

from the individual defendant, punitive damages; post-judgment interest; costs; and reasonable attorneys' fees, when, despite the entreaties of children institutionalized at the Multi-County Juvenile Detention Facility, their families, and Defendants' staff, they established and pursued policies that had their Juvenile Detention Officers (1) use restraint chairs unnecessarily, excessively, and for punitive purposes, locking Plaintiffs J.H., B.H., T.T., and other children in them for up to 20 hours at a time, long after any need to restrain them had ended, proximately causing pain and emotional distress; and (2) place Plaintiffs and other children arbitrarily, unnecessarily, and for lengthy periods in solitary confinement in isolation cells where the temperatures were regularly in the 50's, inadequate clothing and blankets were provided, and leaving the cells for exercise, schooling or other activities was rare or nonexistent, proximately causing detained children to suffer the symptoms of frostbite and hypothermia, such as burning, numbness, tingling, itching, cold or diminished sensations, swelling, blisters, and/or purplish blue skin on their fingers or toes, uncontrollable shivering of their body and chattering of their teeth, dizziness, nausea, confusion, and impaired decision-making; the emotional distress of having their pleas for relief ignored; and the anxiety that the symptoms would result in permanent injury.

2. Defendants' conduct constitutes deliberate indifference in violation of the 8th Amendment of the United States Constitution, and is a substantial departure from acceptable professional standards and judgment in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution, and applicable Ohio constitutional provisions. Defendants' punitive and damaging practices of unnecessary and excessive restraint and seclusion run contrary to the basic rehabilitative nature upon which the juvenile court system is

based, and are often imposed upon children who are presumptively innocent and being detained pre-trial.

II. Jurisdiction and Venue

3. Jurisdiction over claims brought under the Civil Rights Act of 1871, 42 U.S.C. § 1983, is conferred on this Court by 28 U.S.C. §§1331, 1343(3) and (4).

4. Declaratory, injunctive, and equitable relief and compensatory and, from the individual Defendant, punitive damages are sought pursuant to 42 U.S.C. § 1983 and 28 U.S.C. §§ 2201; 2202.

5. Costs and attorneys' fees may be awarded pursuant to the 42 U.S.C. § 1988 and Fed. R. Civ. P. 54.

6. Venue lies in this forum pursuant to 28 U.S.C. § 1391(b) and S.D. Ohio Civ. R. 82.1 because the events or omissions giving rise to the claim occurred in Fairfield County, Ohio, where Defendants are located and institutionalize children.

III. Plaintiffs

7. J.H., age 18, was institutionalized at Defendant Multi-County Juvenile Detention Facility under the supervision of Defendant Moore from late April 2013 through August 2013.

8. B.H., age 18, was institutionalized at Defendant Multi-County Juvenile Detention Facility under the supervision of Defendant Moore from May of 2013 through February of 2014.

9. G.M., age 16, was institutionalized at the Defendant Multi-County Juvenile Detention Facility from September 18, 2014 until October 28, 2014 under the supervision of Defendant Moore, and has previously been held there on several occasions, including from mid-January, 2014 to May 14, 2014.

10. S.M. is the adoptive mother and guardian of G.M., and brings this action on her behalf.

11. T.T., 16, is presently institutionalized at Defendant Multi-County Juvenile Detention Facility under the supervision of Defendant Moore and has previously been held there on several occasions, including from July 25, 2014, through September 2, 2014.

12. C.W. is the mother and guardian of T.T., and brings this action on his behalf.

13. B.F., age 16, was institutionalized at Defendant Multi-County Juvenile Detention Facility under the supervision of Defendant Moore on several occasions, most recently from April 25, 2014, through June 9, 2014.

14. G.F. is the mother and guardian of B.F., and brings this action on his behalf.

15. W.S., age 15, was institutionalized at Defendant Multi-County Juvenile Detention Facility under the supervision of Defendant Moore from November 14, 2013, to February 13, 2014.

16. W.S. is the father and guardian of W.S., and brings this action on his behalf.

17. J.H., B.H., G.M., T.T., B.F., and W.S. were institutionalized at Defendant Multi-County Juvenile Detention Facility pending or subsequent to an adjudication in juvenile court.

