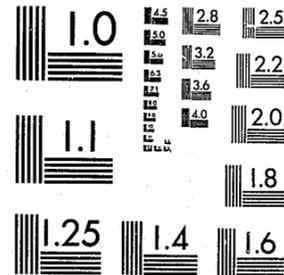


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CONDITIONS OF JUVENILE CONFINEMENT:

A MANUAL OF JUDICIAL DECREES

U.S. Department of Justice 73659
National Institute of Justice

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All materials contained herein were compiled by the staff of the Youth Law Center's Juvenile Justice Legal Advocacy Project under Grant No. 78-JS-AX-0073 of the Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, United States Department of Justice. Points of view or opinions stated in these materials are those of the authors and do not necessarily represent the official position or policies of the United States Department of Justice.

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FORWARD

The Juvenile Justice and Delinquency Prevention Act of 1974 mandates that the Office of Juvenile Justice and Delinquency Prevention improve the quality of juvenile justice in the United States, increase the capacity of state and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs, and to provide research, evaluation, and training programs in the field of juvenile delinquency prevention. The Office of Juvenile Justice and Delinquency Prevention funds numerous programs aimed at delinquency prevention, alternative education, development of standards and regulations, and training. As part of its efforts, from time to time the Office itself develops or supports the development of research material which can assist states and local entities in delinquency prevention.

This manual, prepared by the Youth Law Center's Juvenile Justice Legal Advocacy Project, consisting of an index to and compilation of court decrees concerning conditions of confinement for juveniles, is one tool for officials and advocates attempting to solve the very serious problem of inadequate and counter-rehabilitative conditions of confinement for juveniles in institutions throughout this country. One of the premises upon which Congress acted in passing the Juvenile Justice and Delinquency Prevention Act is that the current juvenile justice system provides neither individualized justice and effective help to juveniles nor protection to communities. Extensive testimony convinced the developers of the Act that large custodial institutions such as reformatories and training schools had become nothing more than schools of crime where juveniles learn the skills of the experienced criminal. Experts in the fields of law, corrections, mental health and education emphasized in their testimony the destructive and dehumanizing effects of the conditions of even temporary confinement in jails or juvenile detention facilities.

The compilation of court decrees contained in this manual documents the significant efforts made by youth advocates in the past to address, through litigation, these problems of conditions of confinement of young people. State and local officials and youth advocates who are presently attempting to implement the JJJPA, may, by consulting these materials, benefit from the experience of, and agreements reached by, the parties to those lawsuits.

By providing a unique body of information concerning a serious problem in the juvenile justice system, this manual clearly will make a substantial contribution to advocacy efforts to implement the Juvenile Justice and Delinquency Prevention Act.

Date: September 30, 1980

IRA SCHWARTZ
Administrator
Office of Juvenile Justice
and Delinquency Prevention

INTRODUCTION

This manual has been prepared by the staff of the Juvenile Justice Legal Advocacy Project, a project of the Youth Law Center. The Juvenile Justice Legal Advocacy Project was established and funded by the Office of Juvenile Justice and Delinquency Prevention in 1978 to provide responsive legal services to local advocacy groups, individuals, and associations in six target states (Colorado, New Mexico, North Carolina, Oregon, Utah, Washington) for the purpose of implementing the objectives of the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. §5601 et seq. As part of their work, Project attorneys have focused on the improvement of conditions for children confined in detention and correctional facilities.

This manual is a summary of consent decrees, stipulations, and final judgments filed in juvenile conditions of confinement cases. Most are unreported cases involving various types of facilities where children may be detained, including detention centers, training schools, jails, and mental health facilities. However, the materials are also applicable to other out-of-home placements of children, including group homes and foster care services. An effort was made to include as many cases as possible and to locate unreported decrees, but the listing is not complete. Readers are requested to contact the Juvenile Justice Legal Advocacy Project, 1663 Mission Street, 5th Floor, San Francisco, California 94103, (415) 543-3379, if they know of relevant judgments or decrees that are not included in this manual. The manual is in looseleaf form, and we hope to prepare a 1981 supplement.

We hope that this compilation of decrees will assist those individuals who are concerned with the treatment of incarcerated children, including public officials, advocates, legislators, youth workers, and attorneys involved in litigating conditions of confinement cases. It is designed to provide the reader with an easy reference survey of the current legal trends involving the treatment of incarcerated juveniles. It is also intended to serve as a practical litigation tool, to be used at settlement conferences and in the preparation of consent decrees.

The first section of the manual summarizes the conditions mandated by the decrees according to topic, covering areas from mail and telephone use to monitoring

and reporting compliance with the decree. These summaries, like "headnotes," are paraphrases of the actual decrees, and are not verbatim reproductions.

The second section, which is a case index, repeats the material contained in the first section, but is indexed by case name for quick reference.

The third section is a summary of all of the cases, including pending cases, which we were able to find which consider the issues of conditions of confinement of juveniles in institutions. Each listing contains the name of the case, the citation or case number, and a summary description of the issues in the case.

The manual's fourth section contains verbatim reproductions of six major consent decrees and judgments. Due to the considerations of space, reproduction of all of the consent decrees and judgments was not possible. The six decrees which are included provide examples of the actual wording of these types of materials.

ACKNOWLEDGEMENTS

This compilation of judgments and decrees relating to the issues of conditions of confinement of juveniles was produced by the staff of the Juvenile Justice Legal Advocacy Project in an effort to correct abuses in the system of care of children placed out of their homes. This particular body of research was undertaken by staff attorneys Elizabeth J. Jameson and Alice C. Shotton, law clerk Linda Ross, and researcher Mamie Yee. Additionally, invaluable assistance was provided by secretaries Alison Goodsill and Doris Proper, and, particularly, Carole Day. During most of the time this manual was being prepared, Michael J. Dale was the Director of the Juvenile Justice Legal Advocacy Project, and he made many significant contributions throughout. Finally, we note our grateful appreciation for special assistance given the Project by Kathie Costin of the Office of Juvenile Justice and Delinquency Prevention.

September 25, 1980

MARK I. SOLER
Director
Juvenile Justice Legal
Advocacy Project

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Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd
in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

1. Mail

- a. No limit on number of letters detainees may receive or send; pens and writing paper to be supplied.
- b. "Absent exceptional circumstances," no censorship of outgoing mail; incoming mail to be inspected for contraband only by opening letter in presence of detainee and without reading or censoring contents.

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

1. Mail

a. Juvenile allowed to send and receive unlimited number of letters with no restrictions as to who the correspondents may be; such mail may be inspected for contraband in the presence of the child; stationary and stamps to be provided for those in poverty situation but not to exceed three of each per week; letters received after a juvenile has been released to be forwarded.

I.-1.2

Inmates of Boys Training School v Affleck, 346 F. Supp. 1354 (D.R.I. 1972)

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

1. Mail

a. No opening, censoring or inspecting of outgoing mail; incoming mail inspected for contraband only in the presence of resident and letters may not be read or delayed.

b. No limits on mail except mail may be prohibited between resident and someone other than attorney, member of the press, or public official if good cause is shown. Resident can object and will be given an explanation in writing.

I.-1.3

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

1. Mail

- a. Detainees may send letters or packages to and receive from any person.
- b. Outgoing mail sent out daily; incoming mail delivered on day of receipt.
- c. Incoming mail may be opened only in addressee's presence and only to inspect for contraband; detainee informed of any items confiscated.
- d. "Contraband" objects possessed in violation of state criminal statutes or which pose a clear danger to detainees or staff.
- e. No letter may be read, censored or withheld.
- f. Free writing materials and postage on request to limit of 7 first class letters per week.
- g. No restriction of visits, mail and phone calls unless detainee has abused his right to a specific form of communication.

(continued)

- h. Restrictions only after hearing; detainee to have 3 hours prior notice; if restriction is imposed, detainee to have opportunity to appeal.

Maldonado v Ciuros

76 Civ. 2854 (LWP)
U.S. District Court, Southern District of New York
Partial Final Judgment by Consent - August 29, 1978
Adolescent Remand and Detention Center

1. Mail

a. Detainees to receive from and send package to anyone; incoming packages may be opened and inspected for contraband and are to be delivered to the recipient within 48 hours.

b. Incoming correspondence not to be opened, except in the presence of the intended recipient or pursuant to a lawful search warrant.

c. Defendants not to maintain any records of correspondence received by any detainee.

d. Mail not to be read or censored unless pursuant to search warrant.

e. Mail to be forwarded if received after detainee released or transferred.

f. Detainees in punitive or administrative segregation or other special status to be allotted same mail privileges as general population.

Manning v Rose

Case No. NC-75-34 - date uncertain (approx. June 1975)
U.S. District Court for the District of Utah
(N.D.)
Preliminary Injunction
Utah State Industrial School

1. Mail

a. Students not to be prohibited from sending or receiving mail.

b. Outgoing mail not to be opened or censored.

c. Mail to be opened by student in presence of supervisor who may inspect for contraband only;

d. No mail to be read or censored;

e. Legal mail not to be opened in presence of supervisor unless outward appearances of mail indicate contraband.

Milonas v Williams

Civil No. C-78-0352
U.S. District Court for the District of Utah,
Central Division
Order Granting Plaintiffs' Motions for Preliminary
Injunction and Class Certification
Provo Canyon School

1. Mail

a. No opening, reading, monitoring or refusing to mail any correspondence from juveniles in the school; no restrictions in the manner or mode of such communications; or the number or types of persons with whom such juveniles may correspond.

b. No reading, monitoring or refusing to deliver correspondence received by juveniles in the school; defendants only permitted to open correspondence to determine if contraband enclosed and to remove.

I. - 1.8

Morales v Turman, 383 F. Supp. 53 (E.D. Texas 1974)
364 F. Supp. 166 (E.D. Texas 1974)

Civil Action No. 1948
U.S. District Court for the Eastern District
of Texas
Preliminary Injunction - August 31, 1973
Texas Youth Council (TYC)

1. Mail

a. Mail not to be opened or tampered with in any manner except to search for and seize contraband. Latter must be done in presence of juvenile and such mail not to be read.

b. Resident may correspond with unlimited number of persons; writing materials and at least three stamps/week to be provided.

I. - 1.9

Santiago v Philadelphia, 435 F. Supp. 136 (E.D. Penn. 1977)

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

1. Mail

a. All mail to be unopened and uncensored; if there are reasonable grounds to suspect contraband, social worker may open particular item of mail in presence of resident concerned and reason for suspicion must be explained. Record to be made of incident.

b. Writing materials and postage to be free, supplied upon request.

I. - 1.10

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

2. Telephone Use

a. Opportunity to make and receive unmonitored telephone calls (no number specified).

I. - 2.1

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

2. Telephone Use

a. Juvenile allowed two(2) free phone calls to a parent, guardian, or other adult responsible for the juvenile upon entering detention home; juvenile may make and receive telephone calls to aforementioned at times of stress or emergency for juvenile or his family.

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

2. Telephone Use

a. Phone calls to be of 5-minute duration on each of six days per week (unclear whether this means one call or more).

b. No restriction on identity of person called or on privacy, except person's name shall be entered in log. Calls to committed juveniles may be monitored if this fact is logged.

c. Call can be at any time reasonably calculated to ensure reaching the person being called.

d. No restriction of visits, mail and phone calls unless detainee has abused his rights to a specific form of communication.

e. Restrictions only after hearing detainee to have 3 hours prior notice; if restriction is imposed, detainee to have opportunity to appeal.

Maldonado v Ciuros

76 Civ. 2854 (LWP)
U.S. District Court, Southern District of New York
Partial Final Judgment by Consent - August 29,
1978
Adolescent Remand and Detention Center

2. Telephone Use

a. Detainees permitted to receive incoming calls of an emergency nature and calls from attorneys; in either case, message may be taken and detainee to return call as soon as possible; except after evening lock-up, return calls next morning.

Santiago v Philadelphia, 435 F. Supp. 136 (E.D. Penn. 1977)

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

2. Telephone Use

a. Outgoing calls to parents, relatives and attorneys shall be made available on request. Other calls arranged through social worker, limited to one call per day. Privacy to be afforded within space limitations provided; log of calls to be kept.

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd
in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

3. Visitation

a. Not less than weekly visiting in a space
separated from cell areas, allowing for private
conversations with family and friends.

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

3. Visitation

a. Juveniles allowed to visit with parents,
relatives, and guardians at least on Tuesday, Thursday,
and Saturday afternoons and evenings from 2 p.m. to 3 p.m.
and 7 p.m. to 8 p.m.

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

3. Visitation

- a. Parents/guardians to visit two hours, two nights per week.
- b. Two hour visits available anytime from 9 a.m. to 3 p.m. each day upon one hour's notice to the facility; upon approval of director. If denied, visit must be accommodated within 24 hours.
- c. Attorneys and clergy may visit at anytime between 9 a.m. and 7 p.m., seven days a week.
- d. No restriction on number of visits by parents, guardians, attorneys, their agents, adult relatives or clergy. Others may visit if accompanied by parent or guardian or with prior permission of superintendent.
- e. Conversations to be unmonitored, but supervisor to be in visual contact.
- f. Visits can be denied to persons giving detainee contraband or creating disturbances; denial must be in writing and reviewed; visit by parent or guardian can't be denied without written consent of detainee.

Morales v Turman, 383 F. Supp. 53 (E.D. Texas 1974)
364 F. Supp. 166 (E.D. Texas 1974)

Civil Action No. 1948
U.S. District Court for the Eastern District
of Texas
Preliminary Injunction - August 31, 1973
Texas Youth Council (TYC)

3. Visitation

- a. Juvenile to receive visitors 1) for at least two hours/day on at least two separate days between Monday and Friday; and 2) on weekends and holidays between 9 a.m. and 5 p.m.

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

3. Visitation

a. Visiting hours -- Tuesdays, Thursdays, Saturdays,
and Sundays -- 2:30-3:45; Monday and Wednesday evenings --
6:30-8:00.

b. Parents, legal guardians, and grandparents
permitted on scheduled days. Adult aunts and uncles,
brothers and sisters need permission and must be
accompanied by parent or legal guardian.

c. Ministers and social workers permitted upon
permission.

d. Limit of two persons per visit, no limit to
number of visits per week.

e. Those in isolation can receive visits on approval
of administrative staff.

f. Special visiting privileges by arrangement.

g. Restriction of visits must be made in writing and
reviewed by Executive Director and is subject to appeal
through grievance.

(continued)

h. Visiting area to be quiet and private, no
conversations monitored, but supervisor may remain in
visual contact.

Thomas v Mears, 474 F. Supp. 908 (E.D. Arkansas 1979)

No. LR-C-73-26
U.S. District Court for the Eastern District of
Arkansas
Consent Decree - August 13, 1979
Detention Center, Pulaski County, Arkansas

3. Visitation

a. Children to be allowed daily visits from their families and attorneys at reasonable times. Others may visit on same basis if staff and space permit.

I. - 3.7

Ahrens v Thomas

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

4. Religion

a. Opportunity within jail to attend religious services and receive religious counseling.

I. - 4.1

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

4. Religion

- a. No pressure on juvenile to participate in or attend any religious services or activities or to read Bible or similar religious literature.
- b. No Bible or similar religious literature to be placed in any private rooms unless requested by juvenile.
- c. Juvenile to be able to worship according to own beliefs.

Maldonado v Ciuros

76 Civ. 2854 (LWP)
U.S. District Court, Southern District of New York
Partial Final Judgment by Consent - August 29,
1978
Adolescent Remand and Detention Center

4. Religion

- a. Detainee in punitive or administrative segregation or any other special status permitted to attend any religious services which detainees in general population may attend except when detainee poses a threat to the security of the institution.

Ahrens v Thomas

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

5. Access to Legal Assistance and Courts

- a. No limit on number of times an attorney may visit with his/her client.
- b. Detainees to have uncensored, unmonitored and confidential communications with counsel, with space available for private consultation and provision for daily telephone communication.
- c. Detainees to have complete access to all legal papers, a law library, notary public service to file pleadings in court, paper and pens for communicating with counsel or filing court pleadings.
- d. Detainees allowed to shower, shave and clean clothes before appearing before any jury.

Daratsakis v Smith

76 Civ. 3218 (IBW)
U.S. District Court for the Southern District of
New York
Interim Consent Order - July 30, 1976
Children's Center (for Abused, Neglected and
Children in Need of Supervision)

5. Access to Legal Assistance and Courts

- a. Upon notice to defendant, plaintiffs' counsel to have immediate access to the Children's Center, including the opportunity to talk briefly with staff and children in free and unhampered manner and access to all records concerning the residents.

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

5. Access to Legal Assistance and Courts

a. Juveniles allowed complete access to counsel by telephone, letter, and personal contact; not restricted but to be at any reasonable time.

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

5. Access to Legal Assistance and Courts

- a. Attorneys and clergy may visit at anytime between 9 a.m. and 7 p.m., seven days a week.
- b. No restriction shall be placed on number of visits by parents, guardians, attorneys, their agents, adult relatives or clergy. Others may visit if accompanied by parent or guardian or with prior permission of superintendent.

Ishii v Chang

Civil No. 75-0238
U.S. District Court for the District of Hawaii
Agreement of Settlement - September 18, 1975
Hawaii Youth Correctional Facility

5. Access to Legal Assistance and Courts

- a. Juvenile inmates have the right of access to counsel and to due process in Courts.
- b. Visitation by attorneys with residents to be on an individual and private basis unless otherwise agreed. Such visitation to occur during hours of 8 a.m. to 5 p.m., Monday through Friday or on weekends with prior notice to facility except for emergency situations when residents shall have free access.
- c. Residents shall also have right to unmonitored telephone conversations with their attorneys between 8 a.m. and 8 p.m. daily.
- d. Facility to maintain a current list of residents and their present attorney of record so that such attorneys have access to their clients without requirement for verifying attorney-client relationship.

(continued)

- e. Paralegal assistants of attorneys to be permitted to confer with resident on same basis upon presentation of letter of introduction from attorney or prior telephoned arrangement.
- f. All residents and their parents to receive written notice of their rights to counsel. Such notice to include hours when attorney can be contacted and the fact that the child has the right to contact attorney concerning his/her conditions of confinement.

Maldonado v Ciuros

76 Civ. 2854 (LWP)
U.S. District Court, Southern District of New York
Partial Final Judgment by Consent - August 29,
1978
Adolescent Remand and Detention Center

5. Access to Legal Assistance and Courts

- a. Attorneys permitted to visit detainees at any time between 8 a.m. and 8 p.m. daily.
- b. Attorneys permitted to arrange such visits in advance by calling ARDC to inquire whether detainee available for visit and to leave message.
- c. Defendants to maintain properly equipped law library staffed with adequate number of trained legal assistants and typists to assist detainees.
- d. Law Library to be open at least eight hours per day, seven days a week for detainee use.

A.N. v Scott

No. 79-3010-NA-CV
U.S. District Court for the Middle District of
Tennessee, Nashville Division
Consent Order - January 15, 1979
Tennessee Preparatory School

5. Access to Legal Assistance and Courts

- a. Students allowed to telephone an attorney anytime during detention.
- b. Student allowed to meet with previously engaged attorney between hours of 9 a.m. and 6 p.m.; at other hours if emergency or exceptional circumstances exist.

Santiago v Philadelphia, 435 F. Supp. 136 (E.D. Penn. 1977)

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

5. Access to Legal Assistance and Courts

a. Outgoing calls to parents, relatives and attorneys shall be made available on request.

I. - 5.9

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

6. Dress/Personal Property

a. Detainees to be issued free of charge personal hygiene items: soap, toothpaste, razor, sanitized mattress and pillow, shirt and pants, clean sheets, blankets and towels.

b. Each detainee to have a space or locker for storing personal items, including clothing.

I. - 6.1

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

6. Dress/Personal Property

- a. No haircuts without juveniles' consent; no discrimination against juveniles because of length or style of hair.
- b. Juveniles to be provided with suitable clothing appropriate to health and weather.
- c. Juveniles allowed to retain or receive personal possessions they wish as long as not dangerous to themselves or others do not interfere with operation of home and are not valuables.

Inmates of Boys Training School v Affleck, 346 F. Supp. 1354 (D.R.I. 1972)

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

6. Dress/Personal Property

- a. Sufficient clothing to meet seasonal needs, change of undergarments and socks daily.
- b. Minimum writing materials.
- c. Equal access to all books, periodicals and other reading materials; daily access in room to own reading materials.
- d. Personal hygiene supplies available.

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

6. Dress/Personal Property

a. Detainee to be provided with clothing purchased by the facility; clothing to be equivalent to that worn by most adolescents.

b. Facility to provide daily change of undergarments and socks.

c. Warm outdoor clothing to be provided for cold weather.

d. Institutional clothing regularly changed and laundered; personal clothing marked and receipt to detainee to insure against loss or theft.

e. Personal clothing to be stored to be presentable for court; parents to be informed when clothing needed for court to make detainee presentable.

f. Facility strictly liable for all property and valuables, including clothing and should promptly replace or give value for any item lost.

(continued)

g. Receipt to be given for all items in storage.

h. Detainee to be able to purchase personal articles not provided by the facility; facility to purchase on twice weekly basis items paid for in advance.

Maldonado v Ciuros

76 Civ. 2854 (LWP)
U.S. District Court, Southern District of New York
Partial Final Judgment by Consent - August 29,
1978
Adolescent Remand and Detention Center

6. Dress/Personal Property

a. Detainees permitted to wear all items of clothing which are generally acceptable in public and which do not constitute a threat to the safety of the institution.

Such clothing to include:

- (1) clothing worn by the detainee upon admission;
- (2) clothing received by detainee from any source including hand delivered and mailed packages.

b. Defendants to provide receipt for each personally delivered package; deliver such clothing within 48 hours unless needed more promptly for court appearance; and not require prior notification or approval for receipt of clothing.

c. During inspection, clothing to be ripped, torn or cut for contraband only if written authorization by higher-ranking officer.

d. Clothing to be repaired if unlawfully retained and promptly delivered.

(continued)

e. Detainees permitted to wear and to receive jewelry except if it is expensive or likely to be used as a weapon.

f. Free laundry service sufficient to provide detainees with clean change of clothing and a clean towel twice per week.

g. Detainees permitted to receive from any source any publications; such publications not to be censored unless they contain specific instructions on the manufacture or use of dangerous weapons or explosives, or plans for escape.

h. Defendants to provide method with which to identify and return any confiscated property; detainee to be able to contest the taking of personal property.

i. All cell searches to be done in presence of detainee unless detainee impedes search or upon showing of good cause approved in writing by higher-ranking officer.

j. Detainees to be provided on a regular basis with clean linens, bedding, and mattress covered with fire-retardant, water resistant and easily sanitized material.

(continued)

k. Detainee to be provided with personal hygiene items:

- (1) soap;
- (2) toothbrush;
- (3) toothpaste or tooth powder;
- (4) drinking cup;
- (5) toilet paper;
- (6) towel;
- (7) mirror, unless in cell;
- (8) comb.

l. Detainees to be able to shower with sanitary and properly maintained equipment and shower daily; shaving equipment to be provided.

m. One full-time barber or hair-stylist and sufficient number of persons working under barber's or hair stylist's supervision to cut and style hair of detainees.

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

6. Dress/Personal Property

a. Provision of clean, adequate and seasonally appropriate clothing, including shoes and coats; comparable in styles and quality with clothing worn by persons of similar age and sex in the community.

Santiago v Philadelphia, 435 F. Supp. 136 (E.D. Penn. 1977)

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

6. Dress/Personal Property

a. Clothing provided to be similar to that worn in community; clean underwear furnished daily for girls, at least twice a week for boys; clean clothing furnished once every three days.

I. - 6.10

Thomas v Mears, 474 F. Supp. 908 (E.D. Arkansas 1979)

No. LR-C-73-26
U.S. District Court for the Eastern District of
Arkansas
Consent Decree - August 13, 1979
Detention Center, Pulaski County, Arkansas

6. Dress/Personal Property

a. All children to be allowed to wear civilian clothes all day, except those who are serious, genuine suicide threats.

I. - 6.11

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd
in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

7. Educational/Treatment Program

a. Detainees to be classified according to their individual needs, with a screening procedure established whereby detainees are interviewed and classified according to age, sex, previous offense, pretrial or sentenced, special problems (alcoholism, drug abuse, mental illness, sexual deviance or suicide risk), medical conditions or other criteria deemed necessary by screening officer for safety of detainee and operation of facility.

b. A library to be available, with no censorship of reading materials.

c. Basic and remedial education programs "may" be established.

d. Work release, vocational training release and educational release programs "may" be established.

I. - 7.1

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

7. Educational/Treatment Program

a. Through consultation with an education specialist, develop an education program suitable to meet the needs of children confined in the detention home.

b. Make funds available for the purchase of such testing, educational and recreational supplies and equipment deemed necessary by the superintendent, psychologist(s) and teachers.

I. - 7.2

F.E. v Hensley

Civil Action No. 73 CV 43-W-1
U.S. District Court for the Western District of
Missouri
Final Judgment - December 15, 1978
Youth Center of St. Joseph State Hospital

7. Educational/Treatment Program

a. For each child, a written specific individualized treatment plan developed by qualified mental health professionals, including a psychiatrist minimally board eligible with 2 or more years experience in child psychiatry. An initial written plan to be completed within 5 days of admission and a finalized plan as soon as possible but not later than 21 days after admission.

b. The parents/guardian of each child to be allowed to participate in formulating the plan and such child to also be given the same opportunity unless "medically contra-indicated", such fact being documented.

c. Each child to have a comprehensive physical, psychological, educational and social testing and evaluation upon admission.

(continued)

- d. Each plan, as a minimum, to include:
1. reason for hospitalization;
 2. specific problems and needs of child and why Center is "presently suited to meet" them;
 3. treatment modalities necessary, including description of intermediate and long-term goals and a time table and method for meeting them;
 4. designation of staff person having overall responsibility for implementing plan and staff persons who will carry out each specific treatment modality;
 5. proposed family involvement;
 6. explanation of criteria for release to less restrictive placements, if available, and for ultimate discharge; and
 7. a form to detail and summarize each child's progress.
- e. A comprehensive review to be held at least every 90 days and a summary thereof to become part of child's record.

(continued)

f. Treatment plan to include individualized education plan in compliance with P.L. 42-142, (Education of All Handicapped Children Act) and §504 of Rehabilitation Act.

g. Said plan to include:

1. ID of each child's needs as related to present level of educational performance;
2. long-term goals and short-term instructional objective with criteria for judging whether they are being achieved;
3. statement of specific special education services, including strategies to be used to obtain each goal;
4. assessment of least restrictive educational environment and child's ability to function in public school in special education or regular programs; and
5. time table for beginning and ending of services with anticipated date for entry into public school system.

h. A treatment modality to continue in use is the behavior motivational program which reinforces adaptive

I. - 7.5

(continued)

behavior by means of a point system. (See Final Judgment, Appendix A, page 1-12, reproduced in Case Index).

i. Children may be required to perform personal housekeeping tasks like work obligations they might have had in their own home when such tasks deemed to be therapeutically beneficial.

j. A vocational education and rehabilitation program to be available for teaching marketable skills and appropriate work experience outside facility to be considered where available and in relation to therapeutic programs.

k. Voluntary work on the premises may be instituted and assigned only if deemed therapeutic by treatment team; to be subject to written guidelines and such children participating to be compensated at rate commensurate with their productivity. Parents/guardians must consent to such participation.

l. An aftercare program to be established to return child to his/her family as soon as possible. Program to begin at time child enters facility, with aftercare worker to participate if at all possible at team meetings.

