

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 SHAWN ORNDORFF, on behalf of himself
12 and all others similarly situated,

13 Plaintiff,

14
15 v.

16 JEFFERSON COUNTY, PETER PICCINI,
17 CARLA SCHUCK, and STEVE RICHMOND,

18 Defendants.
19

No. CV 02-5096

COMPLAINT—CLASS ACTION

20
21 **I. INTRODUCTION**

22 1. This is a class action brought to remedy unconstitutional and unlawful policies,
23 practices, and conditions of confinement at the Jefferson County Jail in Port Hadlock,
24 Washington.
25
26

II. JURISDICTION

2. Jurisdiction. This court has personal jurisdiction over defendants, who reside in the Western District of Washington. Federal subject matter jurisdiction is invoked under 28 U.S.C. § 1331 (federal question) and § 1343 (civil rights).

3. Venue. Venue is proper in the Western District of Washington under 28 U.S.C. § 1391(b) because all defendants reside in this district and because a substantial part of the events and omissions giving rise to plaintiffs' claims occurred in this district.

III. PARTIES

4. Plaintiff Shawn Orndorff is currently incarcerated in the Jefferson County Jail. He is serving a sentence on one charge, and is also a pretrial detainee awaiting trial on another charge.

5. Defendant Jefferson County is a governmental entity, chartered under the laws of the state of Washington, which operates the Jefferson County Jail.

6. Defendant Peter G. Piccini is the Sheriff of Jefferson County and operates, administers, and supervises the Jefferson County Sheriff's Department and Jefferson County Jail. He is sued in his official capacity.

7. Defendant Carla Schuck is the Jefferson County Superintendent of Corrections and operates, administers, and supervises the Jefferson County Jail. She is sued in her official capacity.

8. Defendant Steve Richmond is the senior sergeant and highest ranking correctional officer at the Jefferson County Jail. He is sued in his official capacity.

9. Defendants Piccini, Schuck, and Richmond have policy-making authority regarding the operations of the Jefferson County Jail.

IV. FACTUAL ALLEGATIONS

10. Health Care. Defendants' current system of providing health care to prisoners at the Jefferson County Jail falls so far below acceptable standards as to constitute cruel and unusual punishment. Defendants' prisoner health care program is disorganized, lacks sufficient staff, and fails to meet a community standard of care. Health care staff are not available to prisoners when they need health care, and medical decisions are often left corrections officers who lack medical training.

11. The Jail has no salaried health care staff. Sick call is held only once per week by a nurse, regardless of the needs of the prisoners. Prisoners who request sick call are often not seen by the visiting nurse. During the rest of the week, when the nurse is not available, untrained Jail staff make medical decisions for the prisoners.

12. The Jail routinely denies needed medication, especially psychiatric medication. Prisoners with pre-existing prescriptions are placed on lower dosages or different drugs in the discretion of untrained Jail staff. The medications are not distributed according to the schedule required by the prescription. Jail staff frequently deny medication to prisoners altogether, often using the withholding of medication as threats or punishment.

13. Prisoners have suffered avoidable seizures, panic attacks, and other serious medical problems as a result of the Jail's unilateral decisions to deny medication.

14. The Jail's record-keeping regarding health care is inadequate, interfering with proper case management and follow-up care. Medication is not carefully inventoried.

15. Prisoners experience difficulty in obtaining visits to sick call. Sick call forms are available only upon request, and are sometimes denied. The Jail is short-staffed, so corrections officers rarely take prisoners to the hospital, even when the prisoner's condition is serious.

1 16. Prisoners are denied access to prompt treatment of painful dental conditions,
2 including abscesses.

3 17. Access to mental health care is particularly inadequate. The Jail has no mental
4 health care provider available and instead, prisoners are told they must wait for an assessment by
5 Jefferson County Mental Health before they are provided mental health care and/or psychiatric
6 medication. This is the policy even if a prisoner has a pre-existing psychiatric diagnosis from her
7 or his private physician outside of the Jail. The problem is exacerbated by the fact that Jefferson
8 County Mental Health has a backlog of assessments.

9 18. The serious inadequacies of the health care systems at the Jail are longstanding
10 and are known to defendants. Defendants' failure to remedy these serious inadequacies
11 constitutes deliberate indifference to the serious health care needs of the prisoners.
12

13 19. Environmental Health and Safety. The physical plant, climate controls, and other
14 factors affecting the physical environment of the Jail are inadequate, unsanitary, and pose a
15 danger to the plaintiffs.

16 20. In many units, prisoners are forced to sleep on the floor for days due to
17 overcrowding.