IV. Defendants

18. Defendant Multi-County Juvenile Detention Center (“Center”), a maximum security facility, is funded by the Ohio Counties of Fairfield, Licking, Hocking, and Perry, whose Commissioners comprise the Center’s Joint Board of Commissioners which adopts an annual budget, appropriates all monies, and approves all grants and contracts for the Center; has sue-and-be-sued capacity under O.R.C. § 305.12; at all times material to this Complaint, was a “person” under 42 U.S.C. § 1983 and acted under color of law; and controls through its policies

the use and conditions of its isolation cells and restraint chairs. The facility has 54 beds and is designed to hold youth pending adjudication of their cases in juvenile court, although some youth are sentenced for short periods after disposition.

19. Defendant Dana C. Moore, who is being sued in both her individual and official capacities, initially served as the Assistant Superintendent of the Center when it opened in February 2004 and since became Superintendent; establishes the policies and directs the use by Juvenile Detention Officers of restraint chairs, the isolation bench, and solitary confinement in isolation cells and the conditions surrounding their use; and, at all times material to this Complaint, was a "person" under 42 U.S.C. §1983 and acted under color of law.

V. Facts Concerning Solitary Confinement and Mechanical Restraints at MCJDC

20. At its facility, Defendants maintain three isolation cells. The cells are approximately six feet by ten feet, have a concrete floor without a rug or carpet, a metal sink and toilet, and a concrete sleeping bench, and are supplied only at night with a mattress and blanket.

21. Each of the isolation cells maintained by Defendants have a vent which maintains the temperature in the cell, and Defendants use this vent to adjust the temperature in the isolation cells to be in the mid-50's year round.

22. In addition to isolation cells, Defendants make use of a bench to which Plaintiffs and other children are shackled for days on end as punishment for rules infractions

23. Defendants also make use of two restraint chairs which are used to immobilize the arms and legs of children so that they can only move their head. Defendants use these chairs as punishment for rules infractions

VI. Facts Concerning Plaintiff J.H.

24. From April 2013 through August 2013, then 17-year-old J.H. spent the majority of his four-month sentence in solitary confinement either in an isolation cell or in a similar cell in Defendants' intake area. While in isolation, J.H. was only permitted to leave for a five minute shower each day. He spent his time in the isolation cells in mid-50's temperature dressed only in a smock top, a short sleeve shirt akin to a scrub top used in medical facilities, and shorts, with no underwear, and only received a blanket and mattress during nighttime hours. At times, even his smock top and shorts were taken away from him, and he was forced to endure the cell wearing nothing but paper shorts. During his time in isolation, J.H.'s skin would turn purple and his limbs would go numb.

25. On several occasions between April 2013 and August 2013, J.H. was placed in a restraint chair where he was unable to move anything but his head. On one occasion, Plaintiff J.H. was placed in a restraint chair from 5:30 a.m. until 9:30 p.m. for three straight days. When he was woken up in the morning, the restraint chair was beside him, and he was placed directly into it. Plaintiff J.H.'s wrists and ankles were cut to the point of bleeding by the restraints.

26. On another occasion, Plaintiff J.H. and another child were placed in restraint chairs and placed in the gymnasium, which was also kept at a chilly temperature, wearing nothing but paper shorts from 10 a.m. until the next morning.

27. While placed in a restraint chair, J.H. was frequently not permitted to get out for for long periods of time even for the purpose of urinating, with the result that he urinated while sitting in the chair.

28. In addition to time spent in isolation, on numerous occasions J.H. was shackled to a bench on the floor of the isolation hallway or the intake hallway for long periods. On one

occasion he was shackled to a bench for six consecutive days. On this and other occasions, he was forced to sleep on the floor in the hallway while his legs remained shackled to the bench.

VII. Facts Concerning Plaintiff B.H.

29. From May of 2013 through February of 2014, then 16 year old B.H. spent four months of a nine-month sentence in isolation. On one occasion, he spent between 40 and 50 days continually in an isolation cell. While in isolation, B.H. was only permitted to leave for a five-minute shower each day. He spent his time in isolation in temperatures in the mid-50's wearing only a smock top and shorts, with no underwear, socks or shoes, and only received a blanket and mattress during nighttime hours. At times, even his smock top and shorts were taken away from him, and he was forced to endure the cell wearing nothing but paper shorts. One one occasion, B.H. was allowed no clothing other than paper shorts for for eleven straight days.

