfully to see a social worker.

43. Although he suffered from asthma, and despite repeated requests, he did not receive any asthma medication.

Ronald McClendon

44. Ronald McClendon is a 35 year old citizen of the United States, admitted to the ECJA on June 12, 1986, on criminal charges pending in municipal court. He was held in lieu of cash bail of \$5000. At the jail, he was assigned to cell 22, K-Tier of the Modules.

45. He has seen roaches crawling on the floors and walls of the Modular Unit.

46. On some days, two-thirds of the toilets are backed up.

47. There is no law library, and he has only been able to get access to a volume of criminal statutes after being required to make a request for the specific volume.

Rosetta Drake

48. Rosetta Drake is a 33 year old citizen of the United States, confined at the Essex County Jail Annex from April 9, 1986 to September 22, 1986, having pled guilty to criminal charges. At the jail, she was assigned to a cell on A-Tier of the Women's Building.

49. On or about June 24, 1986, while she was sitting on a bench in the dayroom area, a window pane fell out of the large window area and hit her on the head, neck and right shoulder. She was injured and had to be sent to the University Hospital in Newark for treatment. She has suffered back and headaches for months since the accident. She had previously seen approximately 20 window panes fall out of the window into the occupied tier

area, onto or near cots where, because of the overcrowded conditions, women have to sleep.

50. The plumbing in Ms. Drake's cell is faulty; the faucets leak and the sink frequently backs up and floods the floor of the cell. The toilet flush-button leaks when it is pushed.

51. There were bugs inside the toilet bowl.

52. She had to share three showers with the other 31 women confined on A-Tier. The entire shower area is filthy and the walls are covered with mildew. One shower has faulty drainage, so that the water rose over her feet when she showered. When she used the shower, water accumulated on the slime and dirt-covered ceiling and dripped down onto her head and body, causing sores and rashes.

53. She and the other female inmates did not have access to a gym or outside recreation area. She also did not have access to a law library.

54. She was not given a medical examination upon her admission to ECJA and her placement in general population. After approximately two and a half weeks, she was given a blood test.

Candace Johnson

55. Candace Johnson is a 34 year old citizen of the United States, confined at the Essex County Jail Annex from April 18, 1986 to September 8, 1986 while serving a county jail sentence. At the jail, she was assigned to a cell on F-Tier of the Women's Building.

56. Every time she flushed the toilet in her cell, water leaked out of the toilet bowl onto the floor. She has had to stuff rags between the toilet rim and the metal wall behind it to try to prevent water from flooding the floor. Only cold water came out of her sink, as well as all

the others in the Women's facility, and in the mornings, the water was usually rusty.

57. There are no lights in the cell she occupied or in any other cell in the Women's Building; the light fixtures have never functioned.

58. The entire shower area is covered with mold and mildew and had a foul smell. The floor drainage does not function properly, causing water to back up on the floor.

59. There are large holes around the shower fixtures, so large that when repair crews worked in the crawl space behind the showers, she was able to see them looking in through the holes at the naked women.

Rosalind Robinson

60. Rosalind Robinson is a 34 year old citizen of the United States, who was serving a county jail sentence at the Essex County Jail Annex from April 18, 1986 to September 3, 1986. At the jail, she was assigned to a cell on D-Tier.

61. The sink in her cell leaked under the basin. The toilet leaked whenever the flush button was pushed.

62. There are large holes around the fixtures of the three showers she shared with 16 other women, through which all sorts of bugs enter. There is no way to control the shower water temperature, which sometimes becomes unbearably hot. There is an odor of sewage coming from the drainage area and black slime on the walls. When the shower is used on the floor above, water leaks down from the ceiling onto the walls of the dayroom area of D-Tier near the T.V. Ms. Robinson often got wet from these leaks when she watched TV.

63. - There is a general roach infestation problem on the tier. Twice, she received coffee from jail staff with roaches floating around in it. She was often bitten by insects.

64. She was not given a medical examination before being admitted into the jail's general population. When she arrived at the jail, she had an internal infection and immediately requested medical attention. She was not taken to see the jail physician until she was in such pain that she could barely stand up. Two to three weeks later, she was taken to the hospital, where they found a cystic mass, that has to be removed. As many of the other women inmates, she had frequent rashes on her face and body... caused by the generally unsanitary living conditions at the jail.

DEFENDANTS

65. Nicholas Amato is the Executive of Essex County and is vested by statute with the ultimate responsibility for the operations of the Essex County Jail Annex and overall planning for the care and custody of the inmates housed therein. He is required to receive and keep all persons apprehended by law enforcement officers.

66. Thomas Thompson is the Acting Administrator of the Essex County Jail Annex in North Caldwell, New Jersey. He is directly in charge of jail operations and is responsible for the development and implementation of jail policy and procedure.

67. Thomas Giblin is the President of the Essex County Board of Chosen Freeholders; Joseph Parlavecchio is the Vice President of the Essex County Board of Chosen Freeholders; Cardell Cooper, Adrienne Davis, John Alati, Pearl Beatty, Arthur Clay, James Cavanaugh and Monroe Jay Lustbader are Members of the Essex County Board of Chosen Freeholders. The Board of

Chosen Freeholders is responsible for the funding of personnel and facilities required for the proper operation of the Essex County Jail Annex.

68. Emily Weber is the Acting Director of the Department of Public Safety for Essex County. She is responsible for the supervision of jail operations.

69. William H. Fauver is the Commissioner of the New Jersey Department of Corrections. He has, pursuant to N.J.S.A. 30:1-15, the authority to inspect conditions in county jails and, pursuant to N.J.S.A. 30:8-57, the authority to enforce compliance by a county jail with minimum standards and constitutional requirements, and under various Executive Orders of the Governor (attached), the authority to transfer inmates from local and county jail facilities to either state facilities or other county or private facilities.

CLASS ACTION ALLEGATIONS

70. Plaintiffs bring this action as a class action maintainable under Rule 23(a) and 23(b) (1) and (2) of the Federal Rules of Civil Procedure on their own behalf and on behalf of all persons similarly situated, that is, all inmates who now are, or who in the future will be, confined in the Essex County Jail Annex as detainees or as persons sentenced to that facility. The class represented by plaintiffs herein is so numerous that joinder of all members is impractical; there are questions of law and fact common to the class; claims of the representatives herein are typical of the claims of the class, and representative parties herein will fairly and adequately protect the interests of the class. The defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final declaratory and injunctive relief with respect to the class as a whole. The total members of the class number over

1000 persons at any one time, and the class members are subject to change as persons are committed to and discharged from the jail.