I. - 7.6

(continued)

Program to continue until caseworker satisfied as no longer needed.

m. Parents/guardians of child presently or recently hospitalized should be urged to attend evening sessions where they will be counseled re child's mental status, behavior and family problems.

n. Each child and/or his/her parent or guardian entitled to a copy of treatment plan and a patient handbook which outlines types of discipline and when used.

Inmates of Boys Training School v Affleck, 346 F. Supp. 1354 (D.R.I. 1972)

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

7. Educational/Treatment Plan

a. Initial intake process of 7 to 10 days during which preliminary profile of resident is formulated which includes social history, family background, education/academic achievement, behavioral observations, medical history and agency interaction.

b. Clinical staff begins assessments during which time resident tentatively placed in academic/vocational program, gym and recreation programs, and intensive orientation and counseling sessions.

c. Within 12 days of admission, formal intake review held by Treatment Team (consists of Clinical Coordinator, educational personnel, resident's counselor and a psychiatrist if appropriate). At the review it is to be determined whether further data is needed.

d. All material obtained in above process is used for diagnostic and evaluation report which takes place

(continued)

within 30 day period of admission. Resource staff to review reports in order to develop coherent treatment plan and a treatment team meeting held within 30 days of admission.

e. Development of treatment plan shall include consultation with resident and where appropriate his/her family. Programs for which resident is believed qualified shall be explained to him/her as well as criteria for admission to programs for which resident is not yet qualified, including pattern of behavior required for off-grounds program. Where appropriate, resident to attend treatment team meetings to become active in design of treatment plan.

f. Written plan to include: description of community program to which assigned, criteria necessary for placement in less restrictive treatment conditions and for a recommendation of release from school, and where resident will live upon release.

g. At least once a month, treatment team to meet to re-evaluate plan and a more complete review every three months.

(continued)

h. Educational Administrator shall have overall responsibility for curriculum content and for off-grounds placements, including community grade programs.

i. A high school equivalency program will be maintained for all residents.

j. Assistant Director of Department of Corrections will develop program of residence placement for all residents.

k. In addition to medical record, to be a central record with ID data, psychological and psychiatric reports, family history, educational evaluation, individualized treatment plan, all team reports and periodic evaluations, disciplinary reports and release plans, as well as ID and location of attorney of record.

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

7. Educational/Treatment Program

- a. Each detainee shall have an individualized educational tutorial program including remedial instruction.
- b. Classes shall be conducted year-round excepting weekends and regular school holidays.
- c. Teachers would be certified by the Massachusetts Department of Education.
- d. Classes shall be 12 students maximum.
- e. Each detainee shall receive 4 hours of educational instruction per day, at least 2 hours in academic subjects.
- f. Any detainee incarcerated more than seven days shall be assessed for educational level and shall receive individualized instruction.

McRedmond v Wilson, 533 F.2d 757 (2nd Cir. 1976)
402 F. Supp. 1087 (S.D.N.Y. 1975)

74 Civ. 4945
U.S. District Court for the Southern District of
New York
Stipulation - November 3, 1976
Facilities Operated by New York Division for Youth
(PINS)

7. Educational/Treatment Program

- a. Each member of class in a Title II facility to receive a program containing off-facility community involvement or activity, including but not limited to, education, employment, recreation and cultural activity, or some appropriate combination thereof.

No. 71 CIV 3159
U.S. District Court for the Southern District of
New York
Order - March 26, 1975
Juvenile Detention Centers of New York City (CHINS)

7. Educational/Treatment Program

a. As soon as practicable but no later than ten days after admission, child to be observed and evaluated for assignment to permanent living unit, with consideration given to his/her maturity, emotional and psychiatric history, alleged charges, and evidence of drug use

b. Such assignment and interim treatment plan not to be on basis of age, size and aggressiveness only and to be done by team, including, where appropriate, caseworker, counselor, teacher, physician and psychiatrist or psychologist. Plan to be given to child's probation officer and if authorized by child, to his/her attorney or guardian.

c. On or before the 30th day of confinement, to be a full case conference with child's counselor, caseworker, probation officer and any treating

(continued)

psychiatrist or psychologist, and one of child's teachers for purpose of formulating individualized long-range treatment plan.

d. Full case conference to be held "at suitable intervals" to review plan, with conference results reported in writing.

e. A complete file on each child, including above reports, to be kept and made available to all staff having direct responsibility for child and shall remain confidential. Child can authorize giving a copy to his/her attorney or law guardian.

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

7. Educational/Treatment Program

a. Individualized screening and plan with assistance of resident, parents, relatives or guardian for education, speech, physical therapy etc. Regular quarterly review.

b. Program to include at least six hours of program activity per weekday; to set program goals with short and long range objectives.

c. Single team member to be responsible for supervising each patient's progress.

d. Right to appeal by residents or parents/guardians/relatives when they disagree with a plan. Appeal process to be devised.

e. No resident presumed incapable of educational development; each resident to have an individual educational plan with short and long term objectives; education staff to consult at least on a weekly basis with daily care and programming teams.

(continued)

f. Educational services to be the equivalent of NYC special educational services in staff qualifications; program hours per student; nature, content, and quality of programs; curriculum guides, equipment, etc.

g. One teacher's aide, therapy aide or other assistant per teacher.

h. Classes to be six hours per day except if physician certifies.

i. Six per class for severely retarded; nine per class for moderately retarded; 12 per class for mildly retarded.

j. Special education programs for blind, deaf and multiply handicapped. Staff to receive specialized training.

k. Toilet training not be prerequisite for receiving education.

l. Sufficient bilingual/bicultural staff and instructional materials.

m. Resident has access to own records as do parents/guardian with resident's permission.

n. System of records for each resident.

Thomas v Mears, 474 F. Supp. 908 (E.D. Arkansas 1979)

No. LR-C-73-26
U.S. District Court for the Eastern District of
Arkansas
Consent Decree -- August 13, 1979
Detention Center, Pulaski County, Arkansas

7. Educational/Treatment Program

a. Children under "open care" not to be held in secure custody but shall as a general rule be permitted to enter and leave Center voluntarily, subject to limitation to certain hours or time when not in school, etc. Any such limitations must be prominently posted so such children can see them and shall be verbally explained to each child individually by staff. If violated, child can be placed in more secure custody for up to 72 hours.

I. - 7.17

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

8. Exercise/Recreation

a. Appropriate and adequate indoor and outdoor (weather permitting) exercise and recreation to be permitted each day.

I. - 8.1

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

8. Exercise/Recreation

a. Juveniles encouraged to participate in recreational activities but not to be forced to do so.

Inmates of Boys Training School v Affleck, 346 F. Supp. 1354 (D.R.I. 1972)

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

8. Exercise/ Recreation

a. For residents in the most restrictive treatment settings (e.g. closed or locked cottages) at least 3 hours of physical recreational activities and instruction daily; at least 1 1/2 hours of which shall be organized activity and conducted outdoors or at gym with an opportunity to swim.

b. For residents attending school on grounds, at least 2 hours daily of organized physical education outdoors or in gym.

c. For all others, including those attending off-grounds programs, daily access to gym on school or work days and at least 2 hours daily outdoor exercise or in gym on non-school or non-work days.

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

8. Exercise/Recreation

a. Minimum of 2 hours outdoor recreation on school days and a minimum of 4 hours on non-school days for each detainee who desires it -- as weather permits.

b. Program of indoor recreation; area sufficiently spacious for large muscle exercise; sufficient recreational equipment in good repair for each to have opportunity for large muscle exercise during recreational period.

c. Facility to provide variety of sedentary games as well as books, periodicals and materials appropriate to all ages, heritages and educational backgrounds of detainees.

Martarella v Kelley, 359 F. Supp. 478 (S.D.N.Y. 1973)
349 F. Supp. 575 (1972)

No. 71 CIV 3159
U.S. District Court for the Southern District of
New York
Order - March 26, 1975
Juvenile Detention Centers of New York City (CHINS)

8. Exercise/Recreation

a. Each child to have no less than two hours/day on school days and three hours/day on non-school days of planned and structured recreational activity.

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

8. Exercise/Recreation

a. Program should be varied to meet needs of each resident; enough equipment for services to all; program to conform closely to normal community recreation activities in terms of equipment, age and sex groupings.

b. Minimum of two hours recreational activities outdoors, weather permitting.

c. Conducted in small groups, except where larger numbers are appropriate as in baseball or swimming; one recreational therapist for every 50 residents; activities day, evening, weekends and holidays.

d. Library facilities to be developed.

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

8. Exercise/Recreation

a. Minimum of one hour indoor physical recreation per day and minimum of three hours outdoor per week, weather permitting. Suitable clothing provided for cold weather.

b. Gym furnished with equipment to provide each resident opportunity to have large muscle activity each day.

c. Wide selection of reading and writing materials, art supplies and games to be available.

d. Regular opportunities for co-educational activity.

e. Recreation workers to be trained in physical education and be qualified to supervise emotionally disturbed children.

f. Library services for each unit; after school, weekend and school vacations included.

Thomas v Mears, 474 F. Supp. 908 (E.D. Arkansas 1979)

No. LR-C-73-26
U.S. District Court for the Eastern District of
Arkansas
Consent Decree - August 13, 1979
Detention Center, Pulaski County, Arkansas

8. Exercise/Recreation

a. Children in "secure custody" who are detained over 24 hours to be allowed recreation outside their cells which shall include at least 2 hours/day outdoor recreation, weather permitting, and may include indoor activities such as T.V., ping pong, cards, weightlifting, and the like.

b. Children in "individual confinement" to have minimum of 2 hours recreation daily, outdoors if weather permits. Such children do not have the right to exercise with the other children at Center.

Ahrens v Thomas, 434 F. Supp. 873 (W.D.Mo. 1977), aff'd in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

9. Medical Services

a. All detainees to have medical screening exam at admission.

b. Physician to be available on 24-hour basis; physician, registered nurse or other public health trained personnel to conduct sick call at least once/week plus a daily sick call to determine who needs services of a doctor; provide treatment and necessary emergency care.

c. Untrained correctional officers shall not make final medical decisions as to whether detainees are in need of medical care.

d. Medical log to be kept indicating who has received medication -- its name, amount of dosage, and frequency with which received. Procedure to be established for keeping medical records for each detainee and for controlling and dispensing medication.

(continued)

e. Adequate units where medical exams can take place as well as housing units for those with psychiatric/psychological problems or other medical problems requiring special unit -- such units to be supervised on 24-hour basis by properly trained staff.

f. Procedure to be established for handling emergency medical problems on a 24-hour basis, 7 days/week.

F.E. v Hensley

Civil Action No. 73 CV 43-W-1
U.S. District Court for the Western District of Missouri
Final Judgment - December 15, 1978
Youth Center of St. Joseph State Hospital

9. Medical Services

a. Medication to be used only when "medically necessary to treatment of child" and not as "substitute" for other treatment modalities.

b. Psychotropic drugs to be used only as integrated part of individualized habilitation plan designed to "lead to less restrictive way of treating."

c. Decision to prescribe medication and the dosages thereof for a child are within sole discretion of attending physician and to be administered only upon written prescription order of a physician.

d. All medications to be administered by staff specifically trained to do so and to recognize adverse reactions and side effects.

e. Physicians to continue to write frequent progress reports on therapeutic effects of medicine and all prescriptions to be reviewed every 30 days (a Dept. of Mental Health regulation).

(continued)

f. When a change in medication is ordered, physician to record reasons therefor, including the child's behavior.

g. Each child to be advised as to medication being taken and the reasons therefor.

I. - 9.4

Inmates of Boys Training School v Affleck, 346 F. Supp. 1354 (D.R.I. 1972)

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

9. Medical Services

a. Direct access at all reasonable times to physician or psychiatrist of choice; except school won't pay for doctor engaged by resident or parent/guardian.

b. All residents to have access to medical staff on daily basis, including a registered nurse from 7 a.m. to 11 p.m.

c. Medical staff to maintain daily log which details attendance at sick call, medications dispensed, treatment administered and referrals made, which information shall be entered in resident's medical file for evaluation by resource team.

d. Medical screening by registered nurse within 24 hours of resident's admission, including an initial medical history to alert physician of any unusual medical problems.

I. - 9.5

(continued)

e. Comprehensive medical exam by physician within 48 hours of admission and subsequently once a year.

f. Exam to include recommended immunizations, vision and hearing exam, medical history, blood profile, urinalysis, screening for venereal disease, drug use, screening for sickle cell anemia and other genetic diseases.

g. Physician on site at least 2 hours a day, 4 days per week and on call 24 hours a day, 7 days a week.

h. Physical exam at discharge if resident longer than 6 months or not under active care of physician during stay.

i. Dental prophylactic exam and hygiene care furnished within 7 days of admission and every 6 months. Qualified dentist available as needed and emergency and corrective work provided when immediate care is prescribed by qualified dentist. Discharge dental exam if resident at least 6 months.

j. Services of accredited clinical lab to be available to school.

I. - 9.6

(continued)

k. No prescription medication administered unless at written order of physician. Other medication administered by registered nurse who shall promptly notify physician.

l. No exceeding standard of medication use set by federal or state law.

m. Notation of medication kept on medical record; regimen reviewed periodically by primary and/or prescribing physicians.

n. Medication administered only by authorized personnel under established guidelines. No medication administered intramuscularly without attempting oral medication first unless physician orders it.

o. No experimental research or treatment involving a resident to be performed which is not specifically for the diagnosis or treatment of that resident's disorders.

I. - 9.7

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

9. Medical Services

- a. Each detainee to be examined by a registered nurse or doctor within 24 hours of admission and at intervals of 4 months or less thereafter.
- b. Intake exam to include medical history, immunizations, hearing and vision exams, urinalysis, screening for drug use, tuberculosis and venereal disease.
- c. 24-hour a day emergency medical, psychiatric and dental treatment to be available.
- d. Sick call held daily and be attended by registered nurse or doctor.
- e. Each detainee has the right to be seen at sick call or the emergency room of the local hospital nearest to the facility.
- f. No detainee to be isolated from general population for medical or psychiatric reasons without the written approval of a licensed medical doctor, nurse or psychiatrist who has personally examined the detainee.

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- g. Parents/Guardian to be promptly advised of medical or psychiatric problem; detainee must supply written consent before parents are told of detainee's venereal disease or homosexuality.

Manney v Cabell

Civil Action 75-3305-R
U.S. District for the Central District of
California
Order - April 1979
Los Angeles County Central Juvenile Hall

9. Medical Services

a. Medical screening prior to admission conducted by trained medical personnel including review of records, complete medical history, routine testing for common diseases or drug or alcohol abuse, referral to physician if needed.

b. Complete physical exam within 48 hours of admission to review medical history, immunizations, test results, needed medical treatment.

c. Sick call at least 3 times daily by qualified nurse at juvenile's request.

d. Adequate infirmary and rooms for sick call, doctor's clinics or other treatment.

e. Written guidelines for determining when a probation officer shall bring a juvenile to infirmary.

f. Preparation of a list of conditions which infirmary can treat.

(continued)

g. Communication system for summoning nurses from each infirmary room.

h. Frequent infirmary rounds by nurses.

i. Appropriate cleaning schedules for infirmary.

j. Appropriate hygienic standards.

k. Establishment of a medical records system that includes confidentiality of medical records, records on administration of drugs and medication to each juvenile, audit and review of the quality of medical care.

l. Follow-up medical care procedures for juveniles leaving Juvenile Hall suffering from illnesses or conditions discovered or treated.

m. A plan for changes in staff policies and procedures; employment of qualified nurses and supervisory nursing personnel, overlapping nursing shifts, case-conferences between nurses, doctors and psychiatrists, use of revised nursing manual, training of probation staff on effects of drugs on juveniles.

n. Plan for prevention and control of communicable diseases.

(continued)

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- o. Procedures to govern administration of medication.
 - p. Special diets for those juveniles with medical need; employment of a dietician; training of cooks; communication between medical and dietary personnel.
 - q. Lab to be upgraded to handle all medical tests needed by juveniles.
 - r. Medical equipment upgraded in physiotherapy room, and in x-ray; purchase of electrocardiograph equipment; purchase of modern emergency equipment.
 - s. Emergency medical procedures upgraded.
 - t. Upgrading of medical library.
 - u. Guidelines for coordination of medical and mental health care so movement of child by probation officer doesn't interfere with treatment.
 - v. No prescription medication or drugs administered without physician's prescription and a physical examination.

I. - 9.12

N.Y. State Assn. for Retarded Children, Inc. v Rockefeller
357 F. Supp. 752 (E.D.N.Y. 1973)

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

9. Medical Services

- a. Necessary and appropriate dental services provided by qualified professionals including at least annual examinations and cleaning, emergency treatment on 24-hour, 7-day a week basis.
- b. Residents to have specialized services like orthodontics, false teeth and dental plates.
- c. Individualized physical therapy services on a regular basis (including 7 day/wk if needed).
- d. Qualified staff to evaluate needs for wheel chairs, braces etc. for all non-ambulatory and physically handicapped residents.
- e. Annual comprehensive medical exam.
- f. Isolation for contagious disease control only with direct care and on physician's order after personal examination; order good only for 10 days; for orders totaling more than 30 days, director must approve.

I. - 9.13

(continued)

g. No stay in infirmary for more than 5 days without usual educational programming or therapy unless physician says medically harmful.

h. Immunization program.

i. 24-hour provision of doctor for medical emergencies; maintain contract with with a hospital for acute medical care.

j. Comprehensive eye examinations to be given; glasses provided if necessary.

k. No prescription medication except by doctor's order to be confirmed in writing within 24 hours if possible.

l. Weekly review of each patient's drug regimen; annual statement of volume and frequency of drugs administered by type and condition of resident.

m. Pharmacy staffed by licensed pharmacist.

n. Only appropriately-trained staff to administer drugs.

o. Shall be written policies and procedures for administration and handling of all drugs developed by professional medical staff.

p. Drugs properly stored.

I. - 9.14

(continued)

q. Medication errors and drug reactions immediately recorded and reported to doctor prescribing.

r. Those not requiring specialized medical care not to be kept in the infirmary for reasons of personal safety or discipline.

s. Medication not to be used as punishment, for the convenience of the staff, as a substitute for program or in quantities that interfere with the resident's program.

I. - 9.15

Santiago v Philadelphia, 435 F. Supp. 136 (E.D. Penn. 1977)

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

9. Medical Services

- a. All procedures, equipment and staffing to be studied by university hospital-based team and their recommendations implemented.
- b. No involuntary vaginal examinations for girls upon admission.
- c. No thorazine or other tranquilizing drugs to be administered except unless prescribed by physician in writing; physician shall examine youth and review use every 24 hours; full documentation in resident's file.
- d. Reasonable access to psychiatrist and/or psychologist.

I. - 9.16

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

10. Mental Health Care

- a. Screening officer to inquire as to detainee's psychological problems and to report any condition which needs attention of correctional staff.
- b. An appropriate crisis intervention program "may" be established.
- c. Any counseling programs staffed by properly trained professionals.

I. - 10.1

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

10. Mental Health Care

a. Resident interviewed by counselor upon admission. Any resident whose offense, behavior subsequent to admission, or whose records indicate potential or previous psychiatric problems, to be seen by a psychiatrist within 48 hours of admission.

b. Complete written report to be made by psychiatrist within 2 weeks of interview with resident.

c. If resident has not had psychological evaluation or psychiatric testing within 18 months prior to admission or such data is unavailable for any reason, a psychological evaluation to be conducted during intake process for use in formulating a treatment plan.

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

10. Mental Health Care

a. Any detainee desiring psychiatric treatment to notify his counselor and if counselor can't handle the problem (as determined by counseling supervisor) then referral to be made to psychologist or psychiatrist.

b. Communication between detainee and his therapist to be privileged.

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

10. Mental Health Care

a. Resident interviewed by counselor upon admission.
Any resident whose offense, behavior subsequent to
admission, or whose records indicate potential or previous
psychiatric problems, to be seen by a psychiatrist within
48 hours of admission.

b. Complete written report to be made by
psychiatrist within 2 weeks of interview with resident.

c. If resident has not had psychological evaluation
or psychiatric testing within 18 months prior to admission
or such data is unavailable for any reason, a
psychological evaluation to be conducted during intake
process for use in formulating a treatment plan.

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

10. Mental Health Care

a. Any detainee desiring psychiatric treatment to
notify his counselor and if counselor can't handle the
problem (as determined by counseling supervisor) then
referral to be made to psychologist or psychiatrist.

b. Communication between detainee and his therapist
to be privileged.

Manney v Cabell

Civil Action 75-3305-R
U.S. District for the Central District of
California
Order - April 1979
Los Angeles County Central Juvenile Hall

10. Mental Health Care

a. Minimum of three psychiatrists or psychologists on duty at all times during the evening hours; each juvenile shall have the opportunity to consult with a psychiatrist and/or psychologist as soon as possible after his request to do so and in no event more than 1/2 hours after the time of request.

b. Each juvenile held subject to an adjudication of delinquency shall be released within 72 hours or receive treatment in accordance with an individualized treatment plan prepared by a team of psychiatrist/psychologist, pediatrician, recreational specialist, educational specialist and the juvenile's counselor. If treatment needs can't be met at Central Juvenile Hall, juvenile must be released or transferred to a placement where those needs can be met.

Martarella v Kelley, 359 F. Supp. 478 (S.D.N.Y. 1973)
349 F. Supp. 575 (1972)

No. 71 CIV 3159
U.S. District Court for the Southern District of
New York
Order - March 26, 1975
Juvenile Detention Centers of New York City (CHINS)

10. Mental Health Care

a. Each child to have reasonable access to a psychiatrist in accordance with his/her needs including consultation and crisis intervention.

b. A child who attempts suicide or is suspected of doing so should either be immediately examined by a psychiatrist at the facility or immediately transported to a psychiatric hospital for observation and treatment. If examined at facility and hospitalization not recommended, psychiatrist to state such opinion in writing and it shall be put in child's file.

N.Y. State Assn. for Retarded Children, Inc. v Rockefeller
357 F. Supp. 752 (E.D.N.Y. 1973)

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

10. Mental Health Care

- a. Annual psychological evaluations as part of each resident's plan.
- b. Therapy and behavior modification to be provided by qualified psychology staff and supporting personnel.

Thomas v Mears, 474 F. Supp. 908 (E.D. Arkansas 1979)

No. LR-C-73-26
U.S. District Court for the Eastern District of
Arkansas
Consent Decree - August 13, 1979
Detention Center, Pulaski County, Arkansas

10. Mental Health Care

- a. Any child who is a serious suicide threat not to be placed in the Center.

Doe v Henderson

Civil Action No. A-7980-I
Chancery Court for Davidson County, Tennessee
Agreed Order - February 26, 1979
Taft Youth Center, Spencer Youth Center
and Tennessee Reception and Guidance Center

11. Physical, Psychological and Verbal Abuse

a. Physical abuse prohibited: includes hitting, slapping, shoving and throwing of juveniles, the "dying cockroach" (lying on one's back with arms and legs in air) and "standing the wall" (placing one's forehead against a wall with hands behind back and feet at distance from wall). No staff to direct or allow physical abuse of one juvenile by another.

b. Mace used only by staff and only when there is "immediate danger to physical well-being of either student or staff." Proper use depends on "informal judgment" by staff and should always be last resort preceded by verbal warning.

c. Use of mace to be reported in writing to superintendent who will investigate incident and report to Department of Corrections.

(continued)

d. Only forms of physical exercise which may be used as discipline: maximum for males: 20 push-ups, laps up to 1 mile, 25 sit-ups, 25 jumping jacks; maximum for females: half of above. Staff imposing above must keep in mind physical capabilities of student and not "humiliate student." Physical exercise to be used for exercise imposed. Any student can choose a written disciplinary report in lieu of physical exercise. Such choice not to be construed as separate offense.

F.E. v Hensley

Civil Action No. 73 CV 43-W-1
U.S. District Court for the Western District of
Missouri
Final Judgment - December 15, 1978
Youth Center of St. Joseph State Hospital

11. Physical, Psychological and Verbal Abuse

a. Unnecessary and non-therapeutic discipline should not be employed.

b. Physical restraints and/or seclusion are o.k. if used to preclude child from injuring him/herself, other patients, or staff, or to avoid extensive property damage but only after other alternatives have been exhausted and thoroughly documented in child's clinical record.

c. Restraints/seclusion "shall not be used as punishment, for the convenience of staff, or as a substitute for a valid treatment program."

d. Discipline to occur within time period "sufficiently proximate" to violation to enable child to comprehend connection between the transgression and discipline used. Discipline for safety of child or staff or to avoid property damage to be within time frame which can protect the various individuals and property, and such discipline must be "therapeutically effective," and no

I. - 11.3

(continued)

discipline to be imposed if no such present threat exists unless child's behavior interferes with his/her or another child's treatment program.

e. Use of discipline to be consistent enough to put child on notice that certain acts will warrant discipline.

f. If restraints are used, to cause least possible discomfort and no physical injury; any physical or mechanical restraint used must have been approved by the Department of Mental Health.

g. Physical restraints to be used only to protect a child from injury to him/herself or others and must first be ordered by qualified mental health professionals.

h. Some opportunity to exercise must be given child in restraints unless contra-indicated, which fact must be charted.

i. Emergency use of restraints may be undertaken by ward personnel for no more than 30 minutes during which time a qualified mental health professional is to be notified.

I. - 11.4

(continued)

j. All written orders for restraints shall not exceed 24 hours, but never should be longer than necessary to affect purpose for their use.

k. While in restraints, child shall be seen at least every 15 minutes and child's physical and behavioral condition charted every hour. Bathroom privileges afforded every hour and reasonable bathing privileges allowed.

l. All uses of restraints to be noted in medical records, including why ordered, what alternatives were attempted and duration of restraints.

I. - 11.5

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

11. Physical, Psychological and Verbal Abuse

a. Each detainee liable for damage done to facility but to have opportunity to repair prior to facility seeking court action.

b. No deprivation of meals.

c. No corporal punishment.

d. Incident reports for any use of physical force or restraint.

I. - 11.6

McRedmond v Wilson, 533 F.2d 757 (2nd Cir. 1976)
402 F. Supp. 1087 (S.D.N.Y. 1975)

74 Civ. 4945
U.S. District Court for the Southern District of
New York
Stipulation - November 3, 1976
Facilities Operated by New York Division for Youth
(PINS)

11. Physical, Psychological and Verbal Abuse

- a. No member of the class to be subjected to any group confinement or any physical or medical restraints.
- b. No delinquency petition or criminal complaint alleging escape to be filed by an employee of the Division For Youth against any member of the class.