30. During his time in isolation, B.H's toes and fingers would turn purple, his limbs would go numb, his lips would crack and he would have uncontrollable chattering of his teeth.

31. B.H. was placed in a restraint chair on three separate occasions, the last time for five and a half to six hours during which time his limbs were not rotated.

32. B.H. was shackled to a bench in the isolation hallway four to five times during his time at the Center. On one occasion he was so shackled for more than two days. On this and other occasions, he was forced to sleep on the hallway floor with his ankles shackled to the bench.

VIII. Facts Concerning Plaintiff G.M.

33. From mid-January, 2014, to May 14, 2014, 16-year-old G.M. was repeatedly placed in solitary confinement in both the isolation and intake cells. While in isolation, G.M. was only permitted to leave for a five-minute shower each day. On one occasion, she was placed in

an isolation cell for a full month. She spent her time in isolation in mid-50's temperatures wearing only a shirt and shorts, with no underwear bra, socks or shoes , and only received a blanket and mattress during daytime hours.

34. G.M. had been placed in isolation in earlier stays at the Center. On one stay, because of her involvement in a fight, she was placed in isolation for two months until when she was released from the Center. The next time that she was sent to the Center, G.M. was immediately placed back in isolation for an additional two months. Defendants claimed that G.M. "owed" them time in isolation.

35. During her time in isolation, G.M.'s feet turned purple, and she felt her hands losing circulation. At the end of one stay at the Center, when G.M. returned home her feet turned red, skin on her feet began peeling off, and black spots were observed on her feet by her parents. For a period of several days afterwards, G.M.'s feet caused her a great deal of pain.

IX. Facts Concerning Plaintiff T.T.

36. During his stay at the Center from July 25, 2014, through September 2, 2014, 16 year old T.T. was placed in an isolation cell for 18 straight days. While in isolation, T.T. was only permitted to leave for a five-minute shower each day. He spent his time in isolation in mid-50's temperatures wearing only a smock top and shorts, with no underwear, socks or shoes, and only received a blanket and mattress during nighttime hours.

37. During his time in isolation, T.T.'s lips and scars on his arms and legs would turn purple, his toes went numb, and he would have uncontrollable shivering and chattering of his teeth.

38. On several occasions, when T.T. pulled his arms and legs inside of his smock top for warmth, he would be directed by staff members to remove his arms and legs from his shirt.

39. On one occasion, T.T. was placed in a restraint chair for nine and a half hours without any rotation of his limbs except for the temporary freeing of his right hand so that he could feed himself a meal.

X. Facts Concerning Plaintiff B.F.

40. During his stay at Center from April 25, 2014 through June 9, 2014, 16 year old B.F. was placed in an isolation cell for 25 straight days. While in isolation, B.F. was only permitted to leave for a five-minute shower each day. He spent his time in isolation in mid-50's temperatures wearing only a smock top and shorts, with no underwear, socks or shoes, and only received a blanket and mattress during nighttime hours.

41. During his time in isolation, B.F. suffered from uncontrollable shivering and chattering teeth, and skin began to flake off of his feet.

XI. Facts Concerning Plaintiff W.S.

42. During his stay at the Center from November 14, 2013, through February 13, 2014, then-14 year old W.S. was placed in an isolation cell for 38 days. While in isolation, W.S. was only permitted to leave for a five-minute shower each day. He spent his time in isolation in mid-50's temperatures wearing only a smock top and shorts, with no underwear, socks or shoes, and only received a blanket and mattress during nighttime hours.

43. During his time in isolation, W.S.'s fingers and toes turned purple, his lips turned blue, and he suffered from uncontrollable shivering.

XII. Other Facts Concerning the Use of Solitary Confinement and Restraints on Plaintiffs

44. Plaintiffs and other children confined in the isolation cells developed methods to stay warm, including lying down by the base of the cell door to get heat from the hallway and

pulling their arms, legs and face into their smock top. Defendants forbid both practices, and Defendants' employees would monitor isolation cells to ensure that children were not laying by the door crack or pulling their extremities into their smock top.