71. A class action determination will avoid the possibility of inconsistent or varying adjudications with respect to individual members of the class establishing incompatible standards of conduct for the defendants. Since a majority of the members of the class are indigents, suits by individual members would most likely be brought pro se, with all the attendant difficulties of such litigation.

72. Plaintiffs' attorneys are associated with the Office of Inmate Advocacy of the New Jersey Office of the Public Defender. They are familiar with the conduct of litigation of this kind and will afford adequate representation. By statutory authority, N.J.S.A. 52:27E-11 et seq., the Office is authorized to represent the interests of such persons as a class.

FACTUAL ALLEGATIONS

BUILDING AND DESIGN

73. The present Essex County Jail Annex is located in North Caldwell, New Jersey. It is comprised of a number of service buildings and four central housing buildings. The main housing buildings include: the Men's Building, the Women's Building, the "New" Wing, the Modules (also referred to as the R.C.F. or relocatable correctional facility) and the State Trailers. Other buildings, such as the Shoe Shop, also have recently been converted into housing units.

74. The ECJA is used as a detention facility by 22 municipalities in Essex County. It is also used to house inmates sentenced to terms of imprisonment in the county jail, and also some women inmates who are sentenced to state prison.

75. The ECJA is presently operating under the jurisdiction of the Essex County Executive.

76. The Men's Building, including its West and East housing wings, was constructed in 1875.

77. The "New" Wing was constructed in 1923 and was closed in 1982 because of its dangerous and dilapidated condition. It has, however, been reopened recently and now houses inmates in areas not intended nor appropriate for housing, including the vestibule areas.

78. Most of the ECJA's permanent buildings are antiquated, multi-story masonry buildings. The physical plant in general, is old and deteriorated, with crumbling ceilings, slime-covered walls, open sewage areas, faulty plumbing, leaks in the roof and exposed electrical wiring. The pipes are insulated with asbestos

79. The dilapidated condition of the physical plant poses a severe danger to the men and women inmates housed there. For example, the ventilation system, is largely dysfunctional, which creates substantial health risks and serious discomfort among inmates confined there during the high temperatures and humidity levels of summer.

80. The ECJA also suffers from its poor architectural design, which failed to provide adequate areas for recreation, library, or program space. This problem is greatest in the women's facility, which provides for almost no recreation or library use.

HOUSING AND LIVING SPACE

81. The ECJA had, until 1983, regularly housed between 450 to 550 inmates, most of whom were sentenced to county jail terms. Since 1983 despite the closing of approximately 200 beds in the ECJA's New Wing, the jail began housing as many as 700 inmates, approximately half of whom were detainees awaiting disposition of criminal charges.

82. In September 1986, an additional 75 inmates were moved to the Annex.

83. Since November 1986, as many as 1000 or more inmates have been housed at the ECJA, the additional inmates being assigned to areas such as the vestibules of the once closed "New" Wing, the basement area of the Women's Building, formerly used for contact visitation with inmate children, and the old Shoe Shop. Over 100 more inmates were moved to the Annex at the end of 1986. The jail's space and beds are totally inadequate to accomodate this number of inmates.

84. Areas designed and originally intended as housing for inmates, but which include units that are no longer safe or suitable for such purposes, include the following, with the specific areas described in

subsequent paragraphs: 144 male general population cells in the West Wing of the main facility; 180 beds in the dormitories of the East Wing; 120 beds for male inmates in the R.C.F. Modules opened in late 1982 and 96 beds in R.C.F. Modules opened in late 1986; 48 beds for male inmates in the dormitory-style trailers; and 102 cells in the Women's Building. While this configuration provides a theoretical 690 beds, the ECJA's actual capacity is far less because many cells and beds cannot be used without endangering inmates' health, safety and security.

85. ECJA inmates were ordinarily housed in both cells and dormitory units. As a result of overcrowding, however, a majority of the inmates are now crowded into dormitories and corridor areas, having to sleep on single or double bunks, with little space between them, or on army-type stretchers placed directly on the floor, almost touching each other. Mattresses are neither cleaned nor sanitized between users.

MEN'S BUILDING: WEST WING

86. The Men's Building is entered through a large rotunda, which serves as access to the West Wing, the East Wing, a Hospital Wing, the Administrative Offices, the Mess Hall and now, the once closed "New" Wing.

87. The West Wing is used to house unsentenced inmates. It consists of four levels with two tiers on each level; each tier contains 18 cells, for a total of 144 cells. In addition, there are approximately 70 army-type stretchers layed out in close proximity to one another in the outside corridors of four of the tiers. Housing inmates on stretchers in this manner is a constant practice.

88. Housing inmates in the corridor areas affects the living conditions of all West Wing inmates. Those who sleep on stretchers on the floor have very little sleeping or living space. The stretcher mattresses

they sleep on are badly cracked; some are ripped and torn. Inmates sleeping on stretchers have no locker of any kind in which to put their personal possessions and must hang their possessions on the walls and bars of the other inmates' cells.

89. During the daytime hours when the corridor space is shared by the inmates on stretchers as well as the inmates from the cells, there is even less space per "corridor" inmate. When inmates are housed in the corridor, those inmates confined to the cellblocks are also affected, since the space to which they have access for 6 to 8 hours a day is greatly reduced. The clutter of bodies sleeping in corridors adversely affects those inmates fortunate enough to be assigned a cell bunk, as it limits their opportunity for daytime space, exacerbates tensions, creates resentments and fighting over the barest of necessities and poses a health hazard to everyone confined there.

90. The floor in the corridors of West Wing is black with dirt, as are the walk-ways in front of the cells and the floor inside many of the cells. The entire Wing is infested with roaches, ants, flies and fleas.

91. A great many of the standard size mattresses in the cells are badly cracked, ripped or torn, or have open seams. Even more badly damaged mattresses, to be used when there is a greater population increase, are stored on the floor under the stairs in the West Wing.

92. The shower area walls are badly rusted and are covered with black and greenish slime. Water drips from the ceiling above the showers. Black slime covers the floors. The floors are dangerously slippery, frequently causing inmates to fall and sometimes suffer serious injury. The entire area is poorly lighted. As many as 48 inmates on a single tier must share a single working shower.