I. - 11.7

Maldonado v Ciuros

76 Civ. 2854 (LWP)
U.S. District Court, Southern District of New York
Partial Final Judgment by Consent - August 29,
1978
Adolescent Remand and Detention Center

11. Physical, Psychological and Verbal Abuse

- a. Body cavity searches to be visual inspection either upon admission or when higher-ranking officer has reasonable cause to believe detainee concealing contraband. Such examinations to be done by medical staff of same sex whenever possible and in private.

I. - 11.8

Milonas v Williams

Civil No. C-78-0352
U.S. District Court for the District of Utah,
Central Division
Order Granting Plaintiffs' Motions for Preliminary
Injunction and Class Certification
Provo Canyon School

11. Physical, Psychological and Verbal Abuse

- a. No administration of polygraph examinations.
- b. No use of physical force except to bring a juvenile who is physically violent and immediately dangerous to himself and others under control or to overcome physical resistance; such force restricted to least amount necessary.

Morales v Turman, 383 F. Supp. 53 (E.D. Texas 1974)
364 F. Supp. 166 (E.D. Texas 1974)

Civil Action No. 1948
U.S. District Court for the Eastern District
of Texas
Preliminary Injunction - August 31, 1973
Texas Youth Council (TYC)

11. Physical, Psychological and Verbal Abuse

- a. Physical force by staff permitted only to "extent reasonably necessary" in self-defense, defense of third persons, to prevent escape or imminent and substantial destruction to property.
- b. Threat to persons must be imminent and use of force "must never exceed that reasonably necessary." Striking or beating not permitted to prevent escape.
- c. Use of mace prohibited. Tear gas or other crowd-control chemical substance to be used only to bring under control a riot that threatens imminent harm to life or imminent and substantial destruction of property.
- d. No resident shall be disciplined for sleeping during day unless during periods such as academic or vocational classes reasonably requiring some attention.

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

11. Physical, Psychological and Verbal Abuse

a. Residents not to be deprived of daily program as punishment; programming to not be withdrawn except as part of an approved behavior modification program.

b. Physical restraints used only when absolutely necessary to keep resident from seriously injuring himself or others. No restraints used as punishment, for convenience of staff or as a substitute for programs. To be written policy on who may authorize use and mechanism for monitoring and controlling such use.

c. Only professionals designated by the Director may order restraints; no use for over 12 hours, resident to be checked every 30 minutes and written record of checks kept.

d. Certain practices prohibited; all use of restraints documented; parents, relatives or guardians to be notified in writing when restraints used.

(continued)

e. Alleged abuses to be reported immediately, written report and investigation to follow.

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

11. Physical, Psychological and Verbal Abuse

a. Staff member who uses force is to file a report with his supervisor describing his reason, the force used and all resident and staff witnesses. Supervisor to investigate and report findings to Executive Director within 24 hours of incident. Executive Director to interview all involved to decide if use was appropriate, counsel parties about the confrontation and decide if staff member should be suspended or dismissed.

b. Parent, guardian to be notified by letter; copy to resident's social worker and attorney of record and resident's Family Court file.

c. Homosexuals to be protected from harassment, shall not be stigmatized by being put in isolation, segregating them by unit or otherwise discriminating against them.

d. Only the initiator of a homosexual rape to be punished.

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

12. Isolation

a. Isolation or disciplinary confinement to be eliminated except when juvenile poses an immediate threat to the health or safety of him/herself or others; such confinement to conform to following:

- (1) at least two staff agree on confinement;
- (2) in child's regular, private sleeping room;
- (3) duration only as long as child is an immediate threat;
- (4) juvenile in isolation to be observed hourly; more if juvenile particularly depressed; staff to be within calling distance;
- (5) juvenile in confinement to wear regular clothing and be provided with books, writing materials and other such non-dangerous items as he/she requests; juvenile allowed visits with parents, relatives, guardian and attorneys as other detained juveniles;

(continued)

- (6) if confinement exceeds 8 hours, child to be seen by psychologist or probation officer, whose approval required for further confinement;
- (7) confinement to be recorded in child's record -- length of time confined, staff initiating it, reason for and any involvement by the psychologist or probation officer.

I. - 12.2

F.E. v Hensley

Civil Action No. 73 CV 43-W-1
U.S. District Court for the Western District of
Missouri
Final Judgment - December 15, 1978
Youth Center of St. Joseph State Hospital

12. Isolation

- a. Seclusion to be used only to prevent child from injuring him/herself, other patients, or staff, or to avoid extensive property damage but only after other alternatives have been exhausted and thoroughly documented in child's clinical record.
- b. Seclusion "shall not be used as punishment, for the convenience of staff, or as a substitute for a valid treatment program."
- c. Seclusion must be ordered by qualified mental health professionals and such use periodically reviewed by responsible treatment team. Emergency use may be undertaken by ward personnel for no more than 30 minutes during which time qualified professional to be notified.
- d. All written orders for seclusion to be effective for no more than 24 hours, but never longer than necessary to affect purpose for its use.

I. - 12.3

(continued)

e. Child in seclusion to be seen at least every 15 minutes with his/her condition charted every hour.

Bathroom privileges every hour and reasonable bathing privileges allowed.

f. Use of seclusion to be noted in child's medical records, including why ordered, its duration, and what alternatives were attempted.

g. Children to be allowed to wear own clothes while in seclusion.

I. - 12.4

Harris v Bell, 402 F. Supp. 469 (W.D. Missouri, 1975)

No. 73-CV-115-W-4
U.S. District Court for the Western District of Missouri
Consent Decree - September 8, 1975
State Board of Training Schools Facility at Booneville, Missouri

12. Isolation

a. Each juvenile, upon arrival at facility, to receive written notice of offenses for which incarceration in certain cells can be imposed.

b. Each juvenile to receive a hearing if subject to such incarceration. Said hearing to be conducted no later than within 24 hours after initial confinement by an impartial three person panel of staff not involved in offense.

c. Each juvenile to have adequate time to prepare a defense with assistance of person of own choosing and may confront and cross-examine adverse witnesses and may present witnesses in his/her behalf.

d. Incarceration must be for specified maximum period not to exceed seven days.

e. Each confined juvenile to be visited by basic education teacher in whose class he/she was enrolled prior to confinement and who shall provide materials to keep

I. - 12.5

(continued)

juvenile current in his/her studies. Juvenile, whenever practical, to be allowed to work with teacher, or study, outside cell.

f. Each confined juvenile to be allowed to shower once a day.

g. The parents or guardian to be promptly notified of commitment.

h. Juveniles confined to be told of their right to see a minister or priest.

i. Confined juveniles to have minimum of one hour recreation daily outside the cell, including "vigorous physical exercise," and "non-academic reading materials of a broad variety."

j. Confined juveniles to eat at least two of daily meals outside cell "whenever practical."

k. Confined juveniles to be able to wear normal, casual clothing appropriate to season. No juvenile to be compelled to wear pajamas during day unless ill and confined to bed.

I. - 12.6

(continued)

l. Each such cell to be adequately heated, cooled and ventilated according to the season and have adequate reading light, which light fixtures shall be "immediately replaced or repaired when they cease working properly."

m. At least one staff member within calling distance day or night when child is confined.

n. Each cell to be thoroughly cleaned by staff when vacated, with special care to sink and toilet and confined juveniles to have cleaning materials to clean cells themselves while confined.

o. Each confined juvenile to have sheets, pillowcases, pillows and blankets, to be changed when soiled or worn, plus soap, towel, washcloth, toothpaste, toothbrush and toilet paper.

I. - 12.7

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

12. Isolation

a. Isolation to be used for quelling out of control behavior which presents an immediate danger of physical harm to the resident, other residents or staff or to discipline resident for serious infractions of the facility rules.

b. If isolation used, a complete report must be made in the log including name of resident, date and time placed in room, reason, staff members checking at 15 minute intervals, time and duration of conversations with resident, date and time released for physical exercise, date and time released; all entries initialed by staff member making them.

c. Staff to try alternatives before isolation; residents isolated in own room should be told he will be let out when unacceptable behavior ceases; counselor to see his resident.

(continued)

d. Resident checked every 15 minutes; counselor to talk to him 10 minutes out of the hour.

e. No isolation for more than 2 hours under any circumstance.

f. Extended isolation only for disciplinary purposes after resident has received fair hearing with administrator "on call"; hearing no sooner than two hours after resident received notice, but within 24 hours. Resident to have counselor or person of his choice represent him or assist him in preparing his case; resident can call and question witnesses; hearing officer must find resident charged did act beyond a reasonable doubt and impose appropriate sanction; hearing officer to write a detailed report and copies delivered to director within 24 hours of imposition of sanction.

g. Disciplinary isolation imposed only for: use of controlled substances within facility (one day max.), repeated harassment or threats to other residents after other disciplinary measures have failed (1 day max.), causing major damage to facility property (1 day max), escaping without use of physical force (1 day max.),

(continued)

escaping with physical force (1 day max. 1st offense, then 2 day max. for subsequent offenses), inflicting physical harm on another resident or staff (1st or minor offense 1 day, subsequent serious offenses 2 day max.), taking money or possessions of other residents by force or threat of force (same as for physical harm).

h. Maximum period may be extended to three day by Assistant Commissioner for Clinical Services after resident has opportunity to speak with him and after written report.

i. Disciplinary isolation to occur in a normally furnished room, resident remains fully clothed except for belt and shoes (substitute footwear required), receives same meals as other residents, gets physical exercise 2 hours/day, has access to counseling staff upon request, counselor to see him once daily, person with key to room within calling distance, resident checked every 15 minutes and check logged.

j. Staff should be aware of possible psychiatric problems, especially with a new resident with whom they may be unfamiliar.

I. - 12.10

John L. v City of New Orleans

No. 79-5082
U.S. District Court, Eastern District of Louisiana
Joint Stipulation Governing Room Detention
(Lock Down) at the Youth Study Center
February 1980
Youth Study Center

12. Isolation

- a. Every alternative means to effectuate behavior modification should be attempted.
- b. Child on room detention to be monitored at least once per hour.
- c. While in room detention, activities allowed:
 - (1) educational instruction;
 - (2) social service/group;
 - (3) visitation;
 - (4) medical services.
- d. Child in room detention for period exceeding six hours, child to be checked at end of period by nurse, social worker, supervisory personnel.
- e. Right of administration to detain beyond 24 hours if child's behavior poses an extreme threat to other children or personnel. In such situations, Juvenile Court to be notified within 24 hours for instructions on further treatment of child.

I - 12.11

(continued)

f. Records to be kept:

- (1) child's name;
- (2) offense committed;
- (3) duration of room detention;
- (4) whether duration continuous;
- (5) name of person completing report;
- (6) that child was afforded the opportunity to rebut the charge and whether action was approved/disapproved;
- (7) other methods tried first;
- (8) when child was checked subsequent to room detention if required

g. Maximum hours of room detention for specific

offenses:

<u>OFFENSES</u>	<u>ROOM DETENTION TIME</u>
(1) Fighting and physical attacks against another youngster or Youth Study Center staff	24 hours maximum
(2) Sexual Attacks and Attempts	24 hours maximum
(3) Physical and Verbal Harassment	6 hours maximum

(continued)

- (4) Escape or Attempted Escape 24 hours maximum
- (5) Smuggling Contrabands (Drugs, Cigarettes, Weapons) 24 hours maximum
- (6) Intentional Damage to Property 6 hours maximum
- (7) Repeated Disregard of Instructions 6 hours maximum
- (8) Smoking 24 hours maximum
- (9) Stealing 24 hours maximum

74 Civ. 4945
U.S. District Court for the Southern District of
New York
Stipulation - November 3, 1976
Facilities Operated by New York Division for Youth
(PINS)

12. Isolation

a. Child to be confined in a room only if child constitutes a serious and evident danger to himself/herself or others. As soon as such danger ceases child to be released from room confinement. In no event shall such confinement continue beyond a three hour consecutive period without the approval of Deputy Director of Rehabilitation.

b. Written records to be kept of all cases of room confinement.

c. No child to be confined for a total of more than four hours per any twenty-four hour period without Deputy Director's approval. Director to maintain written record of all approvals.

Maldonado v Ciuros

76 Civ. 2854 (LWP)
U.S. District Court, Southern District of New York
Partial Final Judgment by Consent - August 29,
1978
Adolescent Remand and Detention Center

12. Isolation

a. Detainees in punitive segregation to be allowed:

(1) access to showers, laundry services, medical care, the law library and visiting in same frequently and under same conditions as the general population;

(2) same amount and frequency of access to personal hygiene articles.

b. Each detainee in punitive segregation allowed to possess and receive reading materials under same terms as general population.

Manning v Rose

Case No. NC-75-34 - date uncertain (approx. June
1975)
U.S. District Court for the District of Utah
(N.D.)
Preliminary Injunction
Utah State Industrial School

12. Isolation

a. Not to place any student in isolation except in compliance with order -- order applies only to confinement for a period extending three hours.

b. All students to be notified in writing of all rules of conduct of the School. Wherein isolations result in solitary confinement, hours to be given.

c. Student to be afforded procedural safeguards prior to placement in isolation:

- (1) written notice within five days of violation;
- (2) hearing within seven days of notice;
- (3) hearing before board of three, staff excluding staff who cited student for violation;
- (4) student to be represented, may present evidence, may cross-examine witnesses except if implementation of such rights would cause substantial, immediate description of the functioning of institution;

(continued)

- (5) hearing body to make decision solely upon evidence presented at hearing; may prescribe hours of isolation of violations; to make written record of the evidence and reasons for confinement;
- (6) student may appeal decision of hearing board to superintendent.

d. Student to be placed without procedural safeguards only if immediate danger to himself and others, immediate escape risk or immediate threat to property.

- (1) record to be made;
- (2) student to be released as soon as possible with time credited.

e. Conditions and practices for those in isolation:

- (1) student checked every 15 minutes.
- (2) school to immediately install wash basins and toilets for isolation;
- (3) rooms to have linens and bedding;
- (4) showers daily;
- (5) personal clothing allowed;

(continued)

- (6) one hour big muscle exercise daily;
- (7) students to have some education, rehabilitation and treatment; meals and beverages; visits; access to telephone as other students;
- (8) access to reasonable amenities;
- (9) books, magazines, newspapers or other reading materials allowed.

I. - 12.18

Milonas v Williams

Civil No. C-78-0352
U.S. District Court for the District of Utah,
Central Division
Order Granting Plaintiffs' Motions for Preliminary
Injunction and Class Certification
Provo Canyon School

12. Isolation

- a. No use of "P Room" or other isolation facilities except to contain a juvenile who is physically violent and dangerous to himself or others, and only for that period of time the juvenile is out of control.

I. - 12.19

Civil Action No. 1948
U.S. District Court for the Eastern District
of Texas
Preliminary Injunction - August 31, 1973
Texas Youth Council (TYC)

12. Isolation

a. If solitary confinement for longer than one hour, a written statement must be signed by caseworker declaring caseworker has talked to or visited with resident and has concluded confinement meets the standards below.

b. Solitary confinement allowed only when "clearly necessary to prevent imminent physical harm" to resident or other persons or clearly necessary to prevent imminent and substantial destruction of property."

c. A juvenile to be confined in security (placement in locked building) only when "clearly necessary to prevent escape or to restrain behavior that creates substantial disruption of routine of institution."

d. Confined youths (either in solitary or security confinement) to be visited by 1) caseworker, ten minutes each hour, except for hours between 10 p.m. and 7 a.m.; 2) registered nurse at least once/day; and 3) psychiatrist

(continued)

or psychologist to give such treatment as indicated daily beginning no later than second day of confinement.

e. Solitary confinement and security confinement not to exceed three consecutive days unless written report by caseworker detailing justification for confinement. Report to go to Executive Director of TYC, all counsel and court. If solitary confinement longer than five consecutive days or security confinement longer than ten consecutive days, juvenile to be given hearing before impartial tribunal which shall file written findings within 48 hours of hearing with Executive Director who shall file findings with all counsel and court. At hearing juvenile to have right to advocate of choice, to call and cross-examine witnesses against him/her. (Hearing requirement set out in Court's later opinion at 383 F. Supp. 53, 84).

f. A person in possession of key to cell must always be within calling distance of confined juvenile.

g. All confined juveniles must have bed, mattress, appropriate bedding and access to toilet in place where juvenile sleeps.

(continued)

h. All confined juveniles must have opportunity for at least one hour/day of large muscle exercise or recreation unless dispensed with by physician or psychiatrist in writing.

i. Confined juveniles must be provided with school books and daily lesson plan in accord with regular educational program.

j. "Repetitive, nonfunctional, degrading, and unnecessary tasks (so-called 'make work', such as buffing a waxed floor that has already been sufficiently buffed or pulling grass in open field not intended for cultivation) are prohibited."

Pena v New York Division for Youth, 419 F. Supp. 203
(S.D.N.Y. 1976)

No. 70 Civ. 4868
U.S. District Court for the Southern District
of New York
Stipulation - September 2, 1976
Goshen Center (Training School)

12. Isolation

a. A written report to be made whenever youth placed in room confinement, i.e. confinement to a room, including child's own room, when door is locked or when youth told not to leave. A copy of report to be given to plaintiff's attorney.

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

12. Isolation

a. Isolation may only be used when resident is so out of control that his behavior presents immediate danger of physical harm to himself or those around him or to discipline a resident for willful rule infractions such as: use of controlled substances within the facility, repeated harassment or threat to other residents, major property damage at facility, escape, taking possessions of others, refusal to follow regulations resulting in substantial interference with unit discipline; plus court-ordered isolation.

b. Resident's social worker or qualified other social worker to speak to him within an hour of beginning of isolation to evaluate child's condition and shall prepare report for Executive Director.

c. Child must be released as soon as he calms down unless psychiatrist advises otherwise.

(continued)

d. Maximum time is 24 hours.

e. Child checked every 15 minutes, checks recorded in log by unit counselor; counselor supervisor checks resident at least once every two hours, checks recorded in log.

f. Complete record must be made of incident, checks, conversations during confinement, and release and report filed.

g. Resident to remain fully clothed except for shoes and he must have reading light 9 a.m. to 9 p.m., seasonal clothing, bedding, personal hygiene supplies, change of pajamas/socks, prescription eyeglasses if needed, access to reading materials, daily showers, toilet facilities, access to medical care 24 hours, usual correspondence privileges, same meals as other residents, access to social worker on request.

h. Staff to remove furniture or other items from room only if resident might harm himself or others by breaking furniture or damaging property.

i. Resident must have adequate exercise if isolated for more than 8 hours.

(continued)

j. Isolation can last two days but Executive Director must file written report with the Regional Youth Services Director of DPW and the DPW Director of review.

k. Residents in isolation can receive visits with permission of staff.

I. - 12.26

Thomas v Mears, 474 F. Supp. 908 (E.D. Arkansas 1979)

No. LR-C-73-26
U.S. District Court for the Eastern District of
Arkansas
Consent Decree - August 13, 1979
Detention Center, Pulaski County, Arkansas

12. Isolation

a. Children in "secure custody" to be allowed to be out of their cells during day, to use toilet facilities outside of cells in regular common area and to eat meals in common area with other children.

b. Children in "individual confinement" to have working toilet and wash basin in cells and to remain in cells 24 hours/day except for recreation time (min. of 2 hours/day).

c. Children in "individual confinement" to have a room or rooms where they can visit with family, attorneys, law enforcement officials, staff, teachers, counselors, medical personnel, etc., without undue danger to such visitors.

d. Center to make "every reasonable effort" to obtain services of teachers or other qualified personnel to give instruction to children in "individual confinement" who have been at Center more than 5 days.

I. - 12.27

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd
in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

13. Diet .

a. Special diets to be provided as prescribed by
physician or other jail medical staff.

b. Trained dietician, nutritionist, or food director
to be consulted regularly to review food, menus,
preparation and service.

c. All food service staff to meet minimum public
health standards.

d. Food to be stored, prepared, and served fresh at
proper temperature and be of reasonable variety and
quantity and meals to meet minimum nutritional standards
and be served three times/day on regular basis.

e. Appropriate eating space to be provided and
kitchen inspected monthly by Health Dept. or other
court-approved agency.

f. Diets to take into account a particular
detainee's religious beliefs (i.e., Muslims and pork).

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

13. Diet

a. Meals to be nutritious and adequate to meet juveniles' hunger and may not be restricted in type or amount for disciplinary purposes.

F.E. v Hensley

Civil Action No. 73 CV 43-W-1
U.S. District Court for the Western District of
Missouri
Final Judgment - December 15, 1978
Youth Center of St. Joseph State Hospital

13. Diet

a. Staff to comply with general and special dietary needs of each child by serving "properly prepared and tasty food of adequate nutrition and calorie content attractively served in a relaxed atmosphere."

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

13. Diet

a. Three meals/day, the last occurring at or after 5 p.m.; regular access to canteen services at least twice a week; daily access in their rooms to food brought in by parents and friends.

b. Dietician to consult on general dietary needs with food services manager and provide for special dietary needs when medically indicated.

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

13. Diet

a. If evening meal at 5, snack to be provided during evening. Light meal to be available between evening meal and breakfast for newly admitted detainees.

b. No deprivation of meals.

Maldonado v Ciuros

76 Civ. 2854 (LWP)
U.S. District Court, Southern District of New York
Partial Final Judgment by Consent - August 29,
1978
Adolescent Remand and Detention Center

13. Diet

- a. Detainees permitted to eat communally in designated dining areas.
- b. Detainees to be provided with three meals per day which meet or exceed the standards stated in Recommended Daily Dietary Allowances (RDP).
- c. Detainees to be provided with salads or raw vegetables daily; fresh fruit at least once each week; after January 1, 1979, fresh fruits twice a week.
- d. Detainees to have choice of a hot or cold beverage at each meal; coffee at least at breakfast.
- e. Menus planned by trained and certified nutritionist; to be prepared in advance and posted; to respond to ethnic, religious and social needs and tastes of detainees, to be varied and to take advantage of seasonal foods.

(continued)

- f. Therapeutic and special diets to be provided.
- g. Withholding of food or varying standard menu not to be used as disciplinary sanction or as a reward for good behavior.
- h. Meals to be nutritious and palatable.
- i. Meals to be on schedule and at times generally eaten; last meal served after 4:30 p.m.
- j. Meals to be sufficient and in equitable quantities.
- k. Detainees to be provided properly cleaned eating utensils, glasses, trays, and dishes.
- l. Quality of meal planning and food preparation and service to be regularly apprised by regular canvassing of detainees, regular answering of detainees complaints, personal observation and sampling and plate waste.

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

13. Diet

a. Appropriate dining room surrounding, normal meal schedules, eating in leisurely family style, choice of own quantities and items of food, including both hot and cold foods and beverages, due regard for personal hygiene (handwashing).

b. Diet provided in accordance with the Recommended Dietary Allowances of the Food and Nutritional Board of the National Research Council, adjusted for age, sex, activity, disability and therapeutic needs of individual residents.

c. Competent personnel including Institution Food Administrator, nutritionists, dieticians, some with experience in mental retardation, all with food handler's permit or pending application.

d. State and local sanitation requirements to be met.

(continued)

e. Denial of a nutritionally adequate diet not to be used as punishment or as part of a behavior modification program.

Santiago v Philadelphia, 435 F. Supp. 136 (E.D. Penn. 1977)

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

13. Diet

- a. Certification of compliance with all city, state and federal codes and regulations.
- b. Fully qualified dietician to approve all menus; nutritional consultant to evaluate quality, quantity, and preparation of food on monthly basis.

I. - 13.10

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

14. Staff

- a. Staff to be selected on basis of merit and appropriate training programs to be established.
- b. Facility must be adequately supervised by trained correctional officers on 24-hour basis, with sufficient officers on duty to provide safety and security for all detainees so correctional officer can enter living area, if necessary, on 24-hour basis and to protect against assaults by detainees on other detainees.
- c. A matron to be on-call 24 hours/day if women are detained in facility.

I. - 14.1

Daratsakis v Smith

76 Civ. 3218 (IBW)
U.S. District Court for the Southern District of
New York
Interim Consent Order - July 30, 1976
Children's Center (for Abused, Neglected and
Children in Need of Supervision)

14. Staff

- a. Defendants to make any and all changes in staff necessary to protect plaintiffs from violation of their constitutional right to be free from harm and cruel and unusual punishment.
- b. At least one staff member to be present in all spaces at Children's Center at any time more than one resident is present, including rest areas where all staff members shall be awake at all times while on duty.

Doe v Henderson

Civil Action No. A-7980-I
Chancery Court for Davidson County, Tennessee
Agreed Order - February 26, 1979
Taft Youth Center, Spencer Youth Center
and Tennessee Reception and Guidance Center

14. Staff

- a. At least two qualified supervisory personnel on station between 4 to 8 a.m. in each dorm or housing area containing more than twenty students.
- b. Dorm supervisors shall leave work station only in emergencies or where relieved by another supervisor. Shift supervisor shall monitor each work-station hourly when children present to ascertain that personnel are present and alert.
- c. Dorm supervisor shall continually survey showers and restrooms when more than one student is using them.

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

14. Staff

a. Make available fund to employ no later than June 1, 1978, the following:

- (1) one full-time psychologist with a Ph.D. degree for each forty-four children detained; always at least one full-time psychologist to do complete evaluation of each child at admission;
- (2) one full-time licensed teacher for each twenty-five children detained; teacher to work enough hours so each juvenile to have at least 2 hours of education per day;
- (3) one group leader for each two children detained in the detention home;
- (4) one full-time registered nurse for each eighty-eight juveniles detained;

(continued)

- (5) one intake supervisor with a B.A. degree for each twenty-two children detained; duties to include screening of children brought to the detention home and making preliminary decisions on whether or not they be detained;
- b. Make available funds for positions of superintendent and assistant superintendent
- c. In future hire staff in same racial and cultural ratio as children detained there;
- d. In future, hire staff as set out in (a) and (b).

F.E. v Hensley

Civil Action No. 73 CV 43-W-1
U.S. District Court for the Western District of
Missouri
Final Judgment - December 15, 1978
Youth Center of St. Joseph State Hospital

14. Staff

- a. Appropriate in-service training for all staff, records of such participation to be maintained.
- b. Training should keep staff informed of all significant new clinical or administrative developments and skills.
- c. Professional and nursing staff to be trained in all treatment modalities including point system program.
- d. All staff to be periodically evaluated in accordance with Missouri State Merit System.
- e. Nursing aides to be instructed in use of point system.

Inmates of Boys Training School v Affleck, 346 F. Supp. 1354 (D.R.I. 1972)

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

14. Staff

- a. All employees providing treatment services to have or be given specialized training in care and treatment of adolescents.
- b. Psychiatrist, full-time clinical psychologist, and full time employee per cottage with Master's Degree in psychology, clinical social work, counseling or human services shall be employed to assist in developing treatment plans and staff training.
- c. Intake and aftercare counselors to be assigned to each resident.
- d. Ongoing staff training program and program evaluation.