45. Some Plaintiffs and other children would attempt to stop up the air conditioning vent with toilet paper or clothing to keep the cold air out.

46. If toilet paper was used to stop up the air conditioning vent, Defendants would remove the toilet paper to ensure the passage of cold air, and the children would face discipline, including additional time in the isolation cells.

47. Some Plaintiffs and other children placed in the Center's isolation cells claimed to be suicidal in order to receive suicide suits which covered more of their bodies and helped keep them warm.

48. Some Plaintiffs and other children actively sought being placed in additional body restraints while in their cell because these restraints would help keep them warm.

49. To protest how cold the Center's isolation cells were and get temporary relief, some children, including Plaintiff's J.H. and B.H., would use their clothing or blanket to swipe at and break off sprinkler heads, thereby soaking their cell and requiring the child's removal from the cell.

50. In another protest against how cold the Center's isolation cells were and another effort to get temporary relief, some children, including Plaintiff's J.H. and B.H., would clog or rapidly and repeatedly flush toilets until they overflowed and soaked their cell, thereby requiring their removal.

51. When Plaintiffs J.H. and B.H. and other children misused their clothing or blankets to protest how cold the Center's isolation cells were, their clothing or blanket was removed and replaced with paper underwear and sometimes a thin T-shirt.

52. Having only paper underwear and sometimes a thin T-shirt resulted in Plaintiffs J.H. and B.H. and other children being even colder in the Center's isolation cells.

53. Plaintiffs and other children placed in the Center's isolation cells for lengthy periods regularly suffered the symptoms of hypothermia and frostbite, such as burning, numbness, tingling, itching, cold or diminished sensations, swelling, blisters, and/or purplish blue skin on their fingers or toes; had uncontrollable shivering of their body and chattering of their teeth; became dizzy or nauseous; and experienced confusion and impaired decision-making.

54. Those symptoms were usually painful and produced anxiety about permanent injury to their fingers or toes.

55. The body temperature of Plaintiffs and other children placed in the Center's isolation cells often dropped to 96 degrees or so.

56. When a child's body temperature falls below 96 degrees, medical care for hypothermia should be sought.

57. The healthy range for a child's body temperature is 97.5 degrees to 98.9 degrees.

58. Hypothermia is defined as a drop in body temperature to 95 degrees or less. The condition develops over a period of time, anywhere from a few days to several weeks, and can be fatal if not detected promptly and treated properly.

59. Even consistent, mildly cool indoor temperatures of 60 degrees to 65 degrees can trigger hypothermia over time if a child is not properly clothed.

60. When checked by Defendants' staff, some children even had to be removed from their isolation cells to have their extremities warmed, and Defendants' staff knew or should have known that these prisoners exhibited symptoms of hypothermia.

61. Plaintiffs and other children placed in the Center's isolation cells consistently complained to Defendants about how cold the isolation cells were, as did the families of Plaintiffs and other children and members of Defendants staff.

62. Defendant Moore and the Center's Juvenile Detention Officers and health care providers visited the isolation cells and had personal knowledge of the cold temperature. They were also aware of the temperature in the cells due to the complaints by Plaintiffs and other children, their families, and coworkers about how cold the Center's isolation cells were.

63. Because Plaintiffs knew that Defendants were aware of how cold the Center's isolation cells were and did nothing to change the conditions, they also suffered emotional distress at having their plight ignored.

64. Defendants' use of isolation and restraint practices is arbitrary, unnecessary, and ineffective as a behavior management tool. Defendants used isolation cells to punish children who failed to conform their conduct to the Center's rules and/or engaged in destructive or disruptive behavior and, when the isolation cells were unavailable, used shackling to a bench in the hallway or isolation in intake cells to punish them. The decisions made to use prolonged isolation and shackling with these children were extreme and unnecessary measures to manage behaviors; the fact that they continued well beyond the time youth were calm and under control indicates that the practices serve no legitimate penological purpose and are strictly punitive in nature.

65. Defendants calculated the amount of time a child had to spend in an isolation cell as if the child had been sentenced to the cell; for example, when Plaintiff G.M. returned from spending a holiday with her family, she was placed back in the isolation cell because Defendants claimed that G.M. “owed” Defendants more time there.