93. All the washroom areas, particularly the slop sinks, are filthy. Some sinks do not work at all. In some areas, the walls are rusted and cracked. Water has run down some walls for so long that they have rusted and one can see light through the cracks.

94. The cell toilets in the West Wing are rusted and dirty. Some cells also have faulty plumbing, causing toilet water and sewage to leak through the ceiling into the cells below. Other toilet fixtures splash out water when flushed. There is no running water for the lavatory in some cells and the water cannot be shut off in others. Water leaks through the ceiling in various places from the tier above. The approximately 14 inmates on cots in each of the corridors must share one toilet and one lavatory in a cell left unoccupied for their use.

95. There are no indoor or outdoor recreation facilities or dayrooms for the West Wing.

96. In the pipe chase area of the West Wing, which separates the two cellblock areas on each floor and allows for repairs to be made to the plumbing without entering the cells, there are exposed live wires to outlet boxes hanging loosely amid leaking pipes.

97. There are no backflow preventers for either the building as a whole, or for any of the four levels of the pipe chase.

98. Toilets and lavatories share a common water line, so when the toilets are flushed, the amount of water for the lavatories is reduced.

99. Holes have been drilled on both sides of the traps for the drain lines in the pipe chase, and those holes between the trap and the vent pipe could allow sewer gas to escape into the pipe chase.

100. Because of major leaks in the valves for the hot water pipes for the showers in two levels of the pipe chase, hot water runs down the

pipe chase into the drain, and steam escapes into the chase. The water supply lines for a number of lavatories and toilets leak so badly that water sprays out and eventually runs down the floor into the drain.

101. A number of long-term, unrepaired leaks in the showers have resulted in the formation of stalactites, some over one foot long, on the ceilings of the pipe chase.

102. The conditions of the physical plant in the West Wing, along with the inadequate staffing for maintenance, security and program activities, create such hazards to inmate health, safety and security that the West Wing must be closed.

EAST WING.

103. The East Wing consists of three identical levels of two tiers each. Each tier contains one 14-man dorm and one 16-man dorm, for a total of 180 beds. Low partitions divide the dorms into two-man booths.

104. There is no recreational area, dayrooms or even corridor space, for the dorms in the East Wing.

105. On some tiers, there are only two working toilets; other tiers have only one or two functioning showers, which must be shared by all 30 inmates confined there.

106. The walls in the shower area are all filthy and slime covered. Paint is peeling off the walls. Some walls are so rusted that they have almost cracked in two.

107. The shower room floors are covered with brown and black slime and are slippery and dangerous.

108. On one tier, there are two old restroom areas which are not in use and have been boarded up. They are in a state of extreme disrepair and are full of old garbage. All that separates the garbage-strewn area

from the dormitory beds in some places are broken window panes, boarded up with sheets of cardboard.

109. Almost all of the toilets in the bathroom areas leak. There is a gray slime on the floor under the toilets.

110. The insides of many of the toilets have been coated with a very rough cement, presumably to cover the cracks, which makes the bowls difficult to clean.

111. Roaches and water bugs infest the living areas and all other areas of the East Wing.

112. The doors to the pipe chase area for some tiers have been closed for so long that their locks have been completely painted over, indicating that necessary maintenance has been entirely neglected.

113. The conditions of the physical plant in the East Wing, along with the inadequate staffing for maintenance, security and program activities, create such hazards to inmate health, safety and security that the East Wing must be closed.

THE SO-CALLED "NEW" WING

114. The inappropriately named "New Wing" was closed in 1982 for health and structural hazards.

115. It was reopened in November 1986, without being repaired.

116. A total of 68 inmates are now housed on double bunks in the vestibule area of each of the first three floors. The fourth floor has not yet been used because of serious leakage from the outside roof.

117. Each of the three vestibule areas, where between 18 and 30 inmates are now housed, is equipped with only one toilet and two sinks.

118. All of the inmates in the New Wing must use the three prefabricated shower units which have been installed in the first floor

vestibule area. These showers are not connected up to the building's central plumbing.

119. There are leaks of such long-standing on the heating and plumbing pipes that major stalactites have formed.

120. The conditions of the physical plant in the "New" Wing, along with the inadequate staffing for maintenance, security and program activities, create such hazards to inmate health, safety and security that the "New" Wing vestibules areas must be closed.

MEN'S FOOD SERVING AREA

121. There are holes and broken tiles on the floor of the men's food serving area. The pipes, insulation and floor of the food preparation area are all filthy. There are exposed hot steam pipes. The kitchen sink leaks and pans have to be placed beneath it to catch the leaking dirty water.

122. Both steam tables in the food serving area of the dining room have old rags for drain plugs. One has been there for so long that a stalagmite is growing below it, formed by the drips falling off the rag. The insulation on the pipe that leads to the steam kettle in the dining room is filthy and has begun to deteriorate. Old rags have been wrapped around part of the pipe.

123. There is roach and rat infestation in the serving area of the dining room and the kitchen area.

124. The scrape-table drain leaks, causing dirty water to accumulate on the floor, which in turn erodes the concrete. The floor drain has backed-up near the serving area, giving off a sewage odor. In the food serving area, a backed-up floor drain has broken the floor tile around the

drain to the point that the drain is higher than the exposed concrete. The whole floor area is dirty and has an odor of sewage.

125. There is a heavy layer of a black, sticky substance on the floor of the food storeroom. A thinner layer of the black substance coats the wooden pallets. In the canned goods storage area, there is a thick white scum on the floor under and behind the pallets. Water seeps in through the wall in the canned goods area. The cooler system is frosted up and is not cooling properly. There is slime on the ice machines in the kitchen. The walk-in cooler has an accumulation of mold on the walls.

126. The floor and slop sink in the food service garbage room are covered with dirt. The ceiling is slimy, sticky and damp and, in some spots, is covered with spots of mold. Opposite the slop sink, the mortar has broken loose between the tile, and an inch of stinking dirty water lays in the cracks. There are open sewer lines by the slop sink in the garbage room and also by the sink in the food preparation areas.

127. The inmate food service workers' restroom has open sewer pipes, where a toilet has been removed.

MEDICAL UNIT

128. The medical unit consists of three wards, A, B and C, and three isolation cells. These wards house seriously ill inmates.

129. During the summer months, the temperature in Ward C is usually above 80°F and the humidity is often as high as 85%. There are a number of beds with broken springs; some bunks have even been supported by old milk crates. The walls are filthy and the floor is covered with grit. At least one window is broken and does not have a screen.