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

14. Staff

a. Employees shall be screened for emotional fitness to work with children in a custodial setting.

b. Personnel file kept for each employee with all reports of incidents or investigations and notations of disciplinary actions, reasons for employment termination.

c. Within 24 hours of admission, each detainee shall be assigned a facility employee to act as counselor.

d. For each 45 detainees or portion thereof there shall be one counseling supervisor with a master's degree in psychology or related discipline, or a B.A. or B.S. degree and training and experience in adolescent counseling.

e. One full-time counselor for every 15 detainees or portion thereof.

f. People who immediately supervise detainees shall have a high school diploma or its equivalent. Administrator/floor supervisor should be on shift for every seven detainees.

I. - 14.8

(continued)

g. Facility shall have a 1/2 time recreational worker with physical education training; doctors and nurses shall be experienced in care and treatment of juveniles.

h. All staff who have substantial contact with detainees shall receive pre-service and regular in-service training from qualified professionals in behavior management, short term and crisis counseling, fire safety, and drug overdose.

I. - 14.9

No. 71 CIV 3159
U.S. District Court for the Southern District of
New York
Order - March 26, 1975
Juvenile Detention Centers of New York City (CHINS)

14. Staff

- a. Any caseworker employed in a secure detention facility to have a Bachelor's Degree and coursework in social work or behavioral sciences.
- b. Recreational workers to have physical education training or comparable aptitude or work experience.
- c. Children's counselor to have a high school diploma and 60 college credits plus two years of community or institutional work with children.
- d. All caseworkers, recreational workers and counselors to have demonstrated aptitude qualifying them to work with children with behavioral problems or who are emotionally disturbed.
- e. All of the above employees to participate in in-service training.
- f. No less than two counselors for each 20 children.

(continued)

- g. No less than one recreational worker for each 15 children during recreation periods.
- h. No less than one caseworker for every 15 children and if a child returns to facility after release, he/she to be assigned to last caseworker whenever practicable.

Morales v Turman, 383 F. Supp. 53 (E.D. Texas 1974)
364 F. Supp. 166 (E.D. Texas 1974)

Civil Action No. 1948
U.S. District Court for the Eastern District
of Texas
Preliminary Injunction - August 31, 1973
Texas Youth Council (TYC)

14. Staff

- a. At least one registered nurse on premises on twenty-four basis.
- b. All subsequently hired staff whose position brings them in contact with juveniles on regular basis to submit to psychological testing and psychiatrist interviews.

I. - 14.12

N.Y. State Assn. for Retarded Children, Inc. v Rockefeller
357 F. Supp. 752 (E.D.N.Y. 1973)

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

14. Staff

- a. During day and evening when residents are awake, one "therapy aide" for every four residents who are children, non-ambulatory or multiply handicapped or receiving intensive psychiatric care; one therapy aide for every resident receiving intensive behavior modification program; one therapy aide for rest of residents not covered above.
- b. During sleeping hours, one therapy aide for every 12 residents.
- c. Mid-level supervisors or nurses at ratio of one for every 24 residents during day and evening; one for every 48 during night shift.
- d. Overall ratio of clinical staff to residents of 1 to 3; clinical staff includes physicians, psychologists, dentists, nurses, teachers, physical therapists, social workers, speech and hearing therapists, etc. but not direct care staff including therapy aides.

I. - 14.13

(continued)

e. All employees with direct-care responsibilities to speak English; sufficient bilingual staff to be hired for needs of Spanish-speaking residents.

f. Supervisors responsible under appropriate law and regulation for review of subordinates. The administration to pursue all available means in terminating or reassigning staff whose performance is unsatisfactory.

I. - 14.14

Santiago v Philadelphia, 435 F. Supp. 136 (E.D. Penn. 1977)

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

14. Staff

a. Each counselor to have 2 years college and 2 years childcare experience or 4 years college and have demonstrated aptitude for working with children with behavioral problem.

b. A program of initial in-house training, and on-going training by community mental health/mental retardation center.

I. - 14.15

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd
in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

15. Sanitation, Safety, Hygiene

- a. The facility to meet all local and state fire, safety, sanitation, electrical, plumbing, and building codes and will be subject to inspections as required by law by such state and local departments.
- b. An emergency evacuation plan to be established for fire or other disaster.
- c. Facility to be cleaned on a daily basis and detainees provided on a daily basis with cleaning materials for maintenance of their living area.
- d. An adequate insect control program to be established.
- e. There must be a sufficient number of showers and hot water so detainees may shower daily. Showers to be maintained in a safe and sanitary manner.

I. - 15.1

Hernandez v Carroll

Index No. 41973/76
Supreme Court of the State of New York County of
New York
Consent Order - January 20, 1977
Bronx Family Courthouse

15. Sanitation, Safety, Hygiene

- a. Boys' and girls' detention rooms to be repaired and serviced and to be maintained in a sanitary, humane, and healthful condition.
- b. Regular extermination of roaches.

I. - 15.2

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

15. Sanitation, Safety, Hygiene

- a. Daily showers.
- b. Bedding linen changed once a week.

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

15. Sanitation, Safety, Hygiene

- a. Facility to have certificates of compliance with State Sanitary Code and local fire safety code.
- b. Facility to be kept clean, floors waxed bi-monthly; bathroom thoroughly scrubbed and disinfected daily.
- c. Engineering and code-upgrading surveys to be made, with monthly reports of progress.
- d. Upon admission, each detainee to receive clean mattress, blankets, sheets, pillow case, towel, pillow, soap, toothpaste and toothbrush.
- e. Sheets and pillow cases changed weekly, clean blankets monthly.
- f. Each detainee to have an opportunity for daily shower or bath. Towels changed twice per week.

Maldonado v Ciuros

76 Civ. 2854 (LWP)
U.S. District Court, Southern District of New York
Partial Final Judgment by Consent - August 29,
1978
Adolescent Remand and Detention Center

15. Sanitation, Safety, Hygiene

a. Defendants to maintain institution in a condition which is clean, healthful, safe, free of vermin and insect infestation and which satisfies all applicable health laws and regulations; inspection and evaluation by January 1, 1979; plan for correcting any existing deficiencies by December 1, 1979.

b. Appointment of environmental health officer.

c. Department of Health of New York City to inspect ARDC at least once every month.

d. Personal hygiene and sanitation facilities in common areas throughout institution to be thoroughly cleaned and sanitized at least once daily and more often if necessary.

e. All floors in common areas swept and washed daily and kept free of hazardous materials; all floors in common areas of housing floors swept and washed three times a day.

I. - 15.5

(continued)

f. Each housing floor and every common area cleaned at least once every two weeks; all surfaces once every three months.

g. All surfaces to be maintained and to be repaired when necessary.

h. Ash receptacles throughout institution; emptied and cleaned daily.

i. Refuse removed at least once daily, more often if warranted.

j. Refuse containers to be provided and maintained in sufficient number throughout institution.

k. Defendants to take all necessary measures consistent with detainees' health and safety, to eliminate vermin and insect infestation within the institution and on the grounds adjacent thereto.

l. Food program facilities and equipment to be inspected daily to ensure food prepared and served in sanitary and safe manner.

m. Detainees to be provided on a regular basis with clean linens, bedding, and mattress covered with fire-retardant, water resistant and easily sanitized material.

I. - 15.6

(continued)

n. Detainees to be able to shower with sanitary and properly maintained equipment and shower daily; shaving equipment to be provided.

I. - 15.7

Manney v Cabell

Civil Action 75-3305-R
U.S. District for the Central District of
California
Order - April 1979
Los Angeles County Central Juvenile Hall

15. Sanitation, Safety, Hygiene

- a. One shower per day. Time each day to clean and refresh for each juvenile of not less than five minutes.
- b. Each shower to have a regulator to control the flow and temperature of water during his shower and a divider to maintain privacy.
- c. Each juvenile must have toilet in room or dormitory unless procedures are established to enable a juvenile to have direct access, without necessity of requesting permission to a toilet during any time, day or night, he is required to be in his room.

I. - 15.8

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

15. Sanitation, Safety, Hygiene

a. General: No health or safety hazards, personnel trained in emergency procedures, buildings used by residents air-conditioned, carpets and rugs in living areas.

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

15. Sanitation, Safety, Hygiene

- a. Daily shower, adequate soap, toothpaste, etc. provided.
- b. Bed linen changed weekly, blankets washed regularly, towels changed twice weekly.
- c. Custodial services daily, emphasis on bathrooms; showers and toilets disinfected daily, cafeteria kitchen and eating areas kept clean.
- d. Residents clean own rooms.

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

16. Physical Facilities/Environment

a. Each cell to be single occupancy, with a minimum of 70 square feet, each with a bed off the floor, a working toilet that flushes from the inside, and a wash basin with hot and cold running water.

b. A ventilation system throughout the living areas that provides fresh air and maintains proper heat in winter and provides cooling in summer.

c. An appropriate day room that will allow for movement outside individual cell areas.

d. An appropriate facility for indoor exercise and recreation as well as an outside area to be established.

e. Adequate lighting in facility.

f. Each cell to have a mirror for shaving and personal hygiene.

g. Each cell to have a lock which can be operated and locked by detainee from inside cell as well as controlled by correctional officers.

I. - 16.1

Daratsakis v Smith

76 Civ. 3218 (IBW)
U.S. District Court for the Southern District of
New York
Interim Consent Order - July 30, 1976
Children's Center (for Abused, Neglected and
Children in Need of Supervision)

16. Physical Facilities/Environment

a. Affix doors to toilet stall and curtains to all showers.

b. No more than six children and no more than six beds in a dorm or room with beds not less than three feet apart.

I. - 16.2

Doe v Henderson

Civil Action No. A-7980-I
Chancery Court for Davidson County, Tennessee
Agreed Order - February 26, 1979
Taft Youth Center, Spencer Youth Center
and Tennessee Reception and Guidance Center

16. Physical Facilities/Environment

a. All supply rooms and storage rooms to be locked unless room is in use for authorized purposes.

I. - 16.3

F.E. v Hensley

Civil Action No. 73 CV 43-W-1
U.S. District Court for the Western District of Missouri
Final Judgment - December 15, 1978
Youth Center of St. Joseph State Hospital

16. Physical Facilities/Environment

- a. Renovated facility to have central heating and air conditioning, division of dorm areas into sleeping quarters with no more than 4 per room, renovation of toilets and shower areas and windows to be replaced.
- b. Such renovation to put facility in complete compliance with Life Safety Code.
- c. 80 sq. ft. of living space/child and at least 1 tub or shower for every 6 children.

I. - 16.4

Hernandez v Carroll

Index No. 41973/76
Supreme Court of the State of New York County of
New York
Consent Order - January 20, 1977
Bronx Family Courthouse

16. Physical Facility/Environment

- a. Proper functioning of toilets and sinks in and attached to the detention room and maintenance of seats attached to toilet.
- b. Proper operation of all windows and replacement of all broken panes of glass.
- c. Proper functioning of drinking fountains and water coolers.
- d. Proper care of refrigerator.
- e. Compliance with all fire regulations.
- f. Maintenance and repair of attorneys' interview room.
- g. Proper heating and cooling of all rooms.

I. - 16.5

Inmates of Boys Training School v Affleck, 346 F. Supp.
1354 (D.R.I. 1972)

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

16. Physical Facilities/Environment

- a. Need room with lighting sufficient for reading until "lights out."

I. - 16.6

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

16. Physical Facilities/Environment

- a. Private room for each detainee of at least 70 sq. ft. or semi-private room of at least 150 sq. ft. containing bed, mattress, drawers or shelves, window, electric lighting for reading (operable by detainee or at his request).
- b. Each detainee to have locker for personal possessions.
- c. At least one common room with adequate comfortable furniture for each 20 detainees.
- d. Toilets in lavatories to have partitions.
- e. Sufficient windows to provide adequate ventilation and light. Windows kept clean and in good repair.

Manney v Cabell

Civil Action 75-3305-R
U.S. District for the Central District of
California
Order - April 1979
Los Angeles County Central Juvenile Hall

16. Physical Facilities/Environment

- a. Total number of juveniles not to exceed the maximum-rated capacity of that institution as established by the California Youth Authority.
- b. Beds in the infirmary or any segregation unit not to be included in determining the total maximum-rated capacity.
- c. No juvenile to be required to sleep, rest or stay on the floor at any time except when so prescribed by a medical doctor because of the physical or mental condition of the juvenile.

Santiago v Philadelphia, 435 F. Supp. 136 (E.D. Penn. 1977)

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

16. Physical Facilities/Environment

- a. Each room to have bed, mattress, desk, chair, and locker.
- b. Residents can decorate their rooms as long as walls aren't marred or defaced.
- c. Beds and mattresses repaired and aired.
- d. All areas to be air conditioned, adequate ventilation provided by installation of windows, regular extermination services required.
- e. Renovations to include quiet rooms, reading rooms, and observation rooms which afford privacy under supervision.

Thomas v Mears, 474 F. Supp. 908 (E.D. Arkansas 1979)

No. LR-C-73-26
U.S. District Court for the Eastern District of
Arkansas
Consent Decree - August 13, 1979
Detention Center, Pulaski County, Arkansas

16. Physical Facilities/Environment

- a. New secure cells to be single occupancy each with own toilet and lavatory facilities, bed and "other necessary accommodations" and cell to be no smaller than size of present cells.

Ahrens v Thomas, 434 F. Supp. 873 (W.D. Mo. 1977), aff'd
in part, reversed in part. 570 F.2d 286 (8th Cir. 1978)

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

17. Grievance

- a. Each detainee to receive copy of rules outlining required conduct and specifically defining conduct for which discipline may be imposed.
- b. Defendants to promptly prepare and submit for Court's approval a grievance procedure.
- c. An ombudsman "may" be established to hear and investigate grievances and to make reports to sheriff.

Doe v Henderson

Civil Action No. A-7980-I
Chancery Court for Davidson County, Tennessee
Agreed Order - February 26, 1979
Taft Youth Center, Spencer Youth Center
and Tennessee Reception and Guidance Center

17. Grievance

- a. A grievance procedure to be established so student may report orally or in writing any physical or sexual abuse.
- b. Report to be investigated beginning within 3 working days and completed within 10 except sexual attacks or pending sexual attacks to be "substantially" investigated within 24 hours.
- c. Juvenile can personally present his complaint with help of staff or interested adult.
- d. Adjudication of complaint to be by impartial person or panel.
- e. Juvenile may appeal adjudication directly to Department of Corrections, with a form provided which allows juvenile to indicate whether he wishes to do so.
- f. All grievance records to be maintained by superintendent.

(continued)

g. Each student to receive copy of grievance procedure and order to be discussed at orientation of all new children and within one week of its entry with all current resident.

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

17. Grievance

a. Whenever a detainee believes he has any grievance relating to decree or event or condition, he may initiate grievance procedure.

b. Resident may request meeting with the Director of the unit who will adjust grievance or respond in writing within 24 hours.

c. Resident may appeal in writing within 5 days or receipt of the decision, hearing must be granted within 7 days; resident may be represented by counsel or lay advocate of choosing.

d. Resident may appeal in writing an adverse decision to Commissioner of Youth Services who shall grant hearing within 7 days of receipt of appeal; hearing conducted in conformity with the Administrative Procedures Act; decision of Commissioner is final.

CONTINUED

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Martarella v Kelley, 359 F. Supp. 478 (S.D.N.Y. 1973)
349 F. Supp. 575 (1972)

No. 71 CIV 3159
U.S. District Court for the Southern District of
New York
Order - March 26, 1975
Juvenile Detention Centers of New York City (CHINS)

17. Grievance

- a. An independent ombudsman to be appointed to hear and act on grievances of children.
- b. Ombudsman to have authority to investigate and make recommendations to strengthen practices which lessen risk that objectionable acts, omissions, etc., will occur.
- c. Ombudsman to serve for one year term and be chosen on basis of understanding of juvenile justice system, interest in children's welfare and ability to relate well to children, staff and agency administrators.
- d. Ombudsman to have 24-hour access and freedom of movement within the detention facility and within detention rooms of Family Courthouse when open.

Morales v Turman, 383 F. Supp. 53 (E.D. Texas 1974)
364 F. Supp. 166 (E.D. Texas 1974)

Civil Action No. 1948
U.S. District Court for the Eastern District
of Texas
Preliminary Injunction - August 31, 1973
Texas Youth Council (TYC)

17. Grievance

- a. Any resident who "considers that he has been the victim" of any prohibited use of force by staff may file report of such abuse with caseworker which shall be forwarded to superintendent who, within ten days of incident, shall investigate and file written report of incident with counsel and court.

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

17. Grievance

- a. Resident claiming unwarranted use of force can file report with his social worker to be forwarded to Executive Director or his deputy to be processed in same way as a staff member's report.
- b. Child who is isolated and feels it is unjust can present grievance to Citizens Advisory Committee.

Doe v Henderson

Civil Action No. A-7980-I
Chancery Court for Davidson County, Tennessee
Agreed Order - February 26, 1979
Taft Youth Center, Spencer Youth Center
and Tennessee Reception and Guidance Center

18. Juvenile Rights/Sanctions

- a. Any student who believes a physical or sexual attack is imminent may request a single occupancy room for the forthcoming night and if not available, to be given choice of a room used as a supervisor's office or cell or control unit. If none of above are available dorm supervisor to increase supervision of child and those around him. Such request can only be denied if staff member can determine immediately that there is no factual basis for the request.
- b. No student to be used to perform security or discipline functions.

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

18. Juvenile Rights/Sanctions

a. Every detained juvenile to have a detention hearing within twenty-four(24) hours of their detention or as soon as possible Monday morning if detained on a weekend at which,

- (1) counsel for juvenile present;
- (2) counsel appointed if juvenile cannot afford;
- (3) juvenile informed of nature of hearing, charges against him, his rights, and reasons for detention;
- (4) determination.

b. Juveniles allowed to speak language of choice and not to have punitive measures taken against them because of their nationality.

Morales v Turman, 383 F. Supp. 53 (E.D. Texas 1974)
364 F. Supp. 166 (E.D. Texas 1974)

Civil Action No. 1948
U.S. District Court for the Eastern District
of Texas
Preliminary Injunction - August 31, 1973
Texas Youth Council (TYC)

18. Juvenile Rights/Sanctions

a. No resident shall be assigned to dorm on basis of race, color or national origin.

Ahrens v Thomas

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

19. Monitoring/Reporting

a. Court to appoint 3 person panel to make inspection of facility and to recommend changes necessary for compliance with decree. Panel to file written report with Court, with copies to all counsel.

b. Panel to be selected one each from names proposed by plaintiffs, defendants and Court. Court proposed member shall to have experience in adult and juvenile correction.

Civil Action No. A-7980-I
Chancery Court for Davidson County, Tennessee
Agreed Order - February 26, 1979
Taft Youth Center, Spencer Youth Center
and Tennessee Reception and Guidance Center

19. Monitoring/Reporting

a. 3 person monitoring team to be appointed by Governor.

b. Team to make at least bi-weekly visits to facilities to get information re: 1) staff abuse and homosexual rape; 2) any retaliation against a student for making complaint of such abuse or rape; and 3) effectiveness of grievance procedure.

c. Team to speak with students, staff and administrators in private, review records of abuse, report findings to Court every 6 weeks, and make information equally available to Governor and counsel for both sides.

d. Defendants to notify monitoring team and attorneys of disciplinary proceedings against employees stemming from abuse of juvenile but team and attorneys shall not have right to participate in proceedings.

(continued)

e. Notice of order to be included in policies of Department of Corrections, Children's handbook and staff instructional materials and to be prominently posted in each dorm or living area and discussed in orientation of all new employees and with current employees within one week of entry of order.

f. Students to be allowed reasonable access to monitoring team via defendants' telephones including WATS line. Plaintiffs to have reasonable access and attorneys for plaintiffs have right to interview students upon 24 hours notice but not during class, workshop, meals or sleep time.

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

19. Monitoring/Reporting

- a. Counsel to have regular access to all records necessary to monitor compliance with judgment.
- b. Twice a year inspections by any qualified individual or agency as agreed to by parties in regard to matters covered by judgment.

F.E. v Hensley

Civil Action No. 73 CV 43-W-1
U.S. District Court for the Western District of
Missouri
Final Judgment - December 15, 1978
Youth Center of St. Joseph State Hospital

19. Monitoring/Reporting

- a. For two years plaintiffs to have copies of all hospital accreditation surveys relating to this judgment even though such documents are confidential in nature.
- b. Plaintiffs to have on-site inspections 4 times during 2 years immediately succeeding this judgment, upon reasonable notice to counsel for defendants. Such inspections to include review of physical facilities, clinical records of all involuntary patients and access to regulation, policy statements, etc., which relate to judgment unless subject to attorney-client privilege.

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

19. Monitoring/Reporting

a. Advisory Committee - Director of the Department of Corrections, in conjunction with Rhode Island Medical Society, will establish a committee of qualified physicians and psychiatrists not employed by the Department to periodically review medical and mental health programs.

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

19. Monitoring/Reporting

a. Monitoring board of 5 persons to be appointed to serve for a two year period, with monitors nominated by plaintiffs and defendants; no employees can be monitors; all subject to court approval.

b. Monitors to evaluate compliance and inform court on at least a bimonthly basis for 8 months after entry of decree and quarterly thereafter for duration of monitoring period.

c. Four copies of decree to be posted in locations readily accessible to the detainees.

Ishii v Chang

Civil No. 75-0238
U.S. District Court for the District of Hawaii
Agreement of Settlement - September 18, 1975
Hawaii Youth Correctional Facility

19. Monitoring/Reporting

a. All present residents and their parents or guardians to receive a copy of the Agreement of Settlement.

Morales v Turman, 383 F. Supp. 53 (E.D. Texas 1974)
364 F. Supp. 166 (E.D. Texas 1974)

Civil Action No. 1948
U.S. District Court for the Eastern District
of Texas
Preliminary Injunction - August 31, 1973
Texas Youth Council (TYC)

19. Monitoring/Reporting

a. Meetings to be held in which superintendent reads and discusses order with all employees and three copies of order to be posted in a conspicuous place within four days in every affected facility in which residents sleep.

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

19. Monitoring/Reporting

- a. Community Advisory Board set up to evaluate and investigate practices; members include patients, relatives, community leaders, residents or former residents.
- b. Boards shall have direct access to all living areas, and program areas.
- c. Seven member Professional Advisory Board to advise, review and report -- none staff members.

No. 70 Civ. 4868
U.S. District Court for the Southern District
of New York
Stipulation - September 2, 1976
Goshen Center (Training School)

19. Monitoring/Reporting

- a. A committee to be established to oversee implementation of room confinement regulations and Court's declaratory judgment and meet no less than once a month at the facility. Summary of meeting to be in writing and given to various directors of youth services who shall respond to summary within reasonable time.
- b. Committee, plaintiffs' attorneys, and ombudsman to have access to all reports dealing with room confinement and to all youth and staff at facility for purpose of investigating room confinement practices.

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

19. Monitoring/Reporting

- a. Department of Public Welfare team to evaluate compliance with stipulation and file report with court.
- b. For next year, evaluation on quarterly basis and filed with court; for second year, evaluation on 6 month basis; after 2 year period, evaluation on yearly basis.

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Ahrens v Thomas

Civil Action No. 74 CV 34-SJ
U.S. District Court for the Western District
of Missouri
Final Judgment and Decree - June 3, 1977
Platte County Jail

1. Mail

- a. No limit on number of letters detainees may receive or send; pens and writing paper to be supplied.
- b. "Absent exceptional circumstances," no censorship of outgoing mail; incoming mail to be inspected for contraband only by opening letter in presence of detainee and without reading or censoring contents.

2. Telephone Use

- a. Opportunity to make and receive unmonitored telephone calls (no number specified).

3. Visitation

- a. Not less than weekly visiting in a space separated from cell areas, allowing for private conversations with family and friends.

(continued)

4. Religion

a. Opportunity within jail to attend religious services and receive religious counseling.

5. Access to Legal Assistance and Courts

a. No limit on number of times an attorney may visit with his/her client.

b. Detainees to have uncensored, unmonitored and confidential communications with counsel, with space available for private consultation and provision for daily telephone communication.

c. Detainees to have complete access to all legal papers, a law library, notary public service to file pleadings in court, paper and pens for communicating with counsel or filing court pleadings.

d. Detainees allowed to shower, shave and clean clothes before appearing before any jury.

6. Dress/Personal Property

a. Detainees to be issued free of charge personal hygiene items: soap, toothpaste, razor, sanitized mattress and pillow, shirt and pants, clean sheets, blankets and towels.

II. - 1.2

(continued)

b. Each detainee to have a space or locker for storing personal items, including clothing.

7. Educational/Treatment Program

a. Detainees to be classified according to their individual needs, with a screening procedure established whereby detainees are interviewed and classified according to age, sex, previous offense, pretrial or sentenced, special problems (alcoholism, drug abuse, mental illness, sexual deviance or suicide risk), medical conditions or other criteria deemed necessary by screening officer for safety of detainee and operation of facility.

b. A library to be available, with no censorship of reading materials.

c. Basic and remedial education programs "may" be established.

d. Work release, vocational training release and educational release programs "may" be established.

8. Exercise/Recreation

a. Appropriate and adequate indoor and outdoor (weather permitting) exercise and recreation to be permitted each day.

II. - 1.3

(continued)

9. Medical Services

- a. All detainees to have medical screening exam at admission.
- b. Physician to be available on 24-hour basis; physician, registered nurse or other public health trained personnel to conduct sick call at least once/week plus a daily sick call to determine who needs services of a doctor; provide treatment and necessary emergency care.
- c. Untrained correctional officers shall not make final medical decisions as to whether detainees are in need of medical care.
- d. Medical log to be kept indicating who has received medication -- its name, amount of dosage, and frequency with which received. Procedure to be established for keeping medical records for each detainee and for controlling and dispensing medication.
- e. Adequate units where medical exams can take place as well as housing units for those with psychiatric/psychological problems or other medical problems requiring special unit -- such units to be supervised on 24-hour basis by properly trained staff.

(continued)

- f. Procedure to be established for handling emergency medical problems on a 24-hour basis, 7 days/week.

10. Mental Health Care

- a. Screening officer to inquire as to detainee's psychological problems and to report any condition which needs attention of correctional staff.
- b. An appropriate crisis intervention program "may" be established.
- c. Any counseling programs staffed by properly trained professionals.

13. Diet

- a. Special diets to be provided as prescribed by physician or other jail medical staff.
- b. Trained dietician, nutritionist, or food director to be consulted regularly to review food, menus, preparation and service.
- c. All food service staff to meet minimum public health standards.

(continued)

d. Food to be stored, prepared, and served fresh at proper temperature and be of reasonable variety and quantity and meals to meet minimum nutritional standards and be served three times/day on regular basis.

e. Appropriate eating space to be provided and kitchen inspected monthly by Health Dept. or other court-approved agency.

f. Diets to take into account a particular detainee's religious beliefs (i.e., Muslims and pork).

14. Staff

a. Staff to be selected on basis of merit and appropriate training programs to be established.

b. Facility must be adequately supervised by trained correctional officers on 24-hour basis, with sufficient officers on duty to provide safety and security for all detainees so correctional officer can enter living area, if necessary, on 24-hour basis and to protect against assaults by detainees on other detainees.

c. A matron to be on-call 24-hours/day if women are detained in facility.

