NATIONAL PRISON PROJECT LITIGATION DOCKET

ALABAMA

Henderson v. Bentley (M.D. Ala.)

On March 28, 2011, NPP and the Alabama ACLU filed a class action on behalf of all Alabama prisoners with HIV, challenging under the Americans with Disabilities Act the Alabama Department of Corrections' policies of segregating all prisoners with HIV, requiring all men with HIV to wear a white arm-band and otherwise publicly disclosing prisoners' HIV status, arbitrarily excluding prisoners with HIV from work release, and categorically denying them participation in many other critically important rehabilitative, vocational, and community re-entry programs.

ARIZONA

Graves v. Arpaio (D. Ariz., 9th Cir.)

NPP challenged the conditions of confinement for the 8,000 pretrial detainees in Maricopa County Jail in Phoenix, the third-largest jail in the nation, which is run by Sheriff Joe Arpaio, the self-styled "toughest Sheriff in America." In October 2008, following a month-long trial, the district court found that the Sheriff and the County were subjecting detainees to unconstitutional overcrowding and denying them their rights to adequate nutrition, sanitation, access to exercise, and medical and mental health care. The court entered a broad injunction and granted plaintiffs $1.2 million in attorneys' fees. The Sheriff appealed; in October 2010 the court of appeals affirmed the district court judgment. We asked the district court to appoint independent experts to monitor the County's compliance with the judgment, and to report periodically to the court. The court adopted this proposal and in April 2010, based on the experts' reports, the court ordered the parties to formulate a remedial action plan to bring the County more quickly into full compliance with the judgment. In April 2011 plaintiffs filed a motion for a further, more detailed order on medical and mental health care and an evidentiary hearing; the hearing has been scheduled for June 2011.

CALIFORNIA

Rutherford v. Baca (C.D. Cal.)

The Los Angeles County Jail is the nation's largest jail system, with an average daily population of approximately 20,000. In February 2006, a federal judge toured Men's Central Jail, a windowless, dungeon-like, grossly overcrowded facility in the LA County jail complex, and concluded that conditions were "not consistent with basic

values

approval of settlement agreements that provide for enforceable court orders barring jail officials from enacting postcard-only policies.

DISTRICT OF COLUMBIA

American Civil Liberties Union v. United States Dept. of Homeland Security (D.D.C.)

In 2008, NPP and IRP brought suit against the Department of Homeland Security (DHS) because DHS failed to respond adequately to a Freedom of Information Act request that sought to shed light on the deaths of immigration detainees in DHS custody. Documents obtained during the litigation enabled the ACLU to uncover deaths that previously had not been disclosed and prompted DHS to commence an investigation that, by August 2009, resulted in the discovery of ten previously unknown detainee deaths. The documents obtained have led to several news stories in the New York Times and the Wall Street Journal. In September 2010, the court ordered the government to provide additional documents to the ACLU, and the ACLU has also filed two additional Freedom of Information Act requests for records related to more recent detainee deaths.

FLORIDA

Carruthers v. Lamberti (S.D. Fla.)

This is a longstanding class action suit regarding conditions at the Broward County Jail. The case was settled in 1994, resulting in a consent decree mandating a population cap, and improvements in various operations at the jail. On August 30, 1996, the jail filed a motion to terminate the decree pursuant to the Prison Litigation Reform Act, arguing that it was in compliance with the terms of the decree. The NPP joined this case to assist local counsel in preparing for the evidentiary hearing. On March 15, 2002, three court-appointed experts filed reports regarding conditions at the jail. The experts identified numerous overarching and systemic problems, including that unnecessary and excessive force is often employed by correctional staff; that reviews of use-of-force incidents are inadequate; that there is a lack of meaningful disciplinary sanctions for serious violations of use-of-force policies; that -1.1001 Tc 5L0001

medical staff with app

agreed to a fourth round of inspections, which found some continued significant problems. In 2006, the jail was plagued with serious overcrowding. The NPP urged the Sheriff to contract with the U.S. Department of Justice, National Institute of Corrections, to conduct an audit and determine the cause of the overcrowding. The Sheriff agreed, and the NIC completed its audit in April 2007. As a result of the audit, the Sheriff has asked the county commission to nearly double the size of the supervised release program.

In 2009, the Sheriff closed one of the five Jail facilities, and the daily population climbed through 2010, resulting in overcrowding in the remaining Jail buildings. We filed a motion asking the court to appoint Dr. James Austin, a nationally recognized expert on correctional population management, to conduct a jail and justice system assessment, and make recommendations for criminal justice reforms to lower the BCJ population. The court granted our motion in September 2010, and Dr. Austin is expecting to complete his assessment by September 2011.

MARYLAND

Duvall v. Glendening (D. Md. and 4th Cir.)

This case involves conditions in the Baltimore City Detention Center, a jail operated by the state of Maryland. In 2002 the NPP, working with the Maryland ACLU and local counsel, discovered that female detainees in the jail were being exposed to heat indices in excess of 115 degrees because the facility was unventilated. As a result, pregnant women and women with chronic diseases were at great danger of immediate injury or death. We sought partial reopening of a 1993 consent decree regarding conditions at the jail and an injunction safeguarding the women. Shortly before a scheduled hearing on our motion, the jail agreed to a new consent order admitting that conditions related to the heat and lack of ventilation in the facility violated the Eighth Amendment. Fo

MISSISSIPPI

DePriest v. Walnut Grove Correctional Authority (S.D. Miss.)