130. A toilet fixture has been removed from the restroom area of Ward C, leaving a large open hole in one wall leading to an open sewer.

Although the hole is stuffed with paper, sewer gas escapes through it. The floor of the toilet area is dirty and the lavatory drain line leaks. There is a major, long-standing leak in the toilet facility. One of the pipes in the pipe chase serving Ward C is uncapped. The water supply pipe for the toilet in Ward C, Isolation Cell 3 has a major leak.

131. The conditions of the physical plant in Ward C, along with the inadequate staffing for maintenance, security and program activities, create such hazards to inmate health, safety and security that Ward C must be closed.

WOMEN'S BUILDING

132. The Women's Building of the ECJA consists of three levels with two tiers of 17 cells in each tier, for a total of 102 one-woman cells, two of which are not functional; it has its own dining facility. The top and bottom tiers have outside corridors, in addition to the walk-ways in front of the cells.

133. The corridors were originally intended to be used as daytime activity space, but are now used to house additional inmates sleeping on cots or double-bunks.

134. Since October 1986, 24 men inmates have been confined in the basement area, formerly used for contact visits with children of the women inmates.

135. Housing inmates in the corridor area of the Women's Building is an unrelenting practice at ECJA. It impacts not only upon the particular women who must endure such conditions of confinement, but inevitably affects all the inmates. The clutter of bodies sleeping in corridors adversely affects those inmates fortunate enough to be assigned a cell bunk, as it limits their opportunity for daytime space, exacerbates tensions, creates

resentments and fighting over the barest of necessities and possess a health hazard to **everyone** confined there.

136. The roof of the Women's Building has leaked for so long that there are wet, rusty spots on the attic side of the steel ceiling for the cells below.

137. There is a general insect infestation problem throughout the Women's Building. There are bugs in the cells and women are frequently bitten. Inmates have found insects in their food and coffee.

138. There are no lights at all in the individual cells. There are light fixtures, but they have never functioned, since the electrical work was never completed.

139. There are no lockers for clothing or other combustible material and the women, therefore, must hang clothing on the walls and bars of their cells, which poses a health and security problem. Other possessions are stored under the beds.

140. The floors of the cells and dayroom areas are filthy and sticky.

141. The toilet bowls and toilet flush-buttons in many of the cells leak; some leak so badly that rags have to be stuffed into openings to keep the water from flooding onto the floor. When some of the toilets are flushed, water sprays onto the toilet seat. The water closet walls in most of the cells are rusted; some have holes and cracks.

142. None of the lavatories in the Women's Building are equipped with hot water. The water that comes out is often dirty, especially in the morning. The sinks are often backed up and water floods onto the cell floor.

143.-A vast number of the beds have torn or badly cracked mattresses. A few inmates are forced to sleep on the floor because the bed in their cell is broken.

144. Women on cots and recently also on double-bunks in the corridors have to share a single toilet and lavatory in one cell kept empty for such use. At times, up to 21 women share the lavatory facilities in the one or two empty cells. Even that lavatory is often stopped up and drains slowly, if at all.

145. The shower areas throughout the Women's Building are full of filth and slime. There are leaks of such long-standing that they have formed major stalactites. The concrete walls and ceilings are deteriorating and are covered with mildew and slime. When the shower is used, water accumulates on the slime-covered ceiling and then drips down onto the heads of the women using it causing sores and rashes to develop. There is no way to control the shower water temperature, which sometimes becomes unbearably hot. Some of the showers have such poor drainage, that the water rises over the feet of the person taking the shower. There is a sewage odor coming from the drainage areas.

146. There are large holes around all of the shower fixtures. When the plumbing needs repair, men working in the crawl space behind the shower walls can be seen looking in through the holes at women taking a shower.

147. When the showers are used on one floor, water leaks down through the ceiling to the floor below, onto the inmates confined there.

148. There are three showers on each floor, although only two function on A and B Tiers, to be used by up to 38 women per floor.

149. Some electric junction boxes in the shower areas are wet and rusted, as are some electrical conduits.

150. There is an open lavatory drain leaking in the pipe chase area of the Women's Building. Between 60% and 75% of the vacuum breakers in the pipe chase for the toilets of the Women's facility are missing.

151. The toilets and lavatories share a common water line, so when the toilets are flushed, the flow of water to the lavatories is reduced.

152. The Women's Building does not have backflow preventers for the building itself or for each of the levels of the pipe chase, creating a hazardous situation.

153. There are a number of holes in the lavatory drain, which allow sewer gas to escape into the pipe chase. Some of the vent pipes have been rusted through, leaving gaps of as much as 1 1/2 inches, through which sewer gas can escape into the pipe chase. Several of the plugs on top of the tees for the toilet drain line vents in the pipe chase are missing, permitting sewer gas to escape. There is sewage-like fermenting water on the floor of the pipe chase at the Tier A and B level.

154. In Tier D of the Women's Building, stalagmites are growing up from the top of the cover of the cell opening mechanisms located in the corridor. The stalagmites are caused by leaking plumbing above the corridor, which cannot be controlled, due to the building's structure.

155. There are many broken windows and missing screens in Tier D of the Women's Building. The window panes in the huge windows of A and B Tiers are old and loose. They have fallen out and have hit women sitting or lying on their cots below. At least one inmate has suffered serious injury.

156. There is no mechanical ventilation at all in the Women's Building.

157. Persistent levels of overcrowding seriously limit the ability of the ~~women inmates~~ to utilize corridors for daytime functions. At the same time, there is neither an inside gym nor outside recreation area for women inmates.

158. There is no library; some law books fill shelves in a room used for inmate interviews with lawyers and social workers, but they cannot be used effectively because they are in no particular order and are not indexed or otherwise organized. Numerous volumes essential for basic legal research are not available.

159. Since October 1986, 24 male inmates have been confined in the basement area of the Women's Building. Twelve double bunks have been crowded into this area. The men all share two toilets and two showers. There are three sinks, one of which runs constantly. Stalagmites grow from the water pipes.

160. The conditions of the physical plant in the Women's Building, along with the inadequate staffing for maintenance, security and program activities, create such hazards to inmate health, safety and security that the Women's Building must be closed.