(continued)

15. Sanitation, Safety, Hygiene

a. The facility to meet all local and state fire safety, sanitation, electrical, plumbing, and building codes and will be subject to inspections as required by law by such state and local departments.

b. An emergency evacuation plan to be established for fire or other disaster.

c. Facility to be cleaned on a daily basis and detainees provided on a daily basis with cleaning materials for maintenance of their living area.

d. An adequate insect control program to be established.

e. There must be a sufficient number of showers and hot water so detainees may shower daily. Showers to be maintained in a safe and sanitary manner.

16. Physical Facilities/Environment

a. Each cell to be single occupancy, with a minimum of 70 square feet, each with a bed off the floor, a working toilet that flushes from the inside, and a wash basin with hot and cold running water.

(continued)

b. A ventilation system throughout the living areas that provides fresh air and maintains proper heat in winter and provides cooling in summer.

c. An appropriate day room that will allow for movement outside individual cell areas.

d. An appropriate facility for indoor exercise and recreation as well as an outside area to be established.

e. Adequate lighting in facility.

f. Each cell to have a mirror for shaving and personal hygiene.

g. Each cell to have a lock which can be operated and locked by detainees from inside cell as well as controlled by correctional officers.

17. Grievance

a. Each detainee to receive copy of rules outlining required conduct and specifically defining conduct for which discipline may be imposed.

b. Defendants to promptly prepare and submit for Court's approval a grievance procedure.

c. An ombudsman "may" be established to hear and investigate grievances and to make reports to sheriff.

(continued)

19. Monitoring/Reporting

a. Court to appoint 3 person panel to make inspection of facility and to recommend changes necessary for compliance with decree. Panel to file written report with Court, with copies to all counsel.

b. Panel to be selected one each from names proposed by plaintiffs, defendants and Court. Court proposed member to have experience in adult and juvenile correction.

Daratsakis v Smith

76 Civ. 3218 (IBW)
U.S. District Court for the Southern District of
New York
Interim Consent Order - July 30, 1976
Children's Center (for Abused, Neglected and
Children in Need of Supervision)

5. Access to Legal Assistance and Courts

a. Upon notice to defendant, plaintiffs' counsel to have immediate access to the Children's Center, including the opportunity to talk briefly with staff and children in free and unhampered manner and access to all records concerning the residents.

14. Staff

a. Defendants to make any and all changes in staff necessary to protect plaintiffs from violation of their constitutional right to be free from harm and cruel and unusual punishment.

b. At least one staff member to be present in all spaces at Children's Center at any time more than one resident is present, including rest areas where all staff members shall be awake at all times while on duty.

(continued)

16. Physical Facilities/Environment

a. Affix doors to toilet stall and curtains to all showers.

b. No more than six children and no more than six beds in a dorm or room with beds not less than three feet apart.

Doe v Henderson

Civil Action No. A-7980-I
Chancery Court for Davidson County, Tennessee
Agreed Order - February 26, 1979
Taft Youth Center, Spencer Youth Center
and Tennessee Reception and Guidance Center

11. Physical, Psychological and Verbal Abuse

a. Physical abuse prohibited: includes hitting, slapping, shoving and throwing of juveniles, the "dying cockroach" (lying on one's back with arms and legs in air) and "standing the wall" (placing one's forehead against a wall with hands behind back and feet at distance from wall). No staff to direct or allow physical abuse of one juvenile by another.

b. Mace used only by staff and only when there is "immediate danger to physical well being of either student or staff." Proper use depends on "informal judgment" by staff and should always be last resort preceded by verbal warning.

c. Use of mace to be reported in writing to superintendent who will investigate incident and report to Department of Corrections.

(continued)

d. Only forms of physical exercise which may be used as discipline: maximum for males: 20 push-ups, laps up to 1 mile, 25 sit-ups, 25 jumping jacks; maximum for females: half of above. Staff imposing above must keep in mind physical capabilities of student and not "humiliate student." Physical exercise to be used for exercise imposed. Any student can choose a written disciplinary report in lieu of physical exercise. Such choice not to be construed as separate offense.

14. Staff

a. At least two qualified supervisory personnel on station between 4 to 8 a.m. in each dorm or housing area containing more than twenty students.

b. Dorm supervisors shall leave work station only in emergencies or where relieved by another supervisor. Shift supervisor shall monitor each work-station hourly when children present to ascertain that personnel are present and alert.

c. Dorm supervisor shall continually survey showers and restrooms when more than one student is using them.

(continued)

16. Physical Facilities/Environment

a. All supply rooms and storage rooms to be locked unless room is in use for authorized purposes.

17. Grievance

a. A grievance procedure to be established so student may report orally or in writing any physical or sexual abuse.

b. Report to be investigated beginning within 3 working days and completed within 10 except sexual attacks or pending sexual attacks to be "substantially" investigated within 24 hours.

c. Juvenile can personally present his complaint with help of staff or interested adult.

d. Adjudication of complaint to be by impartial person or panel.

e. Juvenile may appeal adjudication directly to Department of Corrections, with a form provided which allows juvenile to indicate whether he wishes to do so.

f. All grievance records to be maintained by superintendent.

(continued)

g. Each student to receive copy of grievance procedure and order to be discussed at orientation of all new children and within one week of its entry with all current resident.

18. Juvenile Rights/Sanctions

a. Any student who believes a physical or sexual attack is imminent may request a single occupancy room for the forthcoming night and if not available, to be given choice of a room used as a supervisor's office or cell or control unit. If none of above are available dorm supervisor to increase supervision of child and those around him. Such request can only be denied if staff member can determine immediately that there is no factual basis for the request.

b. No student to be used to perform security or discipline functions.

19. Monitoring/Reporting

a. 3 person monitoring team to be appointed by Governor.

(continued)

b. Team to make at least bi-weekly visits to facilities to get information re: 1) staff abuse and homosexual rape; 2) any retaliation against a student for making complaint of such abuse or rape; and 3) effectiveness of grievance procedure.

c. Team to speak with students, staff and administrators in private, review records of abuse, report findings to Court every 6 weeks, and make information equally available to Governor and counsel for both sides.

d. Defendants to notify monitoring team and attorneys of disciplinary proceedings against employees stemming from abuse of juvenile but team and attorneys shall not have right to participate in proceedings.

e. Notice of order to be included in policies of Department of Corrections, Children's handbook and staff instructional materials and to be prominently posted in each dorm or living area and discussed in orientation of all new employees and with current employees within one week of entry of order.

f. Students to be allowed reasonable access to monitoring team via defendants' telephones including WATS line. Plaintiffs to have reasonable access and attorneys

(continued)

for plaintiffs have right to interview students upon 24 hours notice but not during class, workshop, meals or sleep time.

Doe v Lake County

Civil No. H 74-49
U.S. District Court, Northern District of Indiana,
Hammond Division
Consent Judgment - October 25, 1977
Gary City Jail

1. Mail

a. Juvenile allowed to send and receive unlimited number of letters with no restrictions as to who the correspondents may be; such mail may be inspected for contraband in the presence of the child; stationary and stamps to be provided for those in poverty situation but not to exceed three of each per week; letters received after a juvenile has been released to be forwarded.

2. Telephone Use

a. Juvenile allowed two(2) free phone calls to a parent, guardian, or other adult responsible for the juvenile upon entering detention home; juvenile may make and receive telephone calls to aforementioned at times of stress or emergency for juvenile or his family.

(continued)

3. Visitation

a. Juveniles allowed to visit with parents, relatives, and guardians at least on Tuesday, Thursday, and Saturday afternoons and evenings from 2 p.m. to 3 p.m. and 7 p.m. to 8 p.m.

4. Religion

- a. No pressure on juvenile to participate in or attend any religious services or activities or to read Bible or similar religious literature.
- b. No Bible or similar religious literature to be placed in any private rooms unless requested by juvenile.
- c. Juvenile to be able to worship according to own beliefs.

5. Access to Legal Assistance and Courts

a. Juveniles allowed complete access to counsel by telephone, letter, and personal contact; not restricted but to be at any reasonable time.

(continued)

6. Dress/Personal Property

a. No haircuts without juveniles' consent; no discrimination against juveniles because of length or style of hair.

b. Juveniles to be provided with suitable clothing appropriate to health and weather.

c. Juveniles allowed to retain or receive personal possessions they wish as long as not dangerous to themselves or others do not interfere with operation of home and are not valuables.

7. Educational/Treatment Program

a. Through consultation with an education specialist, develop an education program suitable to meet the needs of children confined in the detention home.

b. Make funds available for the purchase of such testing, educational and recreational supplies and equipment deemed necessary by the superintendent, psychologist(s) and teachers.

(continued)

8. Exercise/Recreation

a. Juveniles encouraged to participate in recreational activities but not to be forced to do so.

12. Isolation

a. Isolation or disciplinary confinement to be eliminated except when juvenile poses an immediate threat to the health or safety of him/herself or others; such confinement to conform to following:

- (1) at least two staff agree on confinement;
- (2) in child's regular, private sleeping room;
- (3) duration only as long as child is an immediate threat;
- (4) juvenile in isolation to be observed hourly; more if juvenile particularly depressed; staff to be within calling distance;
- (5) juvenile in confinement to wear regular clothing and be provided with books, writing materials and other such non-dangerous items as he/she requests; juvenile allowed visits with parents, relatives, guardian and attorneys as other detained juveniles;

(continued)

-
- (6) if confinement exceeds 8 hours, child to be seen by psychologist or probation officer, whose approval required for further confinement;
 - (7) confinement to be recorded in child's record -- length of time confined, staff initiating it, reason for and any involvement by the psychologist or probation officer.

13. Diet

a. Meals to be nutritious and adequate to meet juveniles' hunger and may not be restricted in type or amount for disciplinary purposes.

14. Staff

a. Make available fund to employ no later than June 1, 1978, the following:

- (1) one full-time psychologist with a Ph.D. degree for each forty-four children detained; always at least one full-time psychologist to do complete evaluation of each child at admission;

II. - 4.5

(continued)

-
- (2) one full-time licensed teacher for each twenty-five children detained; teacher to work enough hours so each juvenile to have at least 2 hours of education per day;
 - (3) one group leader for each two children detained in the detention home;
 - (4) one full-time registered nurse for each eighty-eight juveniles detained;
 - (5) one intake supervisor with a B.A. degree for each twenty-two children detained; duties to include screening of children brought to the detention home and making preliminary decisions on whether or not they be detained;
- b. Make available funds for positions of superintendent and assistant superintendent
- c. In future hire staff in same racial and cultural ratio as children detained there;
- d. In future, hire staff as set out in (a) and (b).

II. - 4.6

(continued)

18. Juvenile Rights/Sanctions

a. Every detained juvenile to have a detention hearing within twenty-four(24) hours of their detention or as soon as possible Monday morning if detained on a weekend at which:

- (1) counsel for juvenile present;
- (2) counsel appointed if juvenile cannot afford;
- (3) juvenile informed of nature of hearing, charges against him, his rights, and reasons for detention;
- (4) determination.

b. Juveniles allowed to speak language of choice and not to have punitive measures taken against them because of their nationality.

19. Monitoring/Reporting

a. Counsel to have regular access to all records necessary to monitor compliance with judgment.

b. Twice a year inspections by any qualified individual or agency as agreed to by parties in regard to matters covered by judgment.

F.E. v Hensley

Civil Action No. 73 CV 43-W-1
U.S. District Court for the Western District of Missouri
Final Judgment - December 15, 1978
Youth Center of St. Joseph State Hospital

7. Educational/Treatment Program

a. For each child, a written specific individualized treatment plan developed by qualified mental health professionals, including a psychiatrist minimally board eligible with 2 or more years experience in child psychiatry. An initial written plan to be completed within 5 days of admission and a finalized plan as soon as possible but not later than 21 days after admission.

b. The parents/guardian of each child to be allowed to participate in formulating the plan and such child to also be given the same opportunity unless "medically contra-indicated", such fact being documented.

c. Each child to have a comprehensive physical, psychological, educational and social testing and evaluation upon admission.

d. Each plan, as a minimum, to include:

1. reason for hospitalization;

(continued)

2. specific problems and needs of child and why Center is "presently suited to meet" them;

3. treatment modalities necessary, including description of intermediate and long-term goals and a time table and method for meeting them;

4. designation of staff person having overall responsibility for implementing plan and staff persons who will carry out each specific treatment modality;

5. proposed family involvement;

6. explanation of criteria for release to less restrictive placements, if available, and for ultimate discharge; and

7. a form to detail and summarize each child's progress.

e. A comprehensive review to be held at least every 90 days and a summary thereof to become part of child's record.

f. Treatment plan to include individualized education plan in compliance with P.L. 42-142, (Education of All Handicapped Children Act) and §504 of Rehabilitation Act.

(continued)

g. Said plan to include:

1. ID of each child's needs as related to present level of educational performance;

2. long-term goals and short-term instructional objective with criteria for judging whether they are being achieved;

3. statement of specific special education services, including strategies to be used to obtain each goal;

4. assessment of least restrictive educational environment and child's ability to function in public school in special education or regular programs; and

5. time table for beginning and ending of services with anticipated date for entry into public school system.

h. A treatment modality to continue in use is the behavior motivational program which reinforces adaptive behavior by means of a point system. (See Final Judgment, Appendix A, page 1-12, reproduced in Case Index).

i. Children may be required to perform personal housekeeping tasks like work obligations they might have

(continued)

had in their own home when such tasks deemed to be therapeutically beneficial.

j. A vocational education and rehabilitation program to be available for teaching marketable skills and appropriate work experience outside facility to be considered where available and in relation to therapeutic programs.

k. Voluntary work on the premises may be instituted and assigned only if deemed therapeutic by treatment team; to be subject to written guidelines and such children participating to be compensated at rate commensurate with their productivity. Parents/guardians must consent to such participation.

l. An aftercare program to be established to return child to his/her family as soon as possible. Program to begin at time child enters facility, with aftercare worker to participate if at all possible at team meetings. Program to continue until caseworker satisfied as no longer needed.

m. Parents/guardians of child presently or recently hospitalized should be urged to attend evening sessions

(continued)

where they will be counseled re child's mental status, behavior and family problems.

n. Each child and/or his/her parent or guardian entitled to a copy of treatment plan and a patient handbook which outlines types of discipline and when used.

9. Medical Services

a. Medication to be used only when "medically necessary to treatment of child" and not as "substitute" for other treatment modalities.

b. Psychotropic drugs to be used only as integrated part of individualized habilitation plan designed to "lead to less restrictive way of treating."

c. Decision to prescribe medication and the dosages thereof for a child are within sole discretion of attending physician and to be administered only upon written prescription order of a physician.

d. All medications to be administered by staff specifically trained to do so and to recognize adverse reactions and side effects.

e. Physicians to continue to write frequent progress reports on therapeutic effects of medicine and all

(continued)

prescriptions to be reviewed every 30 days (a Dept. of Mental Health regulation).

f. When a change in medication is ordered, physician to record reasons therefor, including the child's behavior.

g. Each child to be advised as to medication being taken and the reasons therefor.

11. Physical, Psychological and Verbal Abuse

a. Unnecessary and non-therapeutic discipline should not be employed.

b. Physical restraints and/or seclusion are o.k. if used to preclude child from injuring him/herself, other patients, or staff, or to avoid extensive property damage but only after other alternatives have been exhausted and thoroughly documented in child's clinical record.

c. Restraints/seclusion "shall not be used as punishment, for the convenience of staff, or as a substitute for a valid treatment program."

d. Discipline to occur within time period "sufficiently proximate" to violation to enable child to comprehend connection between the transgression and discipline used. Discipline for safety of child or staff

(continued)

or to avoid property damage to be within time frame which can protect the various individuals and property, and such discipline must be "therapeutically effective," and no discipline to be imposed if no such present threat exists unless child's behavior interferes with his/her or another child's treatment program.

e. Use of discipline to be consistent enough to put child on notice that certain acts will warrant discipline.

f. If restraints are used, to cause least possible discomfort and no physical injury; any physical or mechanical restraint used must have been approved by the Department of Mental Health.

g. Physical restraints to be used only to protect a child from injury to him/herself or others and must first be ordered by qualified mental health professionals.

h. Some opportunity to exercise must be given child in restraints unless contra-indicated, which fact must be charted.

i. Emergency use of restraints may be undertaken by ward personnel for no more than 30 minutes during which time a qualified mental health professional is to be notified.

(continued)

j. All written orders for restraints shall not exceed 24 hours, but never should be longer than necessary to affect purpose for their use.

k. While in restraints, child shall be seen at least every 15 minutes and child's physical and behavioral condition charted every hour. Bathroom privileges afforded every hour and reasonable bathing privileges allowed.

l. All uses of restraints to be noted in medical records, including why ordered, what alternatives were attempted and duration of restraints.

12. Isolation

a. Seclusion to be used only to prevent child from injuring him/herself, other patients, or staff, or to avoid extensive property damage but only after other alternatives have been exhausted and thoroughly documented in child's clinical record.

b. Seclusion "shall not be used as punishment, for the convenience of staff, or as a substitute for a valid treatment program."

(continued)

c. Seclusion must be ordered by qualified mental health professionals and such use periodically reviewed by responsible treatment team. Emergency use may be undertaken by ward personnel for no more than 30 minutes during which time qualified professional to be notified.

d. All written orders for seclusion to be effective for no more than 24 hours, but never longer than necessary to affect purpose for its use.

e. Child in seclusion to be seen at least every 15 minutes with his/her condition charted every hour. Bathroom privileges every hour and reasonable bathing privileges allowed.

f. Use of seclusion to be noted in child's medical records, including why ordered, its duration, and what alternatives were attempted.

g. Children to be allowed to wear own clothes while in seclusion.

13. Diet

a. Staff to comply with general and special dietary needs of each child by serving "properly prepared and tasty food of adequate nutrition and calorie content attractively served in a relaxed atmosphere."

(continued)

14. Staff

- a. Appropriate in-service training for all staff, records of such participation to be maintained.
- b. Training should keep staff informed of all significant new clinical or administrative developments and skills.
- c. Professional and nursing staff to be trained in all treatment modalities including point system program.
- d. All staff to be periodically evaluated in accordance with Missouri State Merit System.
- e. Nursing aides to be instructed in use of point system.

16. Physical Facilities/Environment

- a. Renovated facility to have central heating and air conditioning, division of dorm areas into sleeping quarters with no more than 4 per room, renovation of toilets and shower areas and windows to be replaced.
- b. Such renovation to put facility in complete compliance with Life Safety Code.
- c. 80 sq. ft. of living space/child and at least 1 tub or shower for every 6 children.

(continued)

19. Monitoring/Reporting

- a. For two years plaintiffs to have copies of all hospital accreditation surveys relating to this judgment even though such documents are confidential in nature.
- b. Plaintiffs to have on-site inspections 4 times during 2 years immediately succeeding this judgment, upon reasonable notice to counsel for defendants. Such inspections to include review of physical facilities, clinical records of all involuntary patients and access to regulation, policy statements, etc., which relate to judgment unless subject to attorney-client privilege.

No. 73-CV-115-W-4
U.S. District Court for the Western District of
Missouri
Consent Decree - September 8, 1975
State Board of Training Schools Facility at
Booneville, Missouri

12. Isolation

a. Each juvenile, upon arrival at facility, to receive written notice of offenses for which incarceration in certain cells can be imposed.

b. Each juvenile to receive a hearing if subject to such incarceration. Said hearing to be conducted no later than within 24 hours after initial confinement by an impartial three person panel of staff not involved in offense.

c. Each juvenile to have adequate time to prepare a defense with assistance of person of own choosing and may confront and cross-examine adverse witnesses and may present witnesses in his/her behalf.

d. Incarceration must be for specified maximum period not to exceed seven days.

e. Each confined juvenile to be visited by basic education teacher in whose class he/she was enrolled prior

(continued)

to confinement and who shall provide materials to keep juvenile current in his/her studies. Juvenile, whenever practical, to be allowed to work with teacher, or study, outside cell.

f. Each confined juvenile to be allowed to shower once a day.

g. The parents or guardian to be promptly notified of commitment.

h. Juveniles confined to be told of their right to see a minister or priest.

i. Confined juveniles to have minimum of one hour recreation daily outside the cell, including "vigorous physical exercise," and "non-academic reading materials of a broad variety."

j. Confined juveniles to eat at least two of daily meals outside cell "whenever practical."

k. Confined juveniles to be able to wear normal, casual clothing appropriate to season. No juvenile to be compelled to wear pajamas during day unless ill and confined to bed.

l. Each such cell to be adequately heated, cooled and ventilated according to the season and have adequate

(continued)

reading light, which light fixtures shall be "immediately replaced or repaired when they cease working properly."

m. At least one staff member within calling distance day or night when child is confined.

n. Each cell to be thoroughly cleaned by staff when vacated, with special care to sink and toilet and confined juveniles to have cleaning materials to clean cells themselves while confined.

o. Each confined juvenile to have sheets, pillowcases, pillows and blankets, to be changed when soiled or worn, plus soap, towel, washcloth, toothpaste, toothbrush and toilet paper.

II. - 6.3

Hernandez v Carroll

Index No. 41973/76
Supreme Court of the State of New York County of
New York
Consent Order - January 20, 1977
Bronx Family Courthouse

15. Sanitation, Safety, Hygiene

a. Boys' and girls' detention rooms to be repaired and serviced and to be maintained in a sanitary, humane, and healthful condition.

b. Regular extermination of roaches.

16. Physical Facility/Environment

a. Proper functioning of toilets and sinks in and attached to the detention room and maintenance of seats attached to toilet.

b. Proper operation of all windows and replacement of all broken panes of glass.

c. Proper functioning of drinking fountains and water coolers.

d. Proper care of refrigerator.

e. Compliance with all fire regulations.

f. Maintenance and repair of attorneys' interview room.

g. Proper heating and cooling of all rooms.

II. - 7.1

Civil Action No. 4529
U.S. District Court for the District of
Rhode Island
Order - January 15, 1979
Rhode Island Training School for Youth

1. Mail

a. No opening, censoring or inspecting of outgoing mail; incoming mail inspected for contraband only in the presence of resident and letters may not be read or delayed.

b. No limits on mail except mail may be prohibited between resident and someone other than attorney, member of the press, or public official if good cause is shown. Resident can object and will be given an explanation in writing.

6. Dress/Personal Property

a. Sufficient clothing to meet seasonal needs, change of undergarments and socks daily.

b. Minimum writing materials.

c. Equal access to all books, periodicals and other reading materials; daily access in room to own reading materials.

d. Personal hygiene supplies available.

(continued)

7. Educational/Treatment Plan

a. Initial intake process of 7 to 10 days during which preliminary profile of resident is formulated which includes social history, family background, education/academic achievement, behavioral observations, medical history and agency interaction.

b. Clinical staff begins assessments during which time resident tentatively placed in academic/vocational program, gym and recreation programs, and intensive orientation and counseling sessions.

c. Within 12 days of admission, formal intake review held by Treatment Team (consists of Clinical Coordinator, educational personnel, resident's counselor and a psychiatrist if appropriate). At the review it is to be determined whether further data is needed.

d. All material obtained in above process is used for diagnostic and evaluation report which takes place within 30 day period of admission. Resource staff to review reports in order to develop coherent treatment plan and a treatment team meeting held within 30 days of admission.

(continued)

e. Development of treatment plan shall include consultation with resident and where appropriate his/her family. Programs for which resident is believed qualified shall be explained to him/her as well as criteria for admission to programs for which resident is not yet qualified, including pattern of behavior required for off-grounds program. Where appropriate, resident to attend treatment team meetings to become active in design of treatment plan.

f. Written plan to include: description of community program to which assigned, criteria necessary for placement in less restrictive treatment conditions and for a recommendation of release from school, and where resident will live upon release.

g. At least once a month, treatment team to meet to re-evaluate plan and a more complete review every three months.

h. Educational Administrator shall have overall responsibility for curriculum content and for off-grounds placements, including community grade programs.

II. - 8.3

(continued)

i. A high school equivalency program will be maintained for all residents.

j. Assistant Director of Department of Corrections will develop program of residence placement for all residents.

k. In addition to medical record, to be a central record with ID data, psychological and psychiatric reports, family history, educational evaluation, individualized treatment plan, all team reports and periodic evaluations, disciplinary reports and release plans, as well as ID and location of attorney of record.

8. Exercise/ Recreation

a. For residents in the most restrictive treatment settings (e.g. closed or locked cottages) at least 3 hours of physical recreational activities and instruction daily; at least 1 1/2 hours of which shall be organized activity and conducted outdoors or at gym with an opportunity to swim.

b. For residents attending school on grounds, at least 2 hours daily of organized physical education outdoors or in gym.

II. - 8.4

(continued)

c. For all others, including those attending off-grounds programs, daily access to gym on school or work days and at least 2 hours daily outdoor exercise or in gym on non-school or non-work days.

9. Medical Services

a. Direct access at all reasonable times to physician or psychiatrist of choice; except school won't pay for doctor engaged by resident or parent/guardian.

b. All residents to have access to medical staff on daily basis, including a registered nurse from 7 a.m. to 11 p.m.

c. Medical staff to maintain daily log which details attendance at sick call, medications dispensed, treatment administered and referrals made, which information shall be entered in resident's medical file for evaluation by resource team.

d. Medical screening by registered nurse within 24 hours of resident's admission, including an initial medical history to alert physician of any unusual medical problems.

II. - 8.5

(continued)

e. Comprehensive medical exam by physician within 48 hours of admission and subsequently once a year.

f. Exam to include recommended immunizations, vision and hearing exam, medical history, blood profile, urinalysis, screening for venereal disease, drug use, screening for sickle cell anemia and other genetic diseases.

g. Physician on site at least 2 hours a day, 4 days per week and on call 24 hours a day, 7 days a week.

h. Physical exam at discharge if resident longer than 6 months or not under active care of physician during stay.

i. Dental prophylactic exam and hygiene care furnished within 7 days of admission and every 6 months. Qualified dentist available as needed and emergency and corrective work provided when immediate care is prescribed by qualified dentist. Discharge dental exam if resident at least 6 months.

j. Services of accredited clinical lab to be available to school.

II. - 8.6

(continued)

k. No prescription medication administered unless at written order of physician. Other medication administered by registered nurse who shall promptly notify physician.

l. No exceeding standard of medication use set by federal or state law.

m. Notation of medication kept on medical record; regimen reviewed periodically by primary and/or prescribing physicians.

n. Medication administered only by authorized personnel under established guidelines. No medication administered intramuscularly without attempting oral medication first unless physician orders it.

o. No experimental research or treatment involving a resident to be performed which is not specifically for the diagnosis or treatment of that resident's disorders.

10. Mental Health Care

a. Resident interviewed by counselor upon admission. Any resident whose offense, behavior subsequent to admission, or whose records indicate potential or previous psychiatric problems, to be seen by a psychiatrist within 48 hours of admission.

II. - 8.7

(continued)

b. Complete written report to be made by psychiatrist within 2 weeks of interview with resident.

c. If resident has not had psychological evaluation or psychiatric testing within 18 months prior to admission or such data is unavailable for any reason, a psychological evaluation to be conducted during intake process for use in formulating a treatment plan.