18 21. The plumbing capacity is insufficient to handle the number of prisoners in the Jail,
19 leading to overflowing toilets and lack of access to showers. During lockdowns, prisoners often
20 have no access to running water. The drains in the floor of the housing areas have backed up
21 with overflowing sewage. Strong sewage odors permeate areas of the Jail at times, particularly in
22 the summer.
23

24 22. Climate control is inadequate, often leading to extreme cold conditions in the
25 winter and extreme hot conditions in the summer. In some cells, prisoners can see their breath in
26 the winter. The Jail does not provide adequate blankets or cold-weather clothing.

1 23. Prisoners are not provided basic hygiene supplies, such as toilet paper and
2 feminine hygiene products. Prisoners are forced to use makeshift replacements, such as pages
3 from telephone books, towels, or paper bags.

4 24. Laundry is frequently not done, forcing prisoners to wear dirty clothes, sometimes
5 for weeks.

6 25. The "crisis cell" is particularly unsanitary and unsafe. The crisis cell is a small
7 room into which prisoners who are deemed a threat to themselves and/or to others are placed.
8 The prisoner in the crisis cell is supposed to be observed regularly to ensure he or she does not
9 become injured, but this is not done. There is no toilet in the crisis cell, only a grate in the floor.
10 The grate is flushable only from the outside, and corrections personnel often go for hours, or
11 even days, without flushing it. The prisoner in the crisis cell cannot easily be seen by corrections
12 personnel, jeopardizing the prisoner's safety. In March 2001, a prisoner died while in the crisis
13 cell.
14

15 26. The serious inadequacies of the environmental health and safety systems at the
16 Jail have been longstanding and known to defendants. Defendants' failure to remedy these
17 serious inadequacies constitutes deliberate indifference to the health and safety of the prisoners.

18 27. Access to Courts. Defendants have an affirmative constitutional obligation to
19 provide prisoners with adequate access to the courts, which they have failed to do. Defendants
20 do not provide access to a law library or persons trained in the law, other than providing assigned
21 counsel for indigent prisoners in criminal matters. Legal mail is improperly handled. Defendants
22 often block access even to assigned counsel by, among other things, locking down prisoners
23 during business hours so they cannot telephone their attorneys, not permitting assigned counsel to
24 enter the Jail to meet with their clients, interfering with prisoners' access to the county law
25 library, and failing to transport prisoners to court proceedings.
26

1 28. The serious inadequacies of the prisoners' access to the courts have been
2 longstanding and known to defendants. Defendants' failure to remedy these serious inadequacies
3 constitutes deliberate indifference to the prisoners' right to access to the courts.

4 29. Inadequate Staffing. Although the average daily population at the Jefferson
5 County Jail is in excess of 46, and often exceeds 60, there is usually only one corrections officer
6 on duty, leading to dangerous conditions. Because of inadequate supervision and heightened
7 tension due to overcrowding, fights break out among prisoners, and corrections staff do not
8 intervene or otherwise prevent fights. In fact, some corrections officers have purposefully put
9 prisoners with known hostilities together in the same tank, resulting in assaults.

10 30. The serious inadequacies of staffing at the Jail have been longstanding and known
11 to defendants. Defendants' failure to remedy these serious inadequacies constitutes deliberate
12 indifference to the health and safety of the prisoners.

13 31. Access to Reading Materials. The Jail contains no library. The only reading
14 materials available to plaintiffs are a few old, outdated books of the defendants' choosing. By
15 Jail policy, plaintiffs are not permitted to receive subscriptions of newspapers or magazines, and
16 are not permitted to order books. This policy is not reasonably related to any legitimate
17 penological objective, and violates plaintiffs' rights under the First and Fourteenth Amendments.

18 19 20 **V. PLAINTIFF'S EXPERIENCE**

21 32. Plaintiff Orndorff was booked into the Jail in December 2001. He has also been
22 incarcerated in the Jail on earlier occasions. He has suffered from the unconstitutional policies
23 and practices of the Jail to at least the same extent as other prisoners.

24 33. During these recent winter months, he has experienced extreme cold in the cells
25 where he is required to sleep. The single thin blanket provided by the Jail is insufficient to
26 provide warmth, and requests for additional blankets are denied. The prison jumpsuit issued to

1 prisoners is thin and insufficient to ward off the cold. Orndorff has been forced to create
2 makeshift hot water bottles from old shampoo containers to help keep warm at night.

3 34. Orndorff has been kept in a cell without running water. When the cell door is
4 locked at night or during daytime lockdowns, there is no way to wash his hands after using the
5 toilet.

6 35. Orndorff has not received clean laundry and linens on the schedule promised in
7 the prisoner handbook.