R.C.F. MODULES

161. The Modules consist of a central corridor area, a dining facility and five living units. Tiers A, B, C, D and E are accessible from the central area through locked doors. Tiers A and E each house 24 inmates and each consist of four dorms and a central dayroom. Tiers B, C and D each house 24 inmates and each have 12 cells.

162. The number of inmates held in each unit has been increased beyond design capacity by adding double bunks.

163.- The housing of inmates in these units beyond their design capacity has led to the rapid deterioration of the modules and to conditions that jeopardize inmates' health and safety.

164. Many of the mattresses used by inmates in the R.C.F. are badly cracked and have staph check type covering. Others are made of uncovered and deteriorating foam pads.

165. The showers in the Modules are filthy. There is a white, soap-like film on the inside of the doors and on the shower-room walls. There is mold on the walls and black moldy spots on the ceiling.

166. All 24 inmates on each tier must share a single shower.

167. There is only one outside recreation yard for all 5 modules. Due to its size and the limited staffing for inmate programs, inmates may use the yard only infrequently. It also cannot be used in cold or inclement weather, because the inmates are not allowed to have outdoor clothing.

168. The Modules are infested with roaches. On some days, up to 2/3 of the toilets are backed up.

169. In mid-November 1986, a new Module was completed and an additional 96 inmates are similarly confined there in overcrowded conditions similar to those described in paragraphs 160 to 167.

STATE TRAILERS

170. Inmates are also confined in six dormitory-style trailers that house up to 10 inmates each. One end of each trailer opens onto a shared central area. Unlike the Modules, there is no locked door between the central area and the trailers.

171. There is no indoor or outdoor recreation area for the trailers.

OTHER HOUSING AREAS

172. The old Shoe Shop has, due to the huge increase in inmate population, recently been converted into a make-shift dormitory and now houses 28 work release inmates. They all share a single shower, two working toilets and four sinks. Inmates had been housed in the old Paint Shop, but, pursuant to an agreement with North Caldwell, they have been removed.

EMERGENCY PROCEDURES

173. There are no uniform plans for emergency procedures for the different buildings, or even for the different tiers in the same wing or building. Emergency procedures are at the discretion of the individual officers-in-charge.

174. Only permanent staff is trained in emergency procedures. Although the Jail Annex's funding problem has hindered hiring of permanent employees and a large majority of the new employees are classified as "temporary" temporary or probationary, probationary employees are not given the correctional officers training course, which includes emergency management.

175. There is only one exit for each of the tiers in the Women's Building, as well as each of the tiers in the West Wing of the Men's Building. All of these tiers only open onto a central stairway, making emergency evacuation difficult and dangerous. There is also only one exit for the hospital wing. In the East Wing of the Men's Building is an alternate exit on the third floor, which leads to the auditorium. However, this is not an effective second exit because the door leading to the auditorium is adjacent to the central stairway. Moreover, the corrections officers on duty do not have keys to this door, so in case of an emergency,

an officer from another area would have to be summoned to bring a key to unlock the door from the auditorium side.

176. There is no central fire or smoke detection system in the main facility. There is no fire alarm pull station located in or near the main kitchen area.

HEALTH CARE

177. When an inmate is admitted for incarceration at the ECJA, he or she is often immediately placed in general population without medical examination being performed and, most recently, without even a medical history being taken. Weeks often pass before a nurse has time to take a medical history. There is no medical screening done on female inmates who are admitted to the ECJA and a medical history is taken only if a female inmate reports a medical problem.

178. Pregnancy tests are not given to female inmates.

179. Blood tests for communicable diseases, contagious conditions or other serious health problems are not regularly performed upon admission, but, if performed at all, are often delayed for days, if not weeks, after an inmate's admission. At least one inmate with active tuberculosis was placed in general population, where he remained for months before he was sent to the University Hospital for treatment.

180. There is no intake/holding area.

181. Due to overcrowding at the ECJA, the medical department is both overutilized and often unable to perform according to its ordinary procedures: the medical screening of inmates, has when done at all, been limited to a perfunctory and inadequate medical history; physical and psychiatric examinations are the exception, not the rule; and there have been extended delays in referrals for observable medical problems. Only if

the medical history indicates an existing problem, will an inmate be examined, often weeks later, by a physician.

182. Despite the recent sudden increase in inmate population, there have been no additions to the already overburdened medical staff. Nurses sometimes must work two consecutive shifts to ensure minimal medical coverage. At times when there is only one nurse on duty, she is often unable to get the prescribed medication to all inmates requiring medication.

LAW LIBRARY

183. There is no law library at ECJA. In order to obtain a law book, an inmate must have a specific cite to request.

CLASSIFICATION

184. Overcrowding at ECJA has made a meaningful system of classification virtually impossible. As a rule, inmates are assigned to any area where space becomes available.

EFFECT OF OVERCROWDING ON INMATES AND OTHER PROGRAMS AND SERVICES

185. Overcrowding, understaffing, inadequate program space and the conditions in the housing and living units, as described in paragraphs 1 to 184, have caused pervasive idleness, have severely limited or eliminated the opportunity for recreation, exercise, and visitation, have seriously impeded sanitation, safety and the provision of even the most essential medical services, have created anxiety and violence, have threatened the inmates' physical and mental wellbeing, have threatened to produce debilitation in those confined, and have inflicted needless privations and hardships on inmates detained at the ECJA.

186. Overcrowding and its consequences, as described in paragraphs 1 to 185, further has prevented the defendants from providing needed medical, dental and psychological screening and care for ECJA inmates,

regular programs for religious worship, fair procedures for inmate discipline, and has contributed to the development of an unsanitary, hazardous and insecure environment for both inmates and staff.

CAUSES OF ACTION

Count One

Conditions and Practices that Amount to Punishment

187. Plaintiffs and members of the class repeat the allegations contained in paragraphs 1 through 186 of this Complaint as though the same were set forth at length herein.

188. The conditions and practices, alone or in their totality, as maintained at the ECJA by the county and state defendants, expose and subject plaintiffs and members of the class who are pretrial detainees to punishment, or to conditions that amount to punishment, in violation of their rights to due process of law under the Fifth and Fourteenth Amendments to the Constitution of the United States and Art. 1, paragraph 1 of the New Jersey Constitution, as well as N.J.A.C. 10A:31-3.1 et seq.

Count Two

Conditions and Practices that Constitute Cruel & Unusual Punishment and Violate State Law

189. Plaintiffs and members of the class repeat the allegations contained in paragraphs 1 through 186 of the Complaint as though the same were set forth at length herein.