13. Diet

a. Three meals/day, the last occurring at or after 5 p.m.; regular access to canteen services at least twice a week; daily access in their rooms to food brought in by parents and friends.

b. Dietician to consult on general dietary needs with food services manager and provide for special dietary needs when medically indicated.

14. Staff

a. All employees providing treatment services to have or be given specialized training in care and treatment of adolescents.

b. Psychiatrist, full-time clinical psychologist, and full time employee per cottage with Master's Degree

II. - 8.8

(continued)

in psychology, clinical social work, counseling or human services shall be employed to assist in developing treatment plans and staff training.

c. Intake and aftercare counselors to be assigned to each resident.

d. Ongoing staff training program and program evaluation.

15. Sanitation, Safety, Hygiene

a. Daily showers.

b. Bedding linen changed once a week.

16. Physical Facilities/Environment

a. Need room with lighting sufficient for reading until "lights out."

19. Monitoring/Reporting

a. Advisory Committee - Director of the Department of Corrections, in conjunction with Rhode Island Medical Society, will establish a committee of qualified physicians and psychiatrists not employed by the Department to periodically review medical and mental health programs.

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866
U.S. District Court, District of Massachusetts
Consent Decree - April, 1976
Judge John J. Connelly Youth Center

1. Mail

a. Detainees may send letters or packages to and receive from any person.

b. Outgoing mail sent out daily; incoming mail delivered on day of receipt.

c. Incoming mail may be opened only in addressee's presence and only to inspect for contraband; detainee informed of any items confiscated.

d. "Contraband" objects possessed in violation of state criminal statutes or which pose a clear danger to detainees or staff.

e. No letter may be read, censored or withheld.

f. Free writing materials and postage on request to limit of 7 first class letters per week.

g. No restriction of visits, mail and phone calls unless detainee has abused his right to a specific form of communication.

(continued)

h. Restrictions only after hearing; detainee to have 3 hours prior notice; if restriction is imposed, detainee to have opportunity to appeal.

2. Telephone Use

a. Phone calls to be of 5-minute duration on each of six days per week (unclear whether this means one call or more).

b. No restriction on identity of person called or on privacy except person's name shall be entered in log. Calls to committed juveniles may be monitored if this fact is logged.

c. Call can be at any time reasonably calculated to ensure reaching the person being called.

d. No restriction of visits, mail and phone calls unless detainee has abused his rights to a specific form of communication.

e. Restrictions only after hearing detainee to have 3 hours prior notice; if restriction is imposed, detainee to have opportunity to appeal.

(continued)

3. Visitation

a. Parents/guardians to visit two hours, two nights per week.

b. Two hour visits available anytime from 9 a.m. to 3 p.m. each day upon one hour's notice to the facility; upon approval of director. If denied, visit must be accommodated within 24 hours.

c. Attorneys and clergy may visit at anytime between 9 a.m. and 7 p.m., seven days a week.

d. No restriction on number of visits by parents, guardians, attorneys, their agents, adult relatives or clergy. Others may visit if accompanied by parent or guardian or with prior permission of superintendent.

e. Conversations to be unmonitored, but supervisor to be in visual contact.

f. Visits can be denied to persons giving detainee contraband or creating disturbances; denial must be in writing and reviewed; visit by parent or guardian can't be denied without written consent of detainee.

(continued)

5. Access to Legal Assistance and Courts

a. Attorneys and clergy may visit at anytime between 9 a.m. and 7 p.m., seven days a week.

b. No restriction shall be placed on number of visits by parents, guardians, attorneys, their agents, adult relatives or clergy. Others may visit if accompanied by parent or guardian or with prior permission of superintendent.

6. Dress/Personal Property

a. Detainee to be provided with clothing purchased by the facility; clothing to be equivalent to that worn by most adolescents.

b. Facility to provide daily change of undergarments and socks.

c. Warm outdoor clothing to be provided for cold weather.

d. Institutional clothing regularly changed and laundered; personal clothing marked and receipt to detainee to insure against loss or theft.

(continued)

e. Personal clothing to be stored to be presentable for court; parents to be informed when clothing needed for court to make detainee presentable.

f. Facility strictly liable for all property and valuables, including clothing and should promptly replace or give value for any item lost.

g. Receipt to be given for all items in storage.

h. Detainee to be able to purchase personal articles not provided by the facility; facility to purchase on twice weekly basis items paid for in advance.

7. Educational/Treatment Program

a. Each detainee shall have an individualized educational tutorial program including remedial instruction.

b. Classes shall be conducted year-round excepting weekends and regular school holidays.

c. Teachers would be certified by the Massachusetts Department of Education.

d. Classes shall be 12 students maximum.

(continued)

e. Each detainee shall receive 4 hours of educational instruction per day, at least 2 hours in academic subjects.

f. Any detainee incarcerated more than seven days shall be assessed for educational level and shall receive individualized instruction.

8. Exercise/Recreation

a. Minimum of 2 hours outdoor recreation on school days and a minimum of 4 hours on non-school days for each detainee who desires it -- as weather permits.

b. Program of indoor recreation; area sufficiently spacious for large muscle exercise; sufficient recreational equipment in good repair for each to have opportunity for large muscle exercise during recreational period.

c. Facility to provide variety of sedentary games as well as books, periodicals and materials appropriate to all ages, heritages and educational backgrounds of detainees.

(continued)

9. Medical Services

a. Each detainee to be examined by a registered nurse or doctor within 24 hours of admission and at intervals of 4 months or less thereafter.

b. Intake exam to include medical history, immunizations, hearing and vision exams, urinalysis, screening for drug use, tuberculosis and venereal disease.

c. 24-hour a day emergency medical, psychiatric and dental treatment to be available.

d. Sick call held daily and be attended by registered nurse or doctor.

e. Each detainee has the right to be seen at sick call or the emergency room of the local hospital nearest to the facility.

f. No detainee to be isolated from general population for medical or psychiatric reasons without the written approval of a licensed medical doctor, nurse or psychiatrist who has personally examined the detainee.

g. Parents/Guardian to be promptly advised of medical or psychiatric problem; detainee must supply written consent before parents are told of detainee's venereal disease or homosexuality.

(continued)

10. Mental Health Care

a. Any detainee desiring psychiatric treatment to notify his counselor and if counselor can't handle the problem (as determined by counseling supervisor) then referral to be made to psychologist or psychiatrist.

b. Communication between detainee and his therapist to be privileged.

11. Physical, Psychological and Verbal Abuse

a. Each detainee liable for damage done to facility but to have opportunity to repair prior to facility seeking court action.

b. No deprivation of meals.

c. No corporal punishment.

d. Incident reports for any use of physical force or restraint.

(continued)

12. Isolation

a. Isolation to be used for quelling out of control behavior which presents an immediate danger of physical harm to the resident, other residents or staff or to discipline resident for serious infractions of the facility rules.

b. If isolation used, a complete report must be made in the log including name of resident, date and time placed in room, reason, staff members checking at 15 minute intervals, time and duration of conversations with resident, date and time released for physical exercise, date and time released; all entries initialed by staff member making them.

c. Staff to try alternatives before isolation; residents isolated in own room should be told he will be let out when unacceptable behavior ceases; counselor to see his resident.

d. Resident checked every 15 minutes; counselor to talk to him 10 minutes out of the hour.

e. No isolation for more than 2 hours under any circumstance.

(continued)

f. Extended isolation only for disciplinary purposes after resident has received fair hearing with administrator "on call"; hearing no sooner than two hours after resident received notice, but within 24 hours. Resident to have counselor or person of his choice represent him or assist him in preparing his case; resident can call and question witnesses; hearing officer must find resident charged did act beyond a reasonable doubt and impose appropriate sanction; hearing officer to write a detailed report and copies delivered to director within 24 hours of imposition of sanction.

g. Disciplinary isolation imposed only for: use of controlled substances within facility (one day max.), repeated harassment or threats to other residents after other disciplinary measures have failed (1 day max.), causing major damage to facility property (1 day max), escaping without use of physical force (1 day max.), escaping with physical force (1 day max. 1st offense, then 2 day max. for subsequent offenses), inflicting physical harm on another resident or staff (1st or minor offense 1 day, subsequent serious offenses 2 day max.), taking money or possessions of other residents by force or threat of force (same as for physical harm).

II. - 9.10

(continued)

h. Maximum period may be extended to three day by Assistant Commissioner for Clinical Services after resident has opportunity to speak with him and after written report.

i. Disciplinary isolation to occur in a normally furnished room, resident remains fully clothed except for belt and shoes (substitute footwear required), receives same meals as other residents, gets physical exercise 2 hours/day, has access to counseling staff upon request, counselor to see him once daily, person with key to room within calling distance, resident checked every 15 minutes and check logged.

j. Staff should be aware of possible psychiatric problems, especially with a new resident with whom they may be unfamiliar.

13. Diet

a. If evening meal at 5, snack to be provided during evening. Light meal to be available between evening meal and breakfast for newly admitted detainees.

b. No deprivation of meals.

II. - 9.11

(continued)

14. Staff

a. Employees shall be screened for emotional fitness to work with children in a custodial setting.

b. Personnel file kept for each employee with all reports of incidents or investigations and notations of disciplinary actions, reasons for employment termination.

c. Within 24 hours of admission, each detainee shall be assigned a facility employee to act as counselor.

d. For each 45 detainees or portion thereof there shall be one counseling supervisor with a master's degree in psychology or related discipline, or a B.A. or B.S. degree and training and experience in adolescent counseling.

e. One full-time counselor for every 15 detainees or portion thereof.

f. People who immediately supervise detainees shall have a high school diploma or its equivalent. Administrator/floor supervisor should be on shift for every seven detainees.

g. Facility shall have a 1/2 time recreational worker with physical education training; doctors and nurses shall be experienced in care and treatment of juveniles.

II. - 9.12

(continued)

h. All staff who have substantial contact with detainees shall receive pre-service and regular in-service training from qualified professionals in behavior management, short term and crisis counseling, fire safety, and drug overdose.

15. Sanitation, Safety, Hygiene

a. Facility to have certificates of compliance with State Sanitary Code and local fire safety code.

b. Facility to be kept clean, floors waxed bi-monthly; bathroom thoroughly scrubbed and disinfected daily.

c. Engineering and code-upgrading surveys to be made, with monthly reports of progress.

d. Upon admission, each detainee to receive clean mattress, blankets, sheets, pillow case, towel, pillow, soap, toothpaste and toothbrush.

e. Sheets and pillow cases changed weekly, clean blankets monthly.

f. Each detainee to have an opportunity for daily shower or bath. Towels changed twice per week.

II. - 9.13

(continued)

16. Physical Facilities/Environment

- a. Private room for each detainee of at least 70 sq. ft. or semi-private room of at least 150 sq. ft. containing bed, mattress, drawers or shelves, window, electric lighting for reading (operable by detainee or at his request).
- b. Locker for each for personal possessions.
- c. At least one common room with adequate comfortable furniture for each 20 detainees.
- d. Toilets in lavatories to have partitions.
- e. Sufficient windows to provide adequate ventilation and light. Windows kept clean and in good repair.

17. Grievance

- a. Whenever a detainee believes he has any grievance relating to decree or event or condition, he may initiate grievance procedure.
- b. Resident may request meeting with the Director of the unit who will adjust grievance or respond in writing within 24 hours.

(continued)

c. Resident may appeal in writing within 5 days or receipt of the decision, hearing must be granted within 7 days; resident may be represented by counsel or lay advocate of choosing.

d. Resident may appeal in writing an adverse decision to Commissioner of Youth Services who shall grant hearing within 7 days of receipt of appeal; hearing conducted in conformity with the Administrative Procedures Act; decision of Commissioner is final.

19. Monitoring/Reporting

a. Monitoring board of 5 persons to be appointed to serve for a two year period, with monitors nominated by plaintiffs and defendants; no employees can be monitors; all subject to court approval.

b. Monitors to evaluate compliance and inform court on at least a bimonthly basis for 8 months after entry of decree and quarterly thereafter for duration of monitoring period.

c. Four copies of decree to be posted in locations readily accessible to the detainees.

Ishii v Chang

Civil No. 75-0238
U.S. District Court for the District of Hawaii
Agreement of Settlement - September 18, 1975
Hawaii Youth Correctional Facility

5. Access to Legal Assistance and Courts

a. Juvenile inmates have the right of access to counsel and to due process in Courts.

b. Visitation by attorneys with residents to be on an individual and private basis unless otherwise agreed. Such visitation to occur during hours of 8 a.m. to 5 p.m., Monday through Friday or on weekends with prior notice to facility except for emergency situations when residents shall have free access.

c. Residents shall also have right to unmonitored telephone conversations with their attorneys between 8 a.m. and 8 p.m. daily.

d. Facility to maintain a current list of residents and their present attorney of record so that such attorneys have access to their clients without requirement for verifying attorney-client relationship.

(continued)

e. Paralegal assistants of attorneys to be permitted to confer with resident on same basis upon presentation of letter of introduction from attorney or prior telephoned arrangement.

f. All residents and their parents to receive written notice of their rights to counsel. Such notice to include hours when attorney can be contacted and the fact that the child has the right to contact attorney concerning his/her conditions of confinement.

19. Monitoring/Reporting

a. All present residents and their parents or guardians to receive a copy of the Agreement of Settlement.

No. 79-5082
U.S. District Court, Eastern District of Louisiana
Joint Stipulation Governing Room Detention (Lock
Down) at the Youth Study Center - February 1980
Youth Study Center

12. Isolation

- a. Every alternative means to effectuate behavior modification should be attempted.
- b. Child on room detention to be monitored at least once per hour.
- c. While in room detention, activities allowed:
- (1) educational instruction;
 - (2) social service/group;
 - (3) visitation;
 - (4) medical services.
- d. Child in room detention for period exceeding six hours, child to be checked at end of period by nurse, social worker, supervisory personnel.
- e. Right of administration to detain beyond 24 hours if child's behavior poses an extreme threat to other children or personnel. In such situations, Juvenile Court to be notified within 24 hours for instructions on further treatment of child.

(continued)

f. Records to be kept:

- (1) child's name;
- (2) offense committed;
- (3) duration of room detention;
- (4) whether duration continuous;
- (5) name of person completing report;
- (6) that child was afforded the opportunity to rebut the charge and whether action was approved/disapproved;
- (7) other methods tried first;
- (8) when child was checked subsequent to room detention if required

g. Maximum hours of room detention for specific offenses:

<u>OFFENSES</u>	<u>ROOM DETENTION TIME</u>
(1) Fighting and physical attacks against another youngster or Youth Study Center staff	24 hours maximum
(2) Sexual Attacks and Attempts	24 hours maximum
(3) Physical and Verbal Harassment	6 hours maximum
(4) Escape or Attempted Escape	24 hours maximum

(continued)

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- | | |
|---|------------------|
| (5) Smuggling Contrabands
(Drugs, Cigarettes, Weapons) | 24 hours maximum |
| (6) Intentional Damage to Property | 6 hours maximum |
| (7) Repeated Disregard of
Instructions | 6 hours maximum |
| (8) Smoking | 24 hours maximum |
| (9) Stealing | 24 hours maximum |

II. - 11.3

McRedmond v Wilson, 533 F.2d 757 (2nd Cir. 1976)
402 F. Supp. 1087 (S.D.N.Y. 1975)

74 Civ. 4945
U.S. District Court for the Southern District of
New York
Stipulation - November 3, 1976
Facilities Operated by New York Division for Youth
(PINS)

7. Educational/Treatment Program

a. Each member of class in a Title II facility to receive a program containing off-facility community involvement or activity, including but not limited to, education, employment, recreation and cultural activity, or some appropriate combination thereof.

11. Physical, Psychological and Verbal Abuse

a. No member of the class to be subjected to any group confinement or any physical or medical restraints.
b. No delinquency petition or criminal complaint alleging escape to be filed by an employee of the Division For Youth against any member of the class.

12. Isolation

a. Child to be confined in a room only if child constitutes a serious and evident danger to himself/herself or others. As soon as such danger ceases

II. - 12.1

(continued)

child to be released from room confinement. In no event shall such confinement continue beyond a three hour consecutive period without the approval of Deputy Director of Rehabilitation.

b. Written records to be kept of all cases of room confinement.

c. No child to be confined for a total of more than four hours per any twenty-four hour period without Deputy Director's approval. Director to maintain written record of all approvals.

II. - 12.2

Maldonado v Ciuros

76 Civ. 2854 (LWP)
U.S. District Court, Southern District of New York
Partial Final Judgment by Consent - August 29, 1978
Adolescent Remand and Detention Center

1. Mail

a. Detainees to receive from and send packages to anyone; incoming packages may be opened and inspected for contraband and are to be delivered to the recipient within 48 hours.

b. Incoming correspondence not to be opened, except in the presence of the intended recipient or pursuant to a lawful search warrant.

c. Defendants not to maintain any records of correspondence received by any detainee.

d. Mail not to be read or censored unless pursuant to search warrant.

e. Mail to be forwarded if received after detainee released or transferred.

f. Detainees in punitive or administrative segregation or other special status to be allotted same mail privileges as general population.

II. - 13.1

(continued)

2. Telephone Use

a. Detainees permitted to receive incoming calls of an emergency nature and calls from attorneys; in either case, message may be taken and detainee to return call as soon as possible; except after evening lock-up, return calls next morning.

4. Religion

a. Detainee in punitive or administrative segregation or any other special status permitted to attend any religious services which detainees in general population may attend except when detainee poses a threat to the security of the institution.

5. Access to Legal Assistance and Courts

a. Attorneys permitted to visit detainees at any time between 8 a.m. and 8 p.m. daily.

b. Attorneys permitted to arrange such visits in advance by calling ARDC to inquire whether detainee available for visit and to leave message.

c. Defendants to maintain properly equipped law library staffed with adequate number of trained legal assistants and typists to assist detainees.

II. - 13.2

(continued)

d. Law Library to be open at least eight hours per day, seven days a week for detainee use.

6. Dress/Personal Property

a. Detainees permitted to wear all items of clothing which are generally acceptable in public and which do not constitute a threat to the safety of the institution.

Such clothing to include:

- (1) clothing worn by the detainee upon admission;
- (2) clothing received by detainee from any source including hand delivered and mailed packages.

b. Defendants to provide receipt for each personally delivered package; deliver such clothing within 48 hours unless needed more promptly for court appearance; and not require prior notification or approval for receipt of clothing.

c. During inspection, clothing to be ripped, torn or cut for contraband only if written authorization by higher-ranking officer.

d. Clothing to be repaired if unlawfully retained and promptly delivered.

II. - 13.3

(continued)

e. Detainees permitted to wear and to receive jewelry except if it is expensive or likely to be used as a weapon.

f. Free laundry service sufficient to provide detainees with clean change of clothing and a clean towel twice per week.

g. Detainees permitted to receive from any source any publications; such publications not to be censored unless they contain specific instructions on the manufacture or use of dangerous weapons or explosives, or plans for escape.

h. Defendants to provide method with which to identify and return any confiscated property; detainee to be able to contest the taking of personal property.

i. All cell searches to be done in presence of detainee unless detainee impedes search or upon showing of good cause approved in writing by higher-ranking officer.

j. Detainee to be provided with personal hygiene items:

- (1) soap;
- (2) toothbrush;
- (3) toothpaste or tooth powder;

II. - 13.4

(continued)

(4) drinking cup;

(5) toilet paper;

(6) towel;

(7) mirror, unless in cell;

(8) comb.

k. One full-time barber or hair-stylist and sufficient number of persons working under barber's or hair stylist's supervision to cut and style hair of detainees.

11. Physical, Psychological and Verbal Abuse

a. Body cavity searches to be visual inspection either upon admission or when higher-ranking officer has reasonable cause to believe detainee concealing contraband. Such examinations to be done by medical staff of same sex whenever possible and in private.

12. Isolation

a. Detainees in punitive segregation to be allowed:
(1) access to showers, laundry services, medical care, the law library and visiting in same frequently and under same conditions as the general population;

II. - 13.5

CONTINUED

3 OF 6

(continued)

(2) same amount and frequency of access to personal hygiene articles.

b. Each detainee in punitive segregation allowed to possess and receive reading materials under same terms as general population.

13. Diet

a. Detainees permitted to eat communally in designated dining areas.

b. Detainees to be provided with three meals per day which meet or exceed the standards stated in Recommended Daily Dietary Allowances (RDP).

c. Detainees to be provided with salads or raw vegetables daily; fresh fruit at least once each week; after January 1, 1979, fresh fruits twice a week.

d. Detainees to have choice of a hot or cold beverage at each meal; coffee at least at breakfast.

e. Menus planned by trained and certified nutritionist; to be prepared in advance and posted; to respond to ethnic, religious and social needs and tastes of detainees, to be varied and to take advantage of seasonal foods.

(continued)

f. Therapeutic and special diets to be provided.

g. Withholding of food or varying standard menu not to be used as disciplinary sanction or as a reward for good behavior.

h. Meals to be nutritious and palatable.

i. Meals to be on schedule and at times generally eaten; last meal served after 4:30 p.m.

j. Meals to be sufficient and in equitable quantities.

k. Detainees to be provided properly cleaned eating utensils, glasses, trays, and dishes.

l. Quality of meal planning and food preparation and service to be regularly appraised by regular canvassing of detainees, regular answering of detainees complaints, personal observation and sampling and plate waste.

15. Sanitation, Safety, Hygiene

a. Defendants to maintain institution in a condition which is clean, healthful, safe, free of vermin and insect infestation and which satisfies all applicable health laws and regulations; inspection and evaluation by January 1, 1979; plan for correcting any existing deficiencies by December 1, 1979.

(continued)

- b. Appointment of environmental health officer.
- c. Department of Health of New York City to inspect ARDC at least once every month.
- d. Personal hygiene and sanitation facilities in common areas throughout institution to be thoroughly cleaned and sanitized at least once daily and more often if necessary.
- e. All floors in common areas swept and washed daily and kept free of hazardous materials; all floors in common areas of housing floors swept and washed three times a day.
- f. Each housing floor and every common area cleaned at least once every two weeks; all surfaces once every three months.
- g. All surfaces to be maintained and to be repaired when necessary.
- h. Ash receptacles throughout institution; emptied and cleaned daily.
- i. Refuse removed at least once daily, more often if warranted.
- j. Refuse containers to be provided and maintained in sufficient number throughout institution.

II. - 13.8

(continued)

- k. Defendants to take all necessary measures consistent with detainees' health and safety, to eliminate vermin and insect infestation within the institution and on the grounds adjacent thereto.
- l. Food program facilities and equipment to be inspected daily to ensure food prepared and served in sanitary and safe manner.
- m. Detainees to be provided on a regular basis with clean linens, bedding, and mattress covered with fire-retardant, water resistant and easily sanitized material.
- n. Detainees to be able to shower with sanitary and properly maintained equipment and shower daily; shaving equipment to be provided.

II. - 13.9

Manney v Cabell

Civil Action 75-3305-R
U.S. District for the Central District of
California
Order - April 1979
Los Angeles County Central Juvenile Hall

9. Medical Services

- a. Medical screening prior to admission conducted by trained medical personnel including review of records, complete medical history, routine testing for common diseases or drug or alcohol abuse, referral to physician if needed.
- b. Complete physical exam within 48 hours of admission to review medical history, immunizations, test results, needed medical treatment.
- c. Sick call at least 3 times daily by qualified nurse at juvenile's request.
- d. Adequate infirmary and rooms for sick call, doctor's clinics or other treatment.
- e. Written guidelines for determining when a probation officer shall bring a juvenile to infirmary.
- f. Preparation of a list of conditions which infirmary can treat.

(continued)

- g. Communication system for summoning nurses from each infirmary room.
- h. Frequent infirmary rounds by nurses.
- i. Appropriate cleaning schedules for infirmary.
- j. Appropriate hygienic standards.
- k. Establishment of a medical records system that includes confidentiality of medical records, records on administration of drugs and medication to each juvenile, audit and review of the quality of medical care.
 - l. Follow-up medical care procedures for juveniles leaving Juvenile Hall suffering from illnesses or conditions discovered or treated.
 - m. A plan for changes in staff policies and procedures; employment of qualified nurses and supervisory nursing personnel, overlapping nursing shifts, case-conferences between nurses, doctors and psychiatrists, use of revised nursing manual, training of probation staff on effects of drugs on juveniles.
 - n. Plan for prevention and control of communicable diseases.
 - o. Procedures to govern administration of medication.

(continued)

p. Special diets for those juveniles with medical need; employment of a dietician; training of cooks; communication between medical and dietary personnel.

q. Lab to be upgraded to handle all medical tests needed by juveniles.

r. Medical equipment upgraded in physiotherapy room, and in x-ray; purchase of electrocardiograph equipment; purchase of modern emergency equipment.

s. Emergency medical procedures upgraded.

t. Upgrading of medical library.

u. Guidelines for coordination of medical and mental health care so movement of child by probation officer doesn't interfere with treatment.

v. No prescription medication or drugs administered without physician's prescription and a physical examination.

10. Mental Health Care

a. Minimum of three psychiatrists or psychologists on duty at all times during the evening hours; each juvenile shall have the opportunity to consult with a psychiatrist

(continued)

and/or psychologist as soon as possible after his request to do so and in no event more than 1/2 hours after the time of request.

b. Each juvenile held subject to an adjudication of delinquency shall be released within 72 hours or receive treatment in accordance with an individualized treatment plan prepared by a team of psychiatrist/psychologist, pediatrician, recreational specialist, educational specialist and the juvenile's counselor. If treatment needs can't be met at Central Juvenile Hall, juvenile must be released or transferred to a placement where those needs can be met.

15. Sanitation, Safety, Hygiene

a. One shower per day. Time each day to clean and refresh for each juvenile of not less than five minutes.

b. Each shower to have a regulator to control the flow and temperature of water during his shower and a divider to maintain privacy.

(continued)

c. Each juvenile must have toilet in room or dormitory unless procedures are established to enable a juvenile to have direct access, without necessity of requesting permission to a toilet during any time, day or night, he is required to be in his room.

16. Physical Facilities/Environment

a. Total number of juveniles not to exceed the maximum-rated capacity of that institution as established by the California Youth Authority.

b. Beds in the infirmary or any segregation unit not to be included in determining the total maximum-rated capacity.

c. No juvenile to be required to sleep, rest or stay on the floor at any time except when so prescribed by a medical doctor because of the physical or mental condition of the juvenile.

Manning v Rose

Case No. NC-75-34 - date uncertain (approx. June 1975)
U.S. District Court for the District of Utah
(N.D.)
Preliminary Injunction
Utah State Industrial School

1. Mail

a. Students not to be prohibited from sending or receiving mail.

b. Outgoing mail not to be opened or censored.

c. Mail to be opened by student in presence of supervisor who may inspect for contraband only;

d. No mail to be read or censored;

e. Legal mail not to be opened in presence of supervisor unless outward appearances of mail indicate contraband.