8 36. Orndorff suffers from previously diagnosed psychiatric conditions for which his
9 physician has prescribed medication for depression and sleep disorders. When first booked into
10 the Jail, Orndorff was denied these medications despite his repeated requests. Sick call requests
11 have also been denied. In response to Orndorff's grievances, Jail personnel told him that the Jail
12 had contacted his physician, who agreed that he should go off the medication. His physician
13 denies ever being contacted by the Jail, and denies that Orndorff may safely be removed from the
14 medication.
15

16 37. After this episode of denied medication, the Jail began to issue Orndorff his
17 medication, but not on the schedule prescribed by the physician and indicated on the label of the
18 bottle from the pharmacy. One medication must be taken once daily at night to deal with sleep
19 disorder, and the other must be taken once daily in the morning to avoid interference with the
20 evening medication. The Jail issues both medications nightly, despite this schedule. Following
21 the instructions of the physician and pharmacist, Orndorff saved his antidepressant pill given to
22 him at night and swallowed it in the morning. On February 14, 2002 Jail staff found Orndorff's
23 single saved pill, issued him an infraction for stockpiling medication and possessing contraband,
24 and placed him in solitary confinement for ten days.
25
26

1 38. Orndorff has been subjected to retaliation for submitting grievances and asserting
2 his rights. In late January or early February, residents of two cellblocks were ordered to go into
3 the outdoor recreation area while it was snowing, while staff investigated suspicions that some
4 prisoners (other than Orndorff) had tampered with a smoke detector. Many of the prisoners did
5 not have shoes, and none had coats. After half an hour outdoors, Orndorff pressed the call button
6 to ask the guards to allow them to return. An officer told Orndorff that Orndorff "did not run the
7 jail," that he complained too much, and threatened that Orndorff would soon be subjected to an
8 infraction in response to his complaints. The infraction for stockpiling medication followed
9 shortly thereafter. On another occasion, Defendant Richmond moved Orndorff from the general
10 population to an empty cellblock (a form of solitary confinement) and stated, "this is what you
11 get for writing to the ACLU." Richmond has frequently crumpled up Orndorff's grievance and
12 kite forms and returned them without response. On another occasion, a third guard threatened
13 Orndorff, saying "I'll get you in the end." In January, a fourth guard informed Orndorff and
14 others in his cellblock that an unscheduled lockdown was going into effect due to the inmates
15 sending grievances and kites. In order to put pressure on Orndorff to stop filing internal
16 grievances, the Jail's commissary privileges were revoked for a week in mid-January, and Jail
17 staff told other prisoners that Orndorff's alleged misbehavior (by asserting his rights and writing
18 grievances) was the cause.
19

20 39. Orndorff is denied outside magazine and newspaper subscriptions or books.
21 When he was placed in solitary confinement, he was not allowed to take in a Bible.
22

23 40. Orndorff has been denied access to indoor and outdoor recreation time.

24 41. Orndorff has been denied access to the Jefferson County Law Library despite
25 requests from him and his counsel for such access.
26

1 42. The Jail has no separate, unmonitored telephone line for attorney calls, so
2 Orndorff like other inmates has been forced to use telephones in public areas of the Jail for
3 attorney calls, even though those calls may be overheard by other prisoners and are subject to
4 monitoring by Jail staff. His ability to use the telephone service that does exist is limited by the
5 Jail's lockdown schedule and solitary confinement rules.

6 **VI. CLASS ACTION ALLEGATIONS**

7 43. Identification of Class. Plaintiffs seek to maintain this action as a class action and
8 ask the Court to certify a class of all persons who are now, or who will in the future be,
9 incarcerated at the Jefferson County Jail.
10

11 44. Class-wide Relief: Fed. R. Civ. P. 23(b)(2). Defendants have acted or refused to
12 act on grounds generally applicable to the class as a whole. Class-wide declaratory and
13 injunctive relief is therefore appropriate.

14 45. Numerosity: Fed. R. Civ. P. 23(a)(1). The class is so numerous that joinder of all
15 members is impracticable. The average reported daily population of the Jefferson County Jail for
16 1999 was 46, but the population sometimes exceeds 60. The size of the class will necessarily
17 increase as more people are booked into the Jail. Prisoners are frequently released and
18 transferred to other facilities, while new prisoners enter the Jail, making the membership of the
19 class too fluid to permit joinder of all members.
20

21 46. Commonality: Fed. R. Civ. P. 23(a)(2). There are questions of law and fact
22 common to all members of the class, including the facts regarding defendants' operation of the
23 Jail, and whether these facts establish constitutional violations. The common factual questions
24 include whether the Jail provides adequate health care to class members; whether the
25 environmental health and safety conditions of the Jail place class members at risk; whether the
26 Jail has failed to provide Plaintiffs adequate access to courts; whether the Jail is inadequately

1 staffed; whether the Jail has failed to provide Plaintiffs with access to reading materials, and so
2 on. The common legal questions include whether the conditions as proved at trial violate the
3 rights of prisoners, and what sort of declaratory and injunctive will remedy the violation.