190. The conditions and practices, alone or in their totality, as maintained at the jail by the county and state defendants, expose and subject plaintiffs and members of the class who are sentenced inmates to cruel and unusual punishment, in violation of their rights under the Eighth and Fourteenth Amendments to the Constitution of the United States, Art. 1,

paragraph 12 of the New Jersey Constitution, and their rights under N.J.S.A. 26:4-49.1 and 26:4-49.8, and N.J.A.C. 10A:31-3.1 et seq.

Count Three

Conditions that Deprive Plaintiffs of Liberty In Violation of Due Process

191. Plaintiffs and members of the class repeat the allegations contained in paragraphs 1 through 186 of this Complaint as though the same were set forth at length herein.

192. The confinement of inmates by the county and state defendants under conditions that fail to meet the mandatory requirements set forth in N.J.A.C. 10A:31-1.1 et seq. arbitrarily and unreasonably deprives plaintiffs and members of the class of entitlements and liberty, in violation of their right to due process of law under the Fifth and Fourteenth Amendments to the Constitution of the United States and Art. 1, paragraph 1 of the New Jersey Constitution.

Count Four

Violations of Inmates' Rights of Access to the Courts, Visitation and Religious Worship

193. Plaintiffs and members of the class repeat the allegations contained in paragraphs 1 through 186 of this Complaint as though the same were set forth at length herein.

194. The failure and the refusal of the county defendants to provide, and of the state defendants to cause the county to provide, an adequate library, particularly an adequate law library, a paid librarian, and sufficient inmate access to the library, and adequate opportunities for visitation and religious worship, deprive plaintiffs and members of the class of their right of access to the courts, to a fair trial, and to associational liberties, free expression, familial privacy, and free

exercise of religion, as guaranteed by the First, Sixth, Ninth and Fourteenth Amendments to the Constitution of the United States and Art. 1, paragraphs 1, 10 and 18 of the New Jersey Constitution, and their rights under N.J.A.C. 10A:31-1.1 et seq.

Count Five

Deprivation of Due Process by Failure to Adhere to State Rules

195. Plaintiffs and members of the class repeat the allegations contained in paragraphs 1 through 186 of this Complaint as though the same were set forth at length herein.

196. The failure and the refusal of the county defendants to promulgate and enforce rules and regulations applicable to the ECJA, including but not limited to, rules for inmate discipline, or to enforce the rules, regulations, orders and directives promulgated by the Commissioner of the Department of Corrections, deprive plaintiffs and members of the class of due process of law in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States, Art. 1, paragraph 1 of the New Jersey Constitution, and N.J.S.A. 30:1B-6g.

Count Six

Deprivation of Due Process by State Defendant's
Failure to Make Adequate Findings

197. Plaintiffs and members of the class repeat the allegations contained in paragraphs 1 through 186 of this Complaint as though the same were set forth at length herein.

198. Defendant Fauver's failure and refusal to make adequate findings with regard to the determination of the conditions, circumstances and surroundings under which inmates are confined at the jail arbitrarily and unreasonably deprive plaintiffs and members of the class of their right

to due process of law, in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States, Art. 1 paragraph 1 of the New Jersey Constitution, and constitute a violation of N.J.S.A. 30:1-14.

Count Seven

Deprivation of Due Process by State Defendant's
Failure to Restrict Admissions

199. Plaintiffs and members of the class repeat the allegations contained in paragraphs 1 through 186 of this Complaint as though the same were set forth at length herein.

200. Defendant Fauver's arbitrary and unreasonable failure and refusal to determine that the jail is in wilful and continuous disregard of the minimum standards for county jails, and to order the closing of sections of the jail or a phased restriction of admission of new inmates to the facility, deprive plaintiffs and members of the class of their right to due process of law, in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States and Art. 1, paragraph 1 of the New Jersey Constitution, and constitute a violation of N.J.S.A. 30:8-57.

Count Eight

Deprivation of Due Process By State Defendant's
Failure to Take Action To Require Compliance with Minimum Jail Standards

201. Plaintiffs and members of the class repeat the allegations contained in paragraphs 1 through 182 of this Complaint as though the same were set forth at length herein.

202. Defendant Fauver's arbitrary and unreasonable failure and refusal to exercise his authority and his obligation to enforce or cause to be enforced all rules and regulations promulgated under his authority, deprive plaintiffs and members of the class of their right to due process of law, in violation of the Fifth and Fourteenth Amendments to the Constitution

of the United States and Art. 1, paragraph 1 of the New Jersey Constitution and constitute a violation of N.J.S.A. 30:1B-6h.

Count Nine

Deprivation of Due Process and Equal Protection
by State Defendant's Failure to Remove Female State Prisoners

203. Plaintiffs and members of the class repeat the allegations contained in paragraphs 1 through 186 of this Complaint as though the same were set forth at length herein.

204. Defendant Fauver's failure and refusal to designate another place of confinement for female state prisoners from Essex County have subjected detainee plaintiffs and sentenced plaintiffs to cruel and unusual punishment, in violation of the Eighth and Fourteenth Amendments to the Constitution of the United States and Art. 1, paragraph 12 of the New Jersey Constitution and have deprived them of their right to due process of law and to the equal protection of the laws, in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States and Art. 1, paragraph 1 of the New Jersey Constitution.

Count Ten

Injuries Caused by Defendants

205. Plaintiffs and members of the class repeat the allegations contained in paragraphs 1 through 186 of this Complaint as though the same were set forth at length herein.

206. The actions or inactions of the county and state defendants have subjected plaintiffs and members of the class to physical, psychological and emotional distress, pain, deterioration and injury, as well as loss of liberty, and with reckless and callous indifference, have subjected plaintiffs and member of the class to unlawful and

unconstitutional conditions and practices at the jail, thereby entitling plaintiffs and members of the class to nominal, compensatory and punitive damages.

GROUND FOR INJUNCTIVE RELIEF

207. The aforesaid conditions and practices are known to the defendants, their agents and their employees, but these conditions and practices have been allowed to continue and to become worse, without appropriate and effective efforts being made to bring about their elimination or correction, in a manner that would provide timely relief for those plaintiffs who have suffered and will continue to suffer from these conditions and practices.

208. The aforesaid conditions of confinement and official and unofficial practices are allowed to continue and are imposed by defendants acting under color of law of the State of New Jersey.