12. Isolation

a. Not to place any student in isolation except in compliance with order -- order applies only to confinement for a period extending three hours.

b. All students to be notified in writing of all rules of conduct of the School. Wherein isolations result in solitary confinement, hours to be given.

(continued)

c. Student to be afforded procedural safeguards prior to placement in isolation:

- (1) written notice within five days of violation;
- (2) hearing within seven days of notice;
- (3) hearing before board of three, staff excluding staff who cited student for violation;
- (4) student to be represented, may present evidence, may cross-examine witnesses except if implementation of such rights would cause substantial, immediate description of the functioning of institution;
- (5) hearing body to make decision solely upon evidence presented at hearing; may prescribe hours of isolation of violations; to make written record of the evidence and reasons for confinement;
- (6) student may appeal decision of hearing board to superintendent.

d. Student to be placed without procedural safeguards only if immediate danger to himself and others, immediate escape risk or immediate threat to property.

(continued)

- (1) record to be made;
- (2) student to be released as soon as possible with time credited.

e. Conditions and practices for those in isolation:

- (1) student checked every 15 minutes.
- (2) school to immediately install wash basins and toilets for isolation;
- (3) rooms to have linens and bedding;
- (4) showers daily;
- (5) personal clothing allowed;
- (6) one hour big muscle exercise daily;
- (7) students to have some education, rehabilitation and treatment; meals and beverages; visits; access to telephone as other students;
- (8) access to reasonable amenities;
- (9) books, magazines, newspapers or other reading materials allowed.

No. 71 CIV 3159
U.S. District Court for the Southern District of
New York
Order - March 26, 1975
Juvenile Detention Centers of New York City (CHINS)

7. Educational/Treatment Program

a. As soon as practicable but no later than ten days after admission, child to be observed and evaluated for assignment to permanent living unit, with consideration given to his/her maturity, emotional and psychiatric history, alleged charges, and evidence of drug use

b. Such assignment and interim treatment plan not to be on basis of age, size and aggressiveness only and to be done by team, including, where appropriate, caseworker, counselor, teacher, physician and psychiatrist or psychologist. Plan to be given to child's probation officer and if authorized by child, to his/her attorney or guardian.

c. On or before the 30th day of confinement, to be a full case conference with child's counselor, caseworker, probation officer and any treating psychiatrist or psychologist, and one of child's teachers

(continued)

for purpose of formulating individualized long-range treatment plan.

d. Full case conference to be held "at suitable intervals" to review plan, with conference results reported in writing.

e. A complete file on each child, including above reports, to be kept and made available to all staff having direct responsibility for child and shall remain confidential. Child can authorize giving a copy to his/her attorney or law guardian.

8. Exercise/Recreation

a. Each child to have no less than two hours/day on school days and three hours/day on non-school days of planned and structured recreational activity.

10. Mental Health Care

a. Each child to have reasonable access to a psychiatrist in accordance with his/her needs including consultation and crisis intervention.

(continued)

b. A child who attempts suicide or is suspected of doing so should either be immediately examined by a psychiatrist at the facility or immediately transported to a psychiatric hospital for observation and treatment. If examined at facility and hospitalization not recommended, psychiatrist to state such opinion in writing and it shall be put in child's file.

14. Staff

a. Any caseworker employed in a secure detention facility to have a Bachelor's Degree and coursework in social work or behavioral sciences.

b. Recreational workers to have physical education training or comparable aptitude or work experience.

c. Children's counselor to have a high school diploma and 60 college credits plus two years of community or institutional work with children.

d. All caseworkers, recreational workers and counselors to have demonstrated aptitude qualifying them to work with children with behavioral problems or who are emotionally disturbed.

(continued)

e. All of the above employees to participate in in-service training.

f. No less than two counselors for each 20 children.

g. No less than one recreational worker for each 15 children during recreation periods.

h. No less than one caseworker for every 15 children and if a child returns to facility after release, he/she to be assigned to last caseworker whenever practicable.

17. Grievance

a. An independent ombudsman to be appointed to hear and act on grievances of children.

b. Ombudsman to have authority to investigate and make recommendations to strengthen practices which lessen risk that objectionable acts, omissions, etc., will occur.

c. Ombudsman to serve for one year term and be chosen on basis of understanding of juvenile justice system, interest in children's welfare and ability to relate well to children, staff and agency administrators.

d. Ombudsman to have 24-hour access and freedom of movement within the detention facility and within detention rooms of Family Courthouse when open.

Milonas v Williams

Civil No. C-78-0352
U.S. District Court for the District of Utah,
Central Division
Order Granting Plaintiffs' Motions for Preliminary
Injunction and Class Certification
Provo Canyon School

1. Mail

a. No opening, reading, monitoring or refusing to mail any correspondence from juveniles in the school; no restrictions in the manner or mode of such communications; or the number or types of persons with whom such juveniles may correspond.

b. No reading, monitoring or refusing to deliver correspondence received by juveniles in the school; defendants only permitted to open correspondence to determine if contraband enclosed and to remove.

11. Physical, Psychological and Verbal Abuse

a. No administration of polygraph examinations.

b. No use of physical force except to bring a juvenile who is physically violent and immediately dangerous to himself and others under control or to overcome physical resistance; such force restricted to least amount necessary.

(continued)

12. Isolation

a. No use of "P Room" or other isolation facilities except to contain a juvenile who is physically violent and dangerous to himself or others, and only for that period of time the juvenile is out of control.

Civil Action No. 1948
U.S. District Court for the Eastern District
of Texas
Preliminary Injunction - August 31, 1973
Texas Youth Council (TYC)

1. Mail

a. Mail not to be opened or tampered with in any manner except to search for and seize contraband. Latter must be done in presence of juvenile and such mail not to be read.

b. Resident may correspond with unlimited number of persons; writing materials and at least three stamps/week to be provided.

3. Visitation

a. Juvenile to receive visitors 1) for at least two hours/day on at least two separate days between Monday and Friday; and 2) on weekends and holidays between 9 a.m. and 5 p.m.

11. Physical, Psychological and Verbal Abuse

a. Physical force by staff permitted only to "extent reasonably necessary" in self-defense, defense of third

(continued)

persons, to prevent escape or imminent and substantial destruction to property.

b. Threat to persons must be imminent and use of force "must never exceed that reasonably necessary." Striking or beating not permitted to prevent escape.

c. Use of mace prohibited. Tear gas or other crowd-control chemical substance to be used only to bring under control a riot that threatens imminent harm to life or imminent and substantial destruction of property.

d. No resident shall be disciplined for sleeping during day unless during periods such as academic or vocational classes reasonably requiring some attention.

12. Isolation

a. If solitary confinement for longer than one hour, a written statement must be signed by caseworker declaring caseworker has talked to or visited with resident and has concluded confinement meets the standards below.

b. Solitary confinement allowed only when "clearly necessary to prevent imminent physical harm" to resident or other persons or clearly necessary to prevent imminent and substantial destruction of property."

(continued)

c. A juvenile to be confined in security (placement in locked building) only when "clearly necessary to prevent escape or to restrain behavior that creates substantial disruption of routine of institution."

d. Confined youths (either in solitary or security confinement) to be visited by 1) caseworker, ten minutes each hour, except for hours between 10 p.m. and 7 a.m.; 2) registered nurse at least once/day; and 3) psychiatrist or psychologist to give such treatment as indicated daily beginning no later than second day of confinement.

e. Solitary confinement and security confinement not to exceed three consecutive days unless written report by caseworker detailing justification for confinement. Report to go to Executive Director of TYC, all counsel and court. If solitary confinement longer than five consecutive days or security confinement longer than ten consecutive days, juvenile to be given hearing before impartial tribunal which shall file written findings within 48 hours of hearing with Executive Director who shall file findings with all counsel and court. At hearing juvenile to have right to advocate of choice, to

II. - 18.3

(continued)

call and cross-examine witnesses against him/her. (Hearing requirement set out in Court's later opinion at 383 F. Supp. 53, 84).

f. A person in possession of key to cell must always be within calling distance of confined juvenile.

g. All confined juveniles must have bed, mattress, appropriate bedding and access to toilet in place where juvenile sleeps.

h. All confined juveniles must have opportunity for at least one hour/day of large muscle exercise or recreation unless dispensed with by physician or psychiatrist in writing.

i. Confined juveniles must be provided with school books and daily lesson plan in accord with regular educational program.

j. "Repetitive, nonfunctional, degrading, and unnecessary tasks (so-called 'make work', such as buffing a waxed floor that has already been sufficiently buffed or pulling grass in open field not intended for cultivation) are prohibited."

II. - 18.4

(continued)

14. Staff

a. At least one registered nurse on premises on twenty-four basis.

b. All subsequently hired staff whose position brings them in contact with juveniles on regular basis to submit to psychological testing and psychiatrist interviews.

17. Grievance

a. Any resident who "considers that he has been the victim" of any prohibited use of force by staff may file report of such abuse with caseworker which shall be forwarded to superintendent who, within ten days of incident, shall investigate and file written report of incident with counsel and court.

18. Juvenile Rights/Sanctions

a. No resident shall be assigned to dorm on basis of race, color or national origin.

(continued)

19. Monitoring/Reporting

a. Meetings to be held in which superintendent reads and discusses order with all employees and three copies of order to be posted in a conspicuous place within four days in every affected facility in which residents sleep.

A.N. v Scott

No. 79-3010-NA-CV
U.S. District Court for the Middle District of
Tennessee, Nashville Division
Consent Order - January 15, 1979
Tennessee Preparatory School

5. Access to Legal Assistance and Courts

- a. Students allowed to telephone an attorney anytime during detention.
- b. Student allowed to meet with previously engaged attorney between hours of 9 a.m. and 6 p.m.; at other hours if emergency or exceptional circumstances exist.

N.Y. State Assn. for Retarded Children, Inc. v Rockefeller
357 F. Supp. 752 (E.D.N.Y. 1973)

Nos. 73-C-55, 73-C-113
U.S. District Court Staten Island, New York
Consent Judgment - April 1975
Willowbrook State School for the Mentally Retarded

6. Dress/Personal Property

- a. Provision of clean, adequate and seasonally appropriate clothing, including shoes and coats; comparable in styles and quality with clothing worn by persons of similar age and sex in the community.

7. Educational/Treatment Program

- a. Individualized screening and plan with assistance of resident, parents, relatives or guardian for education, speech, physical therapy etc. Regular quarterly review.
- b. Program to include at least six hours of program activity per weekday; to set program goals with short and long range objectives.
- c. Single team member to be responsible for supervising each patient's progress.
- d. Right to appeal by residents or parents/guardians/relatives when they disagree with a plan. Appeal process to be devised.

(continued)

e. No resident presumed incapable of educational development; each resident to have an individual educational plan with short and long term objectives; education staff to consult at least on a weekly basis with daily care and programming teams.

f. Educational services to be the equivalent of NYC special educational services in staff qualifications; program hours per student; nature, content, and quality of programs; curriculum guides, equipment, etc.

g. One teacher's aide, therapy aide or other assistant per teacher.

h. Classes to be six hours per day except if physician certifies.

i. Six per class for severely retarded; nine per class for moderately retarded; 12 per class for mildly retarded.

j. Special education programs for blind, deaf and multiply handicapped. Staff to receive specialized training.

k. Toilet training not be prerequisite for receiving education.

(continued)

l. Sufficient bilingual/bicultural staff and instructional materials.

m. Resident has access to own records as do parents/guardian with resident's permission.

n. System of records for each resident.

8. Exercise/Recreation

a. Program should be varied to meet needs of each resident; enough equipment for services to all; program to conform closely to normal community recreation activities in terms of equipment, age and sex groupings.

b. Minimum of two hours recreational activities outdoors, weather permitting.

c. Conducted in small groups, except where larger numbers are appropriate as in baseball or swimming; one recreational therapist for every 50 residents; activities day, evening, weekends and holidays.

d. Library facilities to be developed.

9. Medical Services

a. Necessary and appropriate dental services provided by qualified professionals including at least annual examinations and cleaning, emergency treatment on 24-hour, 7-day a week basis.

(continued)

b. Residents to have specialized services like orthodontics, false teeth and dental plates.

c. Individualized physical therapy services on a regular basis (including 7 day/wk if needed).

d. Qualified staff to evaluate needs for wheel chairs, braces etc. for all non-ambulatory and physically handicapped residents.

e. Annual comprehensive medical exam.

f. Isolation for contagious disease control only with direct care and on physician's order after personal examination; order good only for 10 days; for orders totaling more than 30 days, director must approve.

g. No stay in infirmary for more than 5 days without usual educational programming or therapy unless physician says medically harmful.

h. Immunization program.

i. 24-hour provision of doctor for medical emergencies; maintain contract with with a hospital for acute medical care.

j. Comprehensive eye examinations to be given; glasses provided if necessary.

k. No prescription medication except by doctor's

(continued)

order to be confirmed in writing within 24 hours if possible.

l. Weekly review of each patient's drug regimen; annual statement of volume and frequency of drugs administered by type and condition of resident.

m. Pharmacy staffed by licensed pharmacist.

n. Only appropriately-trained staff to administer drugs.

o. Shall be written policies and procedures for administration and handling of all drugs developed by professional medical staff.

p. Drugs properly stored.

q. Medication errors and drug reactions immediately recorded and reported to doctor prescribing.

r. Those not requiring specialized medical care not to be kept in the infirmary for reasons of personal safety or discipline.

s. Medication not to be used as punishment, for the convenience of the staff, as a substitute for program or in quantities that interfere with the resident's program.

(continued)

10. Mental Health Care

a. Annual psychological evaluations as part of each resident's plan.

b. Therapy and behavior modification to be provided by qualified psychology staff and supporting personnel.

11. Physical, Psychological and Verbal Abuse

a. Residents not to be deprived of daily program as punishment; programming to not be withdrawn except as part of an approved behavior modification program.

b. Physical restraints used only when absolutely necessary to keep resident from seriously injuring himself or others. No restraints used as punishment, for convenience of staff or as a substitute for programs. To be written policy on who may authorize use and mechanism for monitoring and controlling such use.

c. Only professionals designated by the Director may order restraints; no use for over 12 hours, resident to be checked every 30 minutes and written record of checks kept.

(continued)

d. Certain practices prohibited; all use of restraints documented; parents, relatives or guardians to be notified in writing when restraints used.

e. Alleged abuses to be reported immediately, written report and investigation to follow.

13. Diet

a. Appropriate dining room surroundings, normal meal schedules, eating in leisurely family style, choice of own quantities and items of food, including both hot and cold foods and beverages, due regard for personal hygiene (handwashing).

b. Diet provided in accordance with the Recommended Dietary Allowances of the Food and Nutritional Board of the National Research Council, adjusted for age, sex, activity, disability and therapeutic needs of individual residents.

c. Competent personnel including Institution Food Administrator, nutritionists, dieticians, some with experience in mental retardation, all with food handler's permit or pending application.

(continued)

d. State and local sanitation requirements to be met.

e. Denial of a nutritionally adequate diet not to be used as punishment or as part of a behavior modification program.

14. Staff

a. During day and evening when residents are awake, one "therapy aide" for every four residents who are children, non-ambulatory or multiply handicapped or receiving intensive psychiatric care; one therapy aide for every resident receiving intensive behavior modification program; one therapy aide for rest of residents not covered above.

b. During sleeping hours, one therapy aide for every 12 residents.

c. Mid-level supervisors or nurses at ratio of one for every 24 residents during day and evening; one for every 48 during night shift.

d. Overall ratio of clinical staff to residents of 1 to 3; clinical staff includes physicians, psychologists, dentists, nurses, teachers, physical therapists, social

(continued)

workers, speech and hearing therapists, etc. but not direct care staff including therapy aides.

e. All employees with direct-care responsibilities to speak English; sufficient bilingual staff to be hired for needs of Spanish-speaking residents.

f. Supervisors responsible under appropriate law and regulation for review of subordinates. The administration to pursue all available means in terminating or reassigning staff whose performance is unsatisfactory.

15. Sanitation, Safety, Hygiene

a. General: No health or safety hazards, personnel trained in emergency procedures, buildings used by residents air-conditioned, carpets and rugs in living areas.

19. Monitoring/Reporting

a. Community Advisory Board set up to evaluate and investigate practices; members include patients, relatives, community leaders, residents or former residents.

(continued)

b. Boards shall have direct access to all living areas, and program areas.

c. Seven member Professional Advisory Board to advise, review and report -- none staff members.

Pena v New York Division for Youth, 419 F. Supp. 203
(S.D.N.Y. 1976)

No. 70 Civ. 4868
U.S. District Court for the Southern District
of New York
Stipulation - September 2, 1976
Goshen Center (Training School)

12. Isolation

a. A written report to be made whenever youth placed in room confinement, i.e. confinement to a room, including child's own room, when door is locked or when youth told not to leave. A copy of report to be given to plaintiff's attorney.

19. Monitoring/Reporting

a. A committee to be established to oversee implementation of room confinement regulations and Court's declaratory judgment and meet no less than once a month at the facility. Summary of meeting to be in writing and given to various directors of youth services who shall respond to summary within reasonable time.

b. Committee, plaintiffs' attorneys, and ombudsman to have access to all reports dealing with room confinement and to all youth and staff at facility for purpose of investigating room confinement practices.

Civil Action No. 74-2589
U.S. District Court for the Eastern District of
Pennsylvania
Stipulation in Partial Settlement - December 1978
Youth Study Center

1. Mail

a. All mail to be unopened and uncensored; if there are reasonable grounds to suspect contraband, social worker may open particular item of mail, but must be in presence of resident concerned and reason for suspicion must be explained. Record to be made of incident.

b. Writing materials and postage to be free, supplied upon request.

2. Telephone Use

a. Outgoing calls to parents, relatives and attorneys shall be made available on request. Other calls arranged through social worker, limited to one call per day. Privacy to be afforded within space limitations provided; log of calls to be kept.

(continued)

3. Visitation

a. Visiting hours -- Tuesdays, Thursdays, Saturdays, and Sundays -- 2:30-3:45; Monday and Wednesday evenings -- 6:30-8:00.

b. Parents, legal guardians, and grandparents permitted on scheduled days. Adult aunts and uncles, brothers and sisters need permission and must be accompanied by parent or legal guardian.

c. Ministers and social workers permitted upon permission.

d. Limit of two persons per visit, no limit to number of visits per week.

e. Those in isolation can receive visits on approval of administrative staff.

f. Special visiting privileges by arrangement.

g. Restriction of visits must be made in writing and reviewed by Executive Director and is subject to appeal through grievance.

h. Visiting area to be quiet and private, no conversations monitored, but supervisor may remain in visual contact.

(continued)

5. Access to Legal Assistance and Courts

a. Outgoing calls to parents, relatives and attorneys shall be made available on request.

6. Dress/Personal Property

a. Clothing provided to be similar to that worn in community; clean underwear furnished daily for girls, at least twice a week for boys; clean clothing furnished once every three days.

8. Exercise/Recreation

a. Minimum of one hour indoor physical recreation per day and minimum of three hours outdoor per week, weather permitting. Suitable clothing provided for cold weather.

b. Gym furnished with equipment to provide each resident opportunity to have large muscle activity each day.

c. Wide selection of reading and writing materials, art supplies and games to be available.

(continued)

d. Regular opportunities for co-educational activity.

e. Recreation workers to be trained in physical education and be qualified to supervise emotionally disturbed children.

f. Library services for each unit; after school, weekend and school vacations included.

9. Medical Services

a. All procedures, equipment and staffing to be studied by university hospital-based team and their recommendations implemented.

b. No involuntary vaginal examinations for girls upon admission.

c. No thorazine or other tranquilizing drugs to be administered except unless prescribed by physician in writing; physician shall examine youth and review use every 24 hours; full documentation in resident's file.

d. Reasonable access to psychiatrist and/or psychologist.

(continued)

11. Physical, Psychological and Verbal Abuse

a. Staff member who uses force is to file a report with his supervisor describing his reason, the force used and all resident and staff witnesses. Supervisor to investigate and report findings to Executive Director within 24 hours of incident. Executive Director to interview all involved to decide if use was appropriate, counsel parties about the confrontation and decide if staff member should be suspended or dismissed.

b. Parent, guardian to be notified by letter; copy to resident's social worker and attorney of record and resident's Family Court file.

c. Homosexuals to be protected from harassment, shall not be stigmatized by being put in isolation, segregating them by unit or otherwise discriminating against them.

d. Only the initiator of a homosexual rape to be punished.

12. Isolation

a. Isolation may only be used when resident is so out of control that his behavior presents immediate danger of physical harm to himself or those around him or to

(continued)

discipline a resident for willful rule infractions such as: use of controlled substances within the facility, repeated harassment or threat to other residents, major property damage at facility, escape, taking possessions of others, refusal to follow regulations resulting in substantial interference with unit discipline; plus court-ordered isolation.

b. Resident's social worker or qualified other social worker to speak to him within an hour of beginning of isolation to evaluate child's condition and shall prepare report for Executive Director.

c. Child must be released as soon as he calms down unless psychiatrist advises otherwise.

d. Maximum time is 24 hours.

e. Child checked every 15 minutes, checks recorded in log by unit counselor; counselor supervisor checks resident at least once every two hours, checks recorded in log.

f. Complete record must be made of incident, checks, conversations during confinement, and release and report filed.

(continued)

g. Resident to remain fully clothed except for shoes and he must have reading light 9 a.m. to 9 p.m., seasonal clothing, bedding, personal hygiene supplies, change of pajamas/socks, prescription eyeglasses if needed, access to reading materials, daily showers, toilet facilities, access to medical care 24 hours, usual correspondence privileges, same meals as other residents, access to social worker on request.

h. Staff to remove furniture or other items from room only if resident might harm himself or others by breaking furniture or damaging property.

i. Resident must have adequate exercise if isolated for more than 8 hours.

j. Isolation can last two days but Executive Director must file written report with the Regional Youth Services Director of DPW and the DPW Director of review.

k. Residents in isolation can receive visits with permission of staff.

13. Diet

a. Certification of compliance with all city, state and federal codes and regulations.

II. - 22.7

(continued)

b. Fully qualified dietician to approve all menus; nutritional consultant to evaluate quality, quantity, and preparation of food on monthly basis.

14. Staff

a. Each counselor to have 2 years college and 2 years childcare experience or 4 years college and have demonstrated aptitude for working with children with behavioral problem.

b. A program of initial in-house training, and on-going training by community mental health/mental retardation center.

15. Sanitation, Safety, Hygiene

a. Daily shower, adequate soap, toothpaste, etc. provided.

b. Bed linen changed weekly, blankets washed regularly, towels changed twice weekly.

c. Custodial services daily, emphasis on bathrooms; showers and toilets disinfected daily, cafeteria kitchen and eating areas kept clean.

d. Residents clean own rooms.

II. - 22.8

(continued)

16. Physical Facilities/Environment

- a. Each room to have bed, mattress, desk, chair, and locker.
- b. Residents can decorate their rooms as long as walls aren't marred or defaced.
- c. Beds and mattresses repaired and aired.
- d. All areas to be air conditioned, adequate ventilation provided by installation of windows, regular extermination services required.
- e. Renovations to include quiet rooms, reading rooms, and observation rooms which afford privacy under supervision.

17. Grievance

- a. Resident claiming unwarranted use of force can file report with his social worker to be forwarded to Executive Director or his deputy to be processed in same way as a staff member's report.
- b. Child who is isolated and feels it is unjust can present grievance to Citizens Advisory Committee.

(continued)

19. Monitoring/Reporting

- a. Department of Public Welfare team to evaluate compliance with stipulation and file report with court.
- b. For next year, evaluation on quarterly basis and filed with court; for second year, evaluation on 6 month basis; after 2 year period, evaluation on yearly basis.

No. LR-C-73-26
U.S. District Court for the Eastern District of
Arkansas
Consent Decree - August 13, 1979
Detention Center, Pulaski County, Arkansas

3. Visitation

a. Children to be allowed daily visits from their families and attorneys at reasonable times. Others may visit on same basis if staff and space permit.

6. Dress/Personal Property

a. All children to be allowed to wear civilian clothes all day, except those who are serious, genuine suicide threats.

7. Educational/Treatment Program

a. Children under "open care" not to be held in secure custody but shall as a general rule be permitted to enter and leave Center voluntarily, subject to limitation to certain hours or time when not in school, etc. Any such limitations must be prominently posted so such children can see them and shall be verbally explained to each child individually by staff. If violated, child can be placed in more secure custody for up to 72 hours.

II. - 23.1

(continued)

8. Exercise/Recreation

a. Children in "secure custody" who are detained over 24 hours to be allowed recreation outside their cells which shall include at least 2 hours/day outdoor recreation, weather permitting, and may include indoor activities such as T.V., ping pong, cards, weightlifting, and the like.

b. Children in "individual confinement" to have minimum of 2 hours recreation daily, outdoors if weather permits. Such children do not have the right to exercise with the other children at Center.

10. Mental Health Care

a. Any child who is a serious suicide threat not to be placed in the Center.

12. Isolation

a. Children in "secure custody" to be allowed to be out of their cells during day, to use toilet facilities outside of cells in regular common area and to eat meals in common area with other children.

II. - 23.2

(continued)

b. Children in "individual confinement" to have working toilet and wash basin in cells and to remain in cells 24 hours/day except for recreation time (min. of 2 hours/day).

c. Children in "individual confinement" to have a room or rooms where they can visit with family, attorneys, law enforcement officials, staff, teachers, counselors, medical personnel, etc., without undue danger to such visitors.

d. Center to make "every reasonable effort" to obtain services of teachers or other qualified personnel to give instruction to children in "individual confinement" who have been at Center more than 5 days.

16. Physical Facilities/Environment

a. New secure cells to be single occupancy each with own toilet and lavatory facilities, bed and "other necessary accommodations" and cell to be no smaller than size of present cells.

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Ahrens v Thomas
 434 F. Supp. 873 (W.D.Mo. 1977), aff'd in part,
 reversed in part.
 570 F.2d 286 (8th Cir. 1978)
 Clearinghouse No. 16,298

Plaintiffs, pretrial juvenile detainees and adults, confined in a Missouri jail, requested declaratory judgment for a wide range of jail conditions and practices which were unconstitutional and sought an injunction to restrain confinement which does not meet minimal constitutional standards. Extensive relief was granted in district court, except for imposition of standards upon new jail being built. Defendants have agreed not to confine juveniles in the new jail.

Aguilar v Mitchell
 No. C-77-254 (E.D.Wash. filed Sept. 9, 1977)
 Clearinghouse No. 22471

This is a challenge of conditions under which pretrial delinquents are held awaiting disposition. Plaintiffs challenge overcrowding, lack of recreation, inadequate clothing and bedding in detention center.

J.S.B. v Huff
 No. 1P 79-901-C (S.D.Ind., filed Nov. 9, 1979)
 Clearinghouse No. 28,692

Section 1983 class action filed in district court alleges unconstitutional conditions in an Indiana juvenile detention center. Conditions challenged include physical assaults by staff, lack of outdoor recreation, no personal property, strip searches, isolation without procedural safeguards, prohibition against telephone calls and lack of private interview rooms, no education programs and no rehabilitation programs.