66. Defendants purposely ignored and/or were deliberately indifferent to the complaints from Plaintiffs and other children about how cold the isolation cells were because Defendants wanted those prisoners to suffer pain, anxiety, and emotional distress.

67. Defendants reasoned that, the more intemperate the Center’s isolation cells were, the more placement there would be a deterrent to Plaintiffs and other children who failed to conform their conduct to the Center’s rules and/or engaged in destructive or disruptive behavior.

68. Defendants further reasoned that, when Plaintiffs and other children failed to conform their conduct to the Center’s rules and/or engaged in destructive or disruptive behavior, they deserved to be punished, and suffering pain, anxiety, and emotional distress from intemperate isolation cells was such a punishment. Such practices are incongruent with sound juvenile detention behavior management practices and fail to make facilities safer or more secure.

69. Defendants used shackling to the bench in the hallway and isolation in intake cells as another form of punishment, and those Plaintiffs and other children who were shackled or isolated in place suffered physical and emotional pain from this treatment; sleeplessness when they were not returned to cells with a mattress and bed; and anxiety and resentment at being treated in an inhumane manner.

70. Some of the Plaintiffs and other children institutionalized at the Center have been diagnosed with mental health or other behavioral disorders, including trauma, learning

disabilities or cognitive impairments, and Defendants have, at all times material to this action, known that some of the Plaintiffs and other children institutionalized at the Center suffer from these conditions.

71. Plaintiffs and other children subjected to the isolation cells and mechanical restraints are socially isolated and forbidden to converse with others without reprimand. The social isolation of these youth adds additional stress and anxiety beyond the extreme physical conditions to which these youth are subjected.

72. Under Ohio Admin. Code § 5120:1-8-0.4, the temperature in an isolation cell is to be mechanically raised or lowered to acceptable comfort levels.

73. Defendants were obligated to comply with Ohio Admin. Code § 5120:1-8-04.

74. Defendants purposely and/or with reckless indifference violated Ohio Admin. Code § 5120:1-8-04 to serve their deterrent and punitive ends. Maintaining cold isolation cells in these circumstances served no legitimate penological interest.

75. Plaintiffs and other children placed in the Center's isolation cells were not provided alternative ways, such as sweaters, gloves, heavy socks, thermal underwear, or thick blankets to keep warm.

76. Plaintiffs and other children placed in the Center's isolation cells typically remained in those cells for weeks.

77. Plaintiffs and other children placed in the Center's isolation cells were seldom if ever provided significant time out of the cells for exercise and other activities and allowed out only for a brief shower.

78. Some of the Plaintiffs and other children placed in the Center's isolation cells were seldom if ever permitted to attend class in the Center's school. Rather, they were given

math worksheets, crossword puzzles or books under their door without direct instruction from a teacher or assistant. Students placed in isolation who were qualified for specially designed instruction and related services because of a learning disability or other qualifying condition did not receive the services required in their individual education plan. Prolonged isolation over the course of days, weeks and months denied children the right to attend school, including the right to special services as a student under a disability.

79. The Center's restraint chair was a sturdy wheelchair to which straps were affixed in a way that, when a child was bound in it, would prevent movement of the shoulders, torso, arms, and legs.

80. Defendants had their Juvenile Detention Officers maintain records reflecting that children never spent more than two hours immobilized in a restraint chair.

81. Those records were falsified.

80. The purpose of the restraint chair is only to restrain a person who is posing an immediate threat to themselves or others. It is not a device to be used for punishment.

82. Plaintiffs J.H., B.H., T.T. and other children were locked in a restraint chair long after any need to restrain them while they regained self-control had ended.

83. Defendants assumed that Plaintiffs J.H. and B.H. and other children who, while in a restraint chair, said they had to urinate or defecate were lying in order to be released for a break from the immobilization and adopted a policy that Juvenile Detention Officer should regularly refuse to release them to urinate or defecate.

84. Defendants assumed that Plaintiffs J.H. and B.H. and other children who, while in a restraint chair, said they were thirsty were lying in order to be given liquids which they could

then spit at Juvenile Detention Officers, and Defendants adopted a policy that Juvenile Detention Officers should regularly refuse to provide requested liquids.