209. There is an actual controversy between plaintiffs and defendants, in that the defendants impose or allow the conditions and practices above described to exist and to continue unimpeded and uncorrected.

210. Plaintiffs and the class they represent have no adequate remedy at law, thus making injunctive and declaratory relief appropriate.

211. Plaintiffs and members of the class are suffering and will continue to suffer immediate, substantial and irreparable injury in the future, unless a preliminary injunction is issued, which should remain permanent after a full evidentiary hearing.

212. The actions and inactions of the defendants as alleged, and the claims of the plaintiffs and the class they represent, require that this

Court declare the rights and legal relationships of the parties in respect to the conditions at the Essex County Jail Annex.

AVAILABLE REMEDIES

213. Since the physical plant in certain sections of the Annex is beyond reasonable repair, remedies to ensure provision of adequate physical conditions must include closing sections of that facility, acquiring temporary housing units for the population which must remain incarcerated, and construction of a new jail facility.

214. Additionally, several potential methods of reducing the population confined at the ECJA are available and should be implemented rapidly:

a. increased funding and staffing to maximize use of existing pretrial release programs as an alternative to low bail for minor offenders;

b. design and implementation of programs to provide a system of supervised pre-trial release or home-based detention for offenders unable to secure their release on bail while awaiting trial;

c. contracting for residential half-way house programs as a treatment alternative for inmates confined on offenses related to drug or alcohol abuse;

d. contracting for programs that provide non-custodial disposition alternatives emphasizing restitution, community service and job training for inmates confined on non-violent offenses;

e. utilization of other unused facilities in hospitals, residential institutions, schools, or commercial buildings for offenders not requiring maximum security confinement, such as those held on non-indictable charges, or on work release or serving sentences on weekends only;

f. increased funding to provide more intensive review of the appropriateness of all sentences to evaluate alternatives to incarceration and shortening of sentences for non-dangerous offenders.

PRAYERS FOR RELIEF

WHEREFORE, plaintiffs pray on behalf of themselves and all others similarly situated that this Court assume jurisdiction and provide the following relief:

1. Order, pursuant to Rule 23 of the Federal Rules of Civil Procedure, that this action be maintained as a class action and that plaintiffs are proper class representatives;

2. Declare that overcrowding and other conditions, practices, procedures and policies at the jail, alone or taken together, including, but not limited to, defendants' failure to provide minimally adequate shelter and living space, minimum levels of health care, sanitation, safety, classification, opportunities for regular physical exercise, personnel and equipment for routine and emergency health care and access to a suitably equipped jail library, and facilities for religious worship deprive plaintiffs and members of the class of their rights under the Constitutions and laws of the United States and the State of New Jersey, specifically by:

a. subjecting plaintiffs and the members of the class who are pretrial detainees to conditions or practices which amount to punishment, in violation of due process of law, as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States and Art. 1, paragraph 1 of the New Jersey Constitution;

b. subjecting sentenced plaintiffs and members of the class to cruel and unusual punishment, in violation of the Eighth and Fourteenth

Amendments to the Constitution of the United States and Art. 1, paragraphs 1 and 12 of the New Jersey Constitution;

c. depriving plaintiffs and members of the class of liberty entitlements, or other rights created by N.J.A.C. 10A:31-3.1 et seq., N.J.S.A. 30:8-57, and N.J.S.A. 30:8-1, in violation of their right to due process of law under the Fifth and Fourteenth Amendments to the Constitution of the United States and Art. 1, paragraph 1 of the New Jersey Constitution;

d. depriving plaintiffs and members of the class of their right to access to the courts, to a fair trial, and to free exercise of religion, in violation of the First, Sixth and Fourteenth Amendments to the Constitution of the United States and Art. 1, paragraphs 1, and 18 of the New Jersey Constitution;

3. Issue an Order permanently requiring the defendants, their agents, their employees, and those acting in concert with them, to close those sections of the Essex County Jail Annex facility which are beyond repair and threaten inmate health and safety, and to prepare a plan and timetable to replace the Jail Annex with a more adequate and appropriate facility;

4. Issue an Order permanently requiring the defendants, their agents, their employees, and those acting in concert with them, to reduce the population of the Essex County Jail Annex to constitutional levels and to set a timetable for such reduction;

5. Issue an Order permanently requiring the defendants to take all such action as may be necessary to ensure that the population of the Essex County Jail Annex does not exceed the numbers that may safely and constitutionally be confined there;

6. Enter an Order establishing specific minimal conditions, practices and procedures to govern the rights of plaintiffs and class members at the ECJA, including:

a. establishing a maximum population capacity for the ECJA and each of its housing areas, specifying the minimal shelter and living space to which pretrial detainees and sentenced inmates are entitled, including the duration and hours of confinement of inmates, under the totality of conditions existing at the jail and the nature of the existing jail facilities and services.

b. requiring that any cells, living areas, food preparation and serving areas, to which inmates now have access or which are to be used in the future by the ECJA, be kept in a safe and sanitary condition.

c. prohibiting the use of mattresses or stretchers placed on floors for sleeping.

d. requiring that, upon admission to the jail and before placement in general population, inmates shall be medically screened in a manner to determine the presence of any communicable diseases and other existing chronic or serious medical conditions, including tuberculosis and venereal diseases, and shall be examined by a physician.

e. requiring that female inmates be offered a pregnancy test upon admission to the jail and be provided counseling and health care services capable of effectuating an inmate's determination to carry a pregnancy to term or to terminate a pregnancy.

f. requiring that all inmates have prompt access to adequate professional medical, dental, psychiatric and psychological services for all routine health care needs, as well as in emergencies, including daily access to nurses and other medical staff in response to sick call requests.

g. requiring that all inmates, male and female, be allowed and provided a ~~regular~~ daily program of exercise and recreation outside of their living areas and dayrooms, in order to ensure their health and wellbeing;

h. requiring that a meaningful and comprehensive classification system be implemented to assign inmate housing based on status as a detainee or sentenced inmate, type of offense or charge, and for medically indicated reasons, and to insure that inmates are housed safely, and in the least restrictive environment consonant with necessary security considerations.

i. requiring that defendants establish and maintain services, facilities and hours adequate to meet the needs of inmates for religious.. worship, visitation by family and friends and productive work.

j. requiring the defendants to establish and maintain serious facilities and hours adequate to meet the legal and informational needs of inmates, in accordance with the recommended sets of volumes established for county jails by the State Library of the New Jersey Department of Education.

k. requiring that the Defendant Commissioner of Corrections establish a procedure and adopt appropriate regulations to protect plaintiffs' due process rights to conditions of confinement that conform to the minimal standards fixed for the operation of Adult County Correctional Facilities in New Jersey.