In November 2010, NPP and the Southern Poverty Law Center filed suit on

The most critical breakthrough in the case occurred when the DOC Commissioner agreed to form a task force headed by the Deputy Commissioner and the ACLU's corrections expert to review and reform the Department's entire classification system, with a goal to release the majority of Unit 32's population from solitary confinement. By November 2007, 85 percent of the supermax population had been released to general population; at the same time, incidents of force fell by 70% while incidents of prisoner-on-prisoner violence also plummeted. In July 2009, the professional journal *Criminal Justice and Behavior* published an article on the Mississippi experience, "Beyond Supermax Confinement," co-authored by Mississippi prison officials and plaintiffs' counsel and experts. In August 2010, Governing magazine published a cover story, "How America's Reddest State Became a Model of Corrections Reform," describing the far-reaching criminal justice reforms triggered by the ACLU litigation.

In August 2010, plaintiffs negotiated an agreement terminating the lawsuit: the Department agreed to permanently shutter Unit 32 and relocate all the prisoners housed there to more modern facilities; to extend all the classification and mental health reforms plaintiffs had won at Unit 32 to all other prisons in the state; and to provide plaintiffs' counsel and their experts complete unimpeded access to every prison in Mississippi where the Department transferred the former Unit 32 prisoners. Unit 32 was shuttered on January 1, 2011. Since that time we have been actively monitoring the prisons where the former Unit 32 prisoners are now housed, including East Mississippi Correctional Facility, the state's only correctional mental health facility.

MONTANA

Langford v. Schweitzer (D. Mont.)

This case was filed following a serious disturbance at the Montana State Prison that resulted in seven deaths. The lawsuit challenges medical and mental health care, overcrowding, environmental and fire safety conditions, classification policy, and sex offender policies. The parties settled all issues except those related to treatment of protective custody prisoners, which were ultimately tried in a separate case filed by the Department of Justice.

In 2005, after eleven years of monitoring, during which time the defendants built an infirmary, doubled physician staff, hired a medical director, and revised their health care policies, the health care experts appointed pursuant to the settlement agreement found that the prison had complied with the agreement's medical provisions, and those provisions were dismissed. 4 ,.63. Tc.y The partid on Jan8Tj/TT2 192 0 TD-0 TD-.nerts 192 0 D-5.7(i1

disabilities expert to inspect the prison. In January 2006, the district court denied the state's motion to dismiss the ADA provision

policy and practice for chronic care patients, medical intake procedures, medications, specialty care and infirmary services; it also requires two years of inspection and monitoring by an independent medical expert.

RHODE ISLAND

Prisoners of the Rhode Island Training School v. Martinez (D.R.I.)

This class action involves conditions of confinement and program management at the central juvenile facility in Rhode Island. It was originally settled by entry of a consent decree in 1979. In 1997, because of continuing failures to obey the consent decree, the court reactivated the Special Master to work with the parties to resolve compliance issues. The NPP entered this case as class counsel in 1999. In March 2000, the parties negotiated a comprehensive revision of the consent decree. We continue to monitor compliance. In 2002, with our active participation, Rhode Island agreed to construct a new juvenile facility and the state legislature appropriated sixty million dollars to fund it. A dispute between the Governor and the legislature over siting the facility delayed construction, and we worked with state officials to resolve the issue. Ground was broken for the new facilities in November 2005, and two new state-of-the-art facilities have now been opened to replace the aging and decrepit facilities where boys were previously held.

In July 2008 the Rhode Island legislature passed a law capping the population of securely confined boys at 14 and girls at 12. The legislature also passed a law requiring the development of a risk assessment instrument to help keep youth in the community and out of secure confinement. The population of incarcerated youth has substantially decreased in the last few years due to changes in sentencing policy and a focus on community placements. Rhode Island is also now a site for the Annie E. Casey Foundation's Juvenile Detention Alternative Initiative (JDAI), which focuses on implementing evidence-based tools to divert low-risk youth from unnecessary detention. As a result of these initiatives, plans are now underway to consolidate the existing three facilities into just two facilities, so that the smaller population of detained girls will now have direct access to all the services previously available only to boys. Ensuring that girls at the Training School are provided both equitable and gender-responsive services is a continuing focus of our work. We also continue to work with the court's Special Master and Rhode Island officials to revise policies and procedures in the Training School in order to comply with standards for Juvenile Training Schools and Juvenile Detention Centers established by the American Correctional Association (ACA), with the goal of achieving ACA accreditation for the facility..

SOUTH CAROLINA

Prison Legal News v. DeWitt (D.S.C.)

Representing Prison Legal News, a monthly publication that provides information about prisoners' legal rights, NPP and the ACLU of South Carolina brought

appropriately. Among other things, TCI still used correctional officers to deliver medication, a practice that is known to be dangerous. The court granted an injunction containing all of the requested relief on April 24, 2009.

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