85. Plaintiffs J.H., B.H., T.T. and other children suffered significant discomfort after the first hour or so of being locked in a restraint chair, and that discomfort turned into pain the longer they were in the chair as their circulation was largely cut off, they felt dehydrated or the urge to urinate or defecate, and pressure sores developed.

86. Plaintiffs J.H., B.H., T.T. and other children who were locked in a restraint chair for hours at a time felt anger, resentment, and frustration and suffered emotional distress.

87. Defendants used restraint chairs to punish children who failed to conform their conduct to the Center's rules and/or engaged in destructive or disruptive behavior.

88. Defendants calculated the amount of time a child had to spend in a restraint chair as if the prisoner had been sentenced to the chair; for example, Plaintiffs heard Juvenile Detention Officers tell a child who was completely calm that he still owed them time in the restraint chair.

89. Plaintiffs J.H. and B.H. and other children complained to Defendants about misuse of the restraint chair as corporal punishment.

90. Defendants purposely and/or with recklessly indifference ignored the complaints from Plaintiffs and other children about misuse of the restraint chair as corporal punishment because Defendants wanted those prisoners to suffer pain and emotional distress.

91. Defendants reasoned that, the longer and more uncomfortable a child's immobilization in a restraint chair, the more placement there would be a deterrent to Plaintiffs and other children who failed to conform their conduct to the Center's rules and/or engaged in destructive or disruptive behavior. Such practice is contrary to well accepted professional

standards regarding behavior management in juvenile justice facilities, is unnecessary, and serves no legitimate penological purpose.

92. Defendants further reasoned that, when Plaintiffs and other children failed to conform their conduct to the Center's rules and/or engaged in destructive or disruptive behavior, they deserved to be punished, and suffering pain and emotional distress from a restraint chair was such a punishment.

93. By 2013, a reasonably competent superintendent of a juvenile detention facility would have known that punishing children by exposing them to cold isolation cells in the circumstances surrounding that confinement, and prolonged immobilization in restraint chairs or chained to a bench violates the constitutional rights of these children.

XIII. Claim for Relief: Eighth Amendment Cruel and Unusual Punishment

94. Paragraphs 1 through 93 above are re-alleged and incorporated herein.

95. Defendants, through the policies they established and pursued for their Juvenile Detention Officers, acted with callous and reckless disregard, inflicting cruel and unusual punishment on Plaintiffs in violation of the Eighth Amendment by their purposeful and/or deliberate indifference to Plaintiffs' risk of harm and injuries from being placed unnecessarily and for lengthy periods in cold isolation cells without means to keep warm and under the circumstances of their confinement in those cells, and the injuries of Plaintiffs J.H., B.H., and T.T. suffered from being immobilized in restraint chairs hours after they had regained their self-control

XIV. Claim for Relief: Fourteenth Amendment Substantive Due Process Rights

96. Paragraphs 1-95 above are re-alleged and incorporated herein.

97. The policies and practices of the Defendants regarding extended use of isolation and mechanical restraints under physically and mentally harmful conditions as a form of behavioral management are punitive, excessive and unnecessary, and deprive children subjected to them the required educational services, large muscle exercise, socialization and appropriate skill building opportunities. Such practices constitute a substantial departure from accepted professional standard and judgment and deny the Plaintiffs and other children the right to substantive Due Process as guaranteed by the Fourteenth Amendment to the United States Constitution.

XV. Prayer for Relief

WHEREFORE, Plaintiffs pray that this Court:

- a. declare that Defendants jointly and severally have violated Plaintiffs' civil rights, inflicting on them pain, emotional distress, and anxiety;
- b. declare that the actions of Defendants regarding extended restraint and seclusion constitute a substantial departure from accepted professional standards and judgment, and are unnecessarily, punitive and harmful in the treatment of detained children;
- b. order such equitable relief as will make Plaintiffs whole for Defendants unlawful conduct; costs; and reasonable attorneys' fees;
- c. enjoin Defendants from operating the Center's isolation cells and restraint chairs in an unconstitutional manner;
- d. award to each Plaintiff compensatory damages in excess of \$25,000, and, from Defendant Moore, punitive damages in excess of \$25,000; and
- e. grant such other relief as the Court may deem appropriate.

Respectfully submitted,

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Jury Demand

Plaintiffs demand a trial by jury of eight (8) on all issues and defenses triable to a jury.

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