7. Enter an Order against defendant Fauver:

a. ~~compelling~~ him to ensure that county defendants comply with all state statutes and regulations governing the jail that create a protectible liberty interest for plaintiffs and to take all necessary steps, including the initiation of investigations and lawsuits to meet his statutory obligation;

b. Compelling him to enforce the law governing the operation of the jail, including this Court's establishment of a population capacity, by any and all means that are necessary;

c. directing him to designate an alternative place of confinement for inmates convicted in Essex County, to avoid housing more inmates in the jail Annex than is permitted by an Order of this Court.

8. Retain jurisdiction of this action, until the Court is satisfied that the conditions and practices complained of herein are eliminated at the Essex County Jail Annex and that provision be made so that such conditions and practices will not be allowed to reappear in the future.

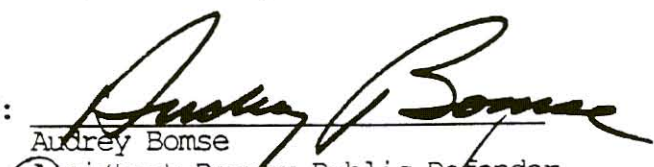
9. Award nominal, compensatory and punitive damages to plaintiffs and class members for the physical and emotional harms, as well as for the loss of personal liberty and property, suffered by plaintiffs as a result of having been confined under the unlawful and unconstitutional conditions at the jail Annex resulting from defendants' reckless and callous indifference;

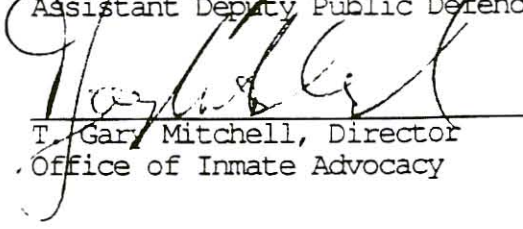
10. Award costs and attorney fees;

11. Order such other relief as it deems just, proper and equitable.

ALFRED A. SLOCUM
NEW JERSEY PUBLIC DEFENDER
ATTORNEY FOR PLAINTIFFS
Hughes Justice Complex
25 Market Street., CN 850
Trenton, New Jersey 08625

BY:


Audrey Bomse
Assistant Deputy Public Defender


T. Gary Mitchell, Director
Office of Inmate Advocacy

Dated: March 9, 1987

EXECUTIVE ORDER NO. 106

WHEREAS, the State Prisons and other penal and correctional institutions of the New Jersey Department of Corrections are holding populations of inmates in excess of their capacities and are seriously overcrowded as a result of unusually large numbers of commitments to the State institutions and commitments for terms of years which are longer than heretofore imposed; and

WHEREAS, the Department is physically unable to accept from the Sheriffs of the various counties the custody of inmates sentenced to the custody of the Commissioner of the Department of Corrections, as mandated by N.J.S.A. 2C:43-10(e); and

WHEREAS, many county penal institutions of the various counties are also presently overcrowded and are housing inmate populations in excess of their capacities while other county penal institutions have available space for additional inmates; and

WHEREAS, there is a need to efficiently allocate inmates of state and county penal and correctional institutions to those institutions having available space in order to alleviate overcrowding; and

WHEREAS, the New Jersey Correctional Master Plan recommends the coordination of resources for jail operation and services throughout the State, while the jails remain under local jurisdiction; and

WHEREAS, these unusual conditions endanger the safety, health, welfare and resources of the residents of this State, and threaten loss to and destruction of property, and are too large in scope to be handled in their entirety by regular operating services of either the counties or the New Jersey Department of Corrections

Exhibit A
A-1

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NOW, THEREFORE, I, BRENDAN T. BYRNE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and laws of the State of New Jersey, do hereby DECLARE a state of emergency and ORDER and DIRECT as follows:

1. I DECLARE, that a state of emergency exists in the various State and County penal and correctional facilities by reason of the facts and circumstances set forth above.

2. I invoke such emergency powers as are conferred upon me by the Laws of 1942, Chapter 251 (N.J.S.A. App. A:9-30, et seq.) and all amendments and supplements thereto.

3. I hereby DIRECT that the authority to designate the place of confinement of all inmates confined in all State and County penal or correctional institutions shall be exercised for the duration of this Order by the designee of the Governor.

4. I hereby designate the Commissioner of the Department of Corrections to effectuate the provisions of this Order.

5. The Commissioner may designate as a place of confinement any available, suitable, and appropriate institution or facility, whether owned by the State, a County, or any political subdivision of this State, or any other person, for the confinement of inmates confined in the State and/or County penal or correctional institutions.

6. When it appears to the satisfaction of the Commissioner that an inmate should be transferred to a penal or correctional institution or facility of the State or the various Counties more appropriate for his needs and welfare, or that of other inmates, or the security of the institution in which he has been confined, he shall be authorized and empowered to designate the place of confinement to which the inmate shall be transferred.

7. This Order is intended to be temporary and to remain in effect only during the duration of the prison and jail overcrowding crisis.

8. I further ORDER that the authority of the Commissioner to designate the place of confinement of any inmate may be exercised when deemed appropriate by the Commissioner regardless of whether said inmate has been sentenced or is being held in pretrial detention, except that only persons sentenced to a prison or committed to the custody of the Commissioner may be confined in a State Prison.

9. The Commissioner of the Department of Corrections shall have full authority to adopt such rules, regulations, orders and directives as he shall deem necessary to effect the above provisions.

10. The Commissioner of Corrections shall develop an appropriate compensation program for the counties.

11. It shall be the duty of every person in this State or doing business in this State, and the members of the governing body, and of each and every official, agent or employee of every political subdivision in this State and of each member of all other governmental bodies, agencies and authorities in this State of any nature whatsoever, fully to cooperate in all matters concerning this emergency.

12. Any person who shall violate any of the provisions of this Order or shall impede or interfere with any action ordered or taken pursuant to this Order shall be subject to the penalties provided by law under N.J.S.A.App.A:9-49.

13. This Order shall remain in effect for a period of ninety days from the date of execution.