4 47. Typicality: Fed. R. Civ. P. 23(a)(3). The claims of the representative plaintiff are
5 typical of those of the class. All prisoners at the Jail are either pretrial detainees or sentenced
6 prisoners, as is plaintiff. All class members are subject to unconstitutional conditions of
7 confinement described in this Complaint. All class members will continue to be subject to such
8 conditions absent the requested relief.

9 48. Adequacy: Fed. R. Civ. P. 23(a)(4). The class representative will adequately and
10 fairly protect the interests of the class, because he is subjected to the conditions challenged by the
11 class as a whole. He has no interests in this matter that are antagonistic to other class members.
12 The class will represented by counsel from the American Civil Liberties Union of Washington
13 and the National Prison Project of the American Civil Liberties Union. These organizations have
14 pursued similar litigation on behalf of prisoner classes around the nation and in Washington,
15 including suits involving the county jails of King and Pierce Counties, and prisons of the
16 Washington Department of Corrections. Undersigned counsel have prior experience with civil
17 rights, class action, and prison conditions litigation.
18

19 **VII. CAUSES OF ACTION**

20 49. Defendants have full knowledge of the conditions set forth in this Complaint, and
21 each defendant participates in maintaining those conditions. The conditions described in this
22 Complaint constitute an official policy of Jefferson County. The conditions set forth in this
23 Complaint are causing irreparable harm to the plaintiff class and will persist unless the Court
24 grants injunctive relief.
25
26

1 50. First Cause of Action: Health Care. As a proximate result of the acts and
2 omissions of the defendants and of defendants' deliberate indifference, the named plaintiff and
3 the class he represents have been, are being, and will be in the future subjected to actual harm
4 and a pervasive risk of harm from the lack of constitutionally adequate medical, dental, and
5 mental health care, in violation of the Eighth and Fourteenth Amendments to the U.S.
6 Constitution.

7 51. Second Cause of Action: Environmental Health and Safety. As a proximate
8 result of the acts and omissions of the defendants and of defendants' deliberate indifference, the
9 named plaintiff and the class he represents have been, are being, and will be in the future
10 subjected to: actual harm and a pervasive risk of harm from assaults and physical injuries in
11 violation of their rights to be protected from physical violence and harm; inadequate
12 environmental health and sanitation; and other unlawful conditions, all in violation of the Eighth
13 and Fourteenth Amendments to the U.S. Constitution.

14 52. Third Cause of Action: Access to Courts. As a proximate result of the acts and
15 omissions of the defendants and of defendants' deliberate indifference, the named plaintiff and
16 the class he represents have been, are being, and will be in the future be subjected to
17 constitutionally inadequate access to the courts in violation of the First, Sixth, and Fourteenth
18 Amendments to the U.S. Constitution.

19 53. Fourth Cause of Action: First Amendment. As a proximate result of the acts and
20 omissions of the defendants and of defendants' deliberate indifference, the named plaintiff and
21 the class he represents have been, are being, and will be in the future denied access to books,
22 magazines, newspapers, and other reading materials, in violation of the First and Fourteenth
23 Amendments to the U.S. Constitution.
24
25
26

1 **VIII. REQUEST FOR RELIEF**

2 WHEREFORE, plaintiffs pray for the following relief:

3 A. Certification of this action as a class action;

4 B. Declaratory judgment holding that defendants' acts and omissions as alleged
5 herein are unconstitutional and illegal;

6 C. An order permanently enjoining defendants, their employees, subordinates,
7 agents, and all others acting in concert with them from subjecting plaintiffs to the conditions set
8 forth in this Complaint;

9 D. Costs and reasonable attorney fees pursuant to 42 U.S.C. § 1988 and other
10 applicable law; and

11 E. Such other and further relief as the Court deems just and proper.
12

13
14 DATED this ___25th___ day of __February__, 2002.

15
16 AMERICAN CIVIL LIBERTIES UNION
17 OF WASHINGTON

18 By:
19 Aaron H. Caplan

20
21 NATIONAL PRISON PROJECT OF THE
22 AMERICAN CIVIL LIBERTIES UNION

23 By:
24 David C. Fathi
25 (Practice Limited to the Federal Courts)
26

Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26