Baker v Hamilton
 345 S. Supp. 345 (W.D. Kentucky, 1972)

Class action case holding that incarceration of juveniles in adult county jail violated the 14th Amendment in it's treatment of juveniles as adults for punitive purposes and not according them due process rights of adults. Placement of juveniles in county jail also constituted cruel and unusual punishment in view of bad conditions of jail -- cramped quarters, poor lighting, poor ventilation, broken locks, no outdoor exercise or recreation, and no attempt at rehabilitation.

Benitez v Collazo

No. 77-2262, 77-1170 (D.P.R., filed May 2, 1977)
Clearinghouse No. 21,560

This is a class action suit brought under 42 U.S.C. §1983 challenging the confinement of status offenders in pre-trial juvenile detention centers and post-trial juvenile facilities. The suit alleges that the practice of incarceration is cruel and unusual punishment, denies plaintiffs of due process and equal protection of the law and violates plaintiff's first amendment right to freedom of association.

Brian v Clinicare Corp.

No. 79-C-188 (D.Wisc., filed May 1, 1979)

Action challenges two alleged practices at Eau Claire, a child welfare institution licensed and regulated by the state:

1. use of locked unit for purpose of discipline and control;
2. administering of psychotropic drugs to control certain juveniles.

H.C. v Jarrard

No. TCA-79-0830 (M.D.Fla., filed May 1, 1979)
Clearinghouse No. 27,913

Conditions of confinement challenged at the Volusia Regional Juvenile Detention Center in Tallahassee, Florida. Plaintiffs seek to reduce overcrowding, improve staffing, increase educational, recreational, and rehabilitation opportunities and establish more liberal communication rights. Also challenged are confinement of dependent children with children accused of crimes, practice of excessive and unnecessary strip searches, practice of confining children beyond the control of staff in jails and practice of transferring children to detention centers as far as 100 miles away from home.

Cox v Turley

506 F.2d 1347 (6th Cir. 1974)

This class action suit challenged the confinement of a pretrial juvenile detainee in an adult jail where detainee was co-mingled with the adult population. Court ruled such confinement unconstitutional because it occurred prior to hearing on issue of probable cause violating 4th and 5th Amendments and because of 8th Amendment problems.

Creek v Stone

379 F.2d 106 (D.C. 1967)

Where a child in custody of juvenile court pending final disposition alleges need for treatment, juvenile court cannot refuse to consider matter for lack of jurisdiction. Juvenile statutes create a "parens patriae" obligation upon the state to provide a homelike environment.

Cruz v Cullazo

Civil No. 77-830 (D.P.R., filed May 17, 1977)

This is a class action suit brought under 42 U.S.C. §1983 on behalf of confined juveniles challenging conditions and treatment at the juvenile detention facility in Guaynabo, Puerto Rico. The suit alleges violations of the constitutional rights of plaintiffs to be free from cruel and unusual punishment and involuntary servitude, to equal protection and right of treatment. The suit focuses on conditions in solitary confinement, the lack of disciplinary procedure, forced labor, and the lack of educational and other treatment elements.

Terry D. v Rader

No. Civ. 78-0004-T (W.D.Okla., filed Jan. 4, 1978)
Clearinghouse No. 21,111

Conditions challenged at five state institutions for juvenile delinquents. Plaintiffs allege unconstitutional conditions of solitary confinement and inadequate educational, vocational and treatment programs.

Darasatkis v Smith

No. 76 Civ. 3218 (S.D.N.Y. July 30, 1976)
Clearinghouse No. 18,931

Consent order has been reached for closing date and a maximum interim population at a shelter care facility for children in New York.

Doe v Henderson

C.A. No. A-7980-1, Chancery Ct., Davidson County, Tennessee, Complaint Aug. 10, 1976 Clearinghouse No. 21,630

This is a class action under state and federal constitution and statutes on behalf of juveniles in the custody of the Tennessee Department of Corrections. Plaintiffs have been adjudicated delinquent juveniles and are mentally retarded and/or emotionally disturbed. Plaintiffs assert that they are not being provided treatment, training, or rehabilitation suited to their needs to maximize their capabilities, regardless of what school they attend or institution they reside.

Doe v Holladay

No. CU-77-74-BIG (D.Mont. filed May 24, 1977)
Clearinghouse No. 21,562

§1983 class action brought on behalf of named plaintiffs and all male juveniles confined in Montana Correctional Institution for Juveniles, challenges the conditions in this facility as violations of 1st, 3rd, 4th, 5th, 8th and 14th Amendment rights. Plaintiffs challenge a number of conditions with particular emphasis upon defendants' failure to provide adequate mental health care.

Doe v King

No. 3145 (Chancery Court, Wilson Co., Tennessee, filed June 15, 1978)

This is challenge to the conditions of confinement in the Wilson County Jail on behalf of juveniles as violation of the eighth amendment and the right to the least restrictive alternative under the fourteenth amendment law. This is a companion case to Jenkins v King.

Doe v Lake County

399 F Supp. 553 (N.D.Ind. 1975)
Clearinghouse No. 12,982

This action challenged the adequacy of county juvenile detention center and the "treatment" which juveniles detained there purportedly receive. Consent decree has been entered.

State ex rel C.A.H. v Strickler

No. 14210 (W.Va., decision filed Jan.23, 1979)

Court awarded writ of prohibition and held trial court exceeded its lawful jurisdiction when it committed a juvenile status offender to a secure prison-like facility, housing exclusively juveniles adjudicated delinquent for committing criminal offenses.

Gary H. v Davis

No. 77-1039 (D.-Oregon, filed Dec. 22, 1977)
Clearinghouse No. 23,068

Plaintiff confined at state training school for boys challenge conditions of confinement as unconstitutional. They assert educational and vocational programs are so inadequate as to deprive plaintiffs of right to treatment. Privilege system said to be operated arbitrarily and capriciously so as to discriminate on basis of race. Plaintiffs seek relief from abusive practices including isolation, drugging and macing.

Hancotte v Pingree

Suit filed on behalf of all children housed in the Pompano Beach Juvenile Detention Center alleges that children are held in unconstitutional conditions because of overcrowding, sanitation problems, security deficiencies, physical violence by staff and by inmates, inadequate recreation, inadequate lighting, inadequate contact visits, unlawful restrictions on the use of telephones by inmates, inadequate medical care and treatment, inadequate educational opportunities and inadequate classification systems.

Hanna v Toner

No. C78-1506 (N.D. Ohio filed Nov. 14, 1978)
Clearinghouse No. 25,528

Class action challenged inhumane conditions, physical violence and lack of adequate education and recreation at Ohio juvenile detention home. Action was dismissed May 1979 but appeal pending in the Sixth Circuit (No. 79-3476).

Harris v Bell

402 F. Supp. 469 (W.D. Missouri, 1975)

Consent decree was entered in action challenging the conditions and lack of due process for confinement in isolation cells at juvenile school. Conditions of cells were challenged because of the lack of light and ventilation, no recreation time for those in cells, extremely small size of cell and unsanitary condition.

Inmates of Boys Training School v Affleck

346 F. Supp. 1354 (1972)

Court held isolation of juvenile in cold dark isolation cells constituted cruel and unusual punishment. Court held conditions of confinement of juvenile were anti-rehabilitative, thereby violating equal protection and due process clauses.

Inmates of Judge John J. Connelly Youth Center v Dukakis

No. 75-17866 (D.MA. April 2, 1976)

Consent decree was filed enjoining practice of co-mingling detainees with committed juveniles.

Jenkins v King

No. 2832 (Tennessee Chancery Court, filed Dec. 17, 1977)

Clearinghouse No. 25,914

Juvenile conditions challenged at county jail include physical condition of cells, absence of hygiene supplies, lack of nutritional diet, exercise, recreation and incarceration of juveniles with or in close proximity to adult prisoners. Partial consent decree entered requiring prior juvenile court authorization of detention and a probable cause hearing (within 24 hours in most cases and in no event later than 72 hours after intake) of which the juvenile must be represented by counsel. Decree authorized detention at the jail only when required for public safety, juvenile charged with delinquent act and there is no less restrictive alternative.

Johnson v Solomon

484 F. Supp. 278 (D.Md. 1979)

Clearinghouse No. 19,922

Class action brought on behalf of 76 children confined in mental hospitals to enjoin defendants from discriminating against plaintiffs by denying them the same residential placements and other community-based health, welfare, and social services as afforded non-handicapped persons; to enjoin defendants from committing without adequate due process for mandatory periodic reviews; for evaluations in view of least restrictive alternative; for a plan for development of least restrictive alternatives and for Special Master and panel to draw up an appropriate decree.

Kaimowitz v Lincoln

No. 194-199-R (Mich.Cir.Ct. Wayne County April 26, 1974)

Clearinghouse No. 6,872

Court ordered neglected children to be separated from delinquent children in juvenile institution.

Kautter v Reid

183 F. Supp. 352 (D.D.C. 1960)

Detention of a juvenile in an adult jail pending a parole revocation hearing as held to be unconstitutional because such confinement constitutes punishment.

Kentucky Association for Retarded Citizens v Conn

(W.D. Ky., filed June 2, 1977)

Clearinghouse No. 21,585

Conditions challenged at facility for the mentally retarded. Plaintiffs assert private home fails to provide adequate habilitation, care and treatment and protection of residents from physical harm.

Kesse v Stanfill

No. 50667 (Okla. S.Ct. filed Feb. 24, 1977)

Clearinghouse No. 20,599

Juveniles awaiting delinquency trial and confined in city jail allege the jailing of children is unconstitutional per se and present conditions violate plaintiffs 8th Amendment rights.

King v Carey (N.Y. 1975)

405 F. Supp. 41 (1975)

Clearinghouse No. 14,294

Plaintiffs seek to prevent New York state from forcing adjudicated delinquents and PINS confined to work camps from performing work involuntarily and without pay claiming such a policy violates the 13th Amendment. This court grants plaintiff's request to have psychiatrists, psychologists and vocational training experts visit the camps for observation of activities and review of records.

King v Sears

(W.D.Mo. filed 1971)

Clearinghouse No. 6,202

Class action seeks to have court declare invalid and enjoin imposition of extended periods of solitary confinement imposed on children in Missouri training schools.

John v City of New Orleans

No. 79-5082 (E.D.La. filed Feb. 5, 1980)

Clearinghouse No. 28,551

In section §1983 class action, children detained at the Youth Study Center while awaiting trial or final disposition and placement challenge conditions of confinement (telephone and visitation privileges, adequate medical care, quality of staff, educational and recreational activities, attorney visit privileges, solitary confinement) and allege they are subjected to cruel and unusual punishment and they are denied right to free and appropriate public education.

Lollis v New York State Dept. of Social Services
Pena v New York State Dept. of Social Services
322 F. Supp. 473 (S.D.N.Y. 1970)

This is the confinement of juveniles in isolation for extended period without recreational activities, reading material, and proper clothing, constituting a violation of the 8th Amendment.
Minimum period of handcuffing of juvenile was approved.

McCloud v Mezar
No. 71 H 67 (N.D. Ind., filed Mar. 2, 1971)
Clearinghouse No. 5,159

Juvenile delinquents bring class action seeking declaratory and injunctive relief from unsegregated incarceration with felons.

McRedmond v Wilson
533 F.2d 757 (2nd Cir. 1976)
402 F. Supp. 1087 (S.D.N.Y. 1975)

Plaintiffs are juveniles who committed no offenses but were found to be incorrigible, truant from school or ungovernable. Court upheld right to bring constitutional issues before federal court without requiring state statutes protecting right to treatment. Court however dismissed claims that confinement of such youths in rural training schools far from home as constituting cruel and unusual punishment or violative of equal protection clause or right to travel.

Clarence M. v Yakima
No. C-78-166 (E.D. Wash. filed June 22, 1978)

Class action by children who are or may be confined at the Yakima County Juvenile Detention Center challenging conditions (disciplinary measures, quality of staff, strip searches, 18 hours per day in cells, visitation, mail and telephone privileges, inadequate medical care, education programs, and sanitation).

Michael M. v Boring
No. IP 79-55-C (S.D.Ind., filed Jan. 25, 1979)
Clearinghouse No. 26,137

In this class action challenging conditions at juvenile detention center, conditions challenged include inadequately trained staff who are too few in number, confinement in isolation cells without adequate procedural protections and cells inadequately furnished. Allegations further include plaintiff not allowed to attend school when he was in isolation and he was provided with no treatment or rehabilitation programs during his whole confinement.

Manney v Cabell
No. 74-3305 (R.C.d. Cal. May 10, 1976)

Defendants were enjoined from overcrowding juvenile facility as such overcrowding violates 8th and 14th Amendments.

Manning v Rose
No. NC-75-34 (D. Utah, filed June 30, 1975)
Clearinghouse No. 15,726

Plaintiffs challenge conditions and practices of the Utah State Industrial School as violations of rights and privileges guaranteed plaintiff by the 1st, 5th, 8th and 14th Amendments of the Constitution and certain state statutes. Conditions and practices include solitary confinement; opening, reading, inspecting and censoring correspondence to or from children incarcerated in school; no effective meaningful rehabilitative treatment; and disparate punishment received by females incarcerated there.

Martarella v Kelley
359 F. Supp. 478 (S.D.N.Y. 1973)
349 F. Supp. 575 (1972)

Children, not temporary detainees, were constitutionally entitled to adequate treatment -- long term detainees defined as those detained over 30 days -- opinion included specific standards of treatment.

Mary v Carballo
Previously reported as Nason v Carballo
(W.D.Wis. filed Mar. 13, 1978)
Clearinghouse No. 22,067

Jury awards damages to juveniles placed in solitary confinement in Wisconsin correctional institution. Verdict was for actual damages suffered as a result of the denial of due process and cruel and unusual punishment suffered by plaintiffs.

Miller v Carson
563 F.2d 741 (1977)
Clearinghouse No. 15,907

A §1983 class action was brought against a sheriff and others by pre-trial and certified juvenile detainees held in adult jails on claims that conditions at the jail violated federal civil rights laws and plaintiffs' constitutional rights. Court held that the totality of jail conditions demonstrated that defendants' operation of the jail violated plaintiffs' constitutional right to due process.

Milonas v Williams
No. C-78-0352 (D. Utah, Mar. 19, 1979)
Clearinghouse No. 26,472

Court found federal jurisdiction to sue a "private" school under §1983. P.L. 94-142 and §504 and permanently enjoined owners and employees of school from engaging in practices of forced administration of lie detector tests to students, censorship of incoming and outgoing mail, use of isolation for long periods of time as punishment, and excessive use of physical force to "control" students. The court found that the practices violated the students' constitutional rights under §1983 as well as their statutory rights under P.L. 94-142 and §504.

In re Minor
No. 91525 (P.A.C.E. Allegheny County, Fam. Div. Juv. Section, filed July 1, 1977)
Clearinghouse No. 22,604

In class action challenging the conditions at a Pennsylvania shelter care facility, plaintiffs allege shelter is unsafe and mental, dental and nutritional care is inadequate.

Missouri ex rel Farmer v Dent Co.
No. C-30-76 (Mo. Cir.Ct. Dent Co., filed April 27, 1976)
Clearinghouse No. 18,358

Plaintiffs challenge conditions in the physical plant as well as general jail practices and contend that such conditions violate due process, equal protection, 8th and 9th Amendment rights as well as violating Missouri Juvenile Code and state constitution. Although the damage claim for the death of a juvenile who died as a result of the jail fire has been settled, negotiations are taking place to settle the balance of the case.

Morales v Turman
383 F. Supp. 53 (E.D. Texas 1974)
364 F. Supp. 166 (E.D. Texas 1974)

In this extensive case challenging the totality of conditions at Texas boys training schools, court ordered facilities closed as soon as possible as disciplinary procedures and conditions in general made confinement cruel and unusual punishment. Court set up guidelines for due process in disciplinary procedures, protection of youths' right to educational, medical and psychological treatment and requirements for adequate housing, food, recreation, and communication.

Morgan v Sproat
321 F. Supp. 1130 (S.D. Miss. 1977)

This is a class action suit challenging conditions at a state institution for delinquent boys. Court found living conditions, vocational program, recreational programs, and medical and dental care facilities constitutionally deficient. Court held residents are entitled constitutionally to individualized care and treatment. Court also found disciplinary measures at the school violative of the 8th Amendment.

A.N. v Scott
No. 79-3010-NA C.V. (M.D. Tenn.)
Clearinghouse No. 25,913

Court held that the rule on policy of Tennessee Preparatory School prohibited students in detention from conferring privately with counsel.

N.Y. State Assn. for Retarded Children, Inc. v Rockefeller
357 F. Supp. 752 (E.D.N.Y. 1973)

Action brought by residents of Willowbrook alleged that Willowbrook was not providing rehabilitative services because there were no individualized habilitation plans for the residents, the environment was inhumane and psychologically destructive, there was insufficient staff and there was no attempt to provide less restrictive living situations for the residents. Consent judgment was approved April 30, 1975 covering three major areas: programming, staffing and environment.

Nason v Carballo
No. 72-C-208 (W.D. Wis. Aug. 9, 1977)
Clearinghouse No. 22,067

Class action challenge of conditions at Wisconsin juvenile institution. Plaintiffs challenge among other things, conditions of confinement, education programs, and disciplinary procedures.

Nelson v Heyne
491 F.2d 352 (7th Cir. 1974)

In class action brought against Indiana boys school, corporal punishment of beating with paddle, tranquilizing boys without adequate medical guidance found to be cruel and unusual punishment. Juveniles had right to rehabilitative treatment.

355 F. Supp. 451 (1972)

Due process guarantees for disciplinary actions.

Osorio v Rios

No. 74-240 (D.P.R. Feb. 26, 1976)
Clearinghouse No. 18,606

This is a class action brought by juvenile offenders placed in adult jails or prisons alleging that statutes which allow such confinement are unconstitutional. Court held that the statutory procedures in question violated the due process clause and equal protection. Court enjoined confinement of juveniles in adult institutions with a proviso for emergency situations.

Tommy P. v Board of County Commissioners

No. 224974 (Wash. Sup. Ct. Spokane Cty. June 22, 1976)
Clearinghouse No. 16,941

This class action suit filed on behalf of both pre-trial and post-trial detainees in the Spokane County Juvenile Detention Center alleges a right to education as an indispensable element of the right to treatment for juveniles.

Patterson v Hopkins

350 F. Supp. 676 (N.D. Miss. 1972)
aff'd. 481 F.2d 640 (1973)

Pre-trial juvenile detainees allege 8th and 14th Amendment violations by their jail confinement under governing statutes. Law enforcement officials revised set of procedures in dealing with detained juveniles in jail.

Pena v New York State Division for Youth

419 F. Supp. 203 (S.D.N.Y. 1976)

In this class civil rights action the court held that the use of isolation, physical restraints and drug control of juveniles in this institution violated their right to treatment under the 14th Amendment as well as constituting cruel and unusual punishment contrary to the 8th Amendment.

In re R.R.

No. 10,513 (Miss. Youth Ct. Hinds Cty., Mar. 1, 1976)
Clearinghouse No. 17,784

Court refused to send juvenile delinquent to state training school where such school lacked an adequate rehabilitative training program to meet the juvenile's needs.

Robinson v California

370 U.S. 660 (1962)

This is challenge by neglected children from being confined in the same institution with criminal offenders.

Rodriguez v Luge

No. 75 Civ. 199 C.B.M.
Clearinghouse No. 14,297

Plaintiffs, PINS and juvenile delinquents confined in New York training schools, challenge defendants' practices of subjecting them to solitary confinement, physical restraints, and of transferring them to maximum security units within the training schools.

M.S. v Blake

No. 79-324 (D.C.V.I. filed Oct. 19, 1979)

Class action suit brought on behalf of all juveniles confined in the Fort Christian Correctional Facility, St. Thomas, U.S. Virgin Islands, to vindicate rights violated by defendant territorial officials' policy and practice of placing juveniles in the correctional facility because there are no child care facilities in which to place them and under conditions of confinement which subject children to grave physical and psychological harm or near adult prisoners and in a grossly inhuman facility.

T.S. v Schmidt

No. 75-C-347 (E.D. Wis., filed June 23, 1975)
Clearinghouse No. 15,815

Juveniles in Wisconsin school for boys allege conditions of confinement violate 8th Amendment.

Santana v Rios
No. 75-1187 (D.P.R. filed Oct. 17, 1975)

In this challenge of conditions at three juvenile institutions, plaintiffs allege general inhuman treatment and conditions.

Santiago v Philadelphia
435 F.Supp. 136 (E.D. Penn. 1977)

This is a class action case brought against the Youth Study Center in Philadelphia for conditions of confinement and treatment of juveniles. The court held conditions of confinement, corporal punishment, and the intentional denial of medical treatment at the institution constituted cruel and unusual punishment.

Saunsoci v Exon
Civ. No. 75-L-196 (D. Neb., filed Jan. 30, 1976)
Clearinghouse No. 17,467

17-year old juvenile, imprisoned in an adult institution for an act of burglary committed at the age of 10, challenges the state's authority to incarcerate any adjudicated delinquent in an adult prison who has not been convicted of a crime as an adult.

In re Savoy
No. 70-4808 (D.C. Juv. Ct. Oct. 13, 1970)
Clearinghouse No. 17,467

An entire program of care in a detention home was successfully challenged. The court found education, recreation and counseling for children in isolation to be inadequate.

Swanagan v Norris
Civ. No. 79-0130-0(7) (W.D. Ken., filed Nov. 2, 1979)

Plaintiffs seek declaratory and injunctive relief to stop defendants' practices of arbitrary jailing of children, adjacent to adults, in the Davies County Jail.

Swansey v Elrod
385 F. Supp. 1138 (N.D. Ill. 1975)

Court orders juveniles detained in adult jails moved to juvenile detention centers.

R.W.T. v Dalton
No. 78-0930-C(4) (E.D. Mo.)
Clearinghouse No. 27,380

Juvenile detained in St. Charles County Jail brings suit against state officials for policy and practice of detaining juveniles without probable cause hearing and under condition of confinement in jail which subject children to gross physical and psychological harm.

Thomas v Mears
474 F. Supp. 908 (E.D. Ark., 1979)

This class action suit was brought against county officials and challenged procedures employed with respect to juvenile offenders in Pulaski County. The district court approved a consent decree governing detention intake, preliminary inquiry, assistance of counsel, types and conditions of confinements, adjudicatory and dispositional hearings, prohibition of disposition in the detention center, and provision for improvements in physical plant and personnel.

U.S. v Alsbrook
336 F. Supp. 973 (D.D.C. 1971)

District of Columbia Jail was found not an "appropriate" classification center or agency under section of Youth Corrections Act.

State ex rel K.W. and C.W. v Werner
242 S.E. 2d 907 (W.Va. 1978)

Court held that forms of punishment at juvenile detention centers were "cruel and unusual." Punishments included: confinement in small windowless room, sitting or standing in one position without moving or talking, and indiscriminate use of mace.

In re Washington
No. 49647-33 (Ill. Sup. Ct., Dec. 3, 1976)
Clearinghouse No. 15,939

Illinois Supreme Court ruled that the juvenile division of the Circuit Court of Cook County had no authority to enjoin the Department of Corrections to establish procedures and guidelines for disciplining juveniles and reversed that court's judgment for awarding injunctive relief.

Wheeler v Glass
473 F.2d 983 (1973 7th Cir.)

The Court held punishment of two juvenile boys in a state mental hospital, for acts of homosexuality by binding youths to their beds, spread eagled in a public area of hospital for 77 1/2 hours and by scrubbing the walls for over 10 consecutive hours dressed minimally, constituted cruel and unusual punishment. The court held such punishment by state hospital without any hearing violated youths rights to due process.

White v Reid
125 F. Supp. 647 (D.D.C. 1954)
126 F. Supp. 867 (D.D.C. 1954)

A youth successfully challenged the legality of confinement for being placed in an inappropriate facility -- an adult correctional institution. Right to treatment case.

IV. SAMPLE JUDGMENTS AND DECREES

	<u>Page</u>
1. <u>Ahrens v Thomas</u>	IV. - 1.1-1.13
2. <u>Doe v The County of Lake</u>	IV. - 2.1-2.25
3. <u>F.E. v Hensley</u>	IV. - 3.1-3.44
4. <u>Inmates of the Judge John J. Connelly Youth Center v Dukakis</u>	IV. - 4.1-4.37
5. <u>Santiago v City of Philadelphia</u>	IV. - 5.1-5.35
6. <u>N.Y. State Assn. for Retarded Children, Inc. v Rockefeller (Willowbrook)</u>	IV. - 6.1-6.41

VIII.

FINAL JUDGMENT AND DECREE

Part I

Minimum Constitutional Standards
for the
Present Platte County Jail

The present Platte County Jail facility shall immediately cease being operated for any purpose except in the following instance, and then only when the following provisions are met:

A. The present jail facility may be used only as a pretrial holding facility for persons charged with criminal offenses. Except when the length of trial may so require, no person shall be confined in the present facility for longer than seven (7) days and shall, after that period of time, be transferred to another detention facility located within thirty-five (35) miles of Platte County, Missouri, and which substantially meets the minimum constitutional standards stated in Part II of this Judgment and Decree.

1. Before an individual may be confined in the Platte County Jail, he must receive an adequate pre-detention physical examination by trained health

personnel to determine the possibility of infectious or contagious disease or other medical problems.

2. Before individuals may be housed in the present jail, that facility must be thoroughly cleansed and sanitized with plumbing maintained in workable order.

3. The present jail must be inspected by health personnel, with a report to be filed with the Court not less often than every six months.

4. There must be supervision of all cells by correctional officers (sheriff's deputies) on a continuous basis. This supervision must be 24-hour personal observation by a correctional officer and cannot be complied with by utilization of television cameras which are presently in operation.

5. Neither women nor juveniles may be housed in the present jail for any period of time other than the time necessary to arrange for transfer to some other appropriate detention facility.

6. Clean bed linen and mattresses must be provided to each detainee upon his arrival at the present jail facility.

B. The present jail may no longer be used for housing women or juveniles other than for the short period of time above stated.

Part II

Minimum Constitutional Standards
for the
New Platte County Jail

Physical, Health and Safety Conditions

1. There shall be single occupancy cells, with a minimum of 70 square feet, each equipped with a bed off the floor, a working toilet that flushes from the inside, and a wash basin with hot and cold running water.
2. There shall be a ventilation system throughout the living areas of detainees that will provide fresh air and maintain proper heat in the winter time and provide cooling in the summer months.
3. The new facility shall meet all local and State fire, safety, sanitation, electrical, plumbing, and building codes.
4. The new facility shall be subject to inspections as may be required by law officials of the appropriate Health, Fire, and other Departments, State and local, in order to ensure compliance with all applicable State and local laws.
5. An appropriate day room shall be provided that will allow for movement outside the individual cell areas.
6. An appropriate facility for indoor exercise and recreation shall be established for use by the detainees.

7. An appropriate area shall be provided for outside recreation.

8. An emergency evacuation plan shall be established for fire or other disaster.

9. The new facility shall be cleaned on a daily basis.

10. Detainees shall be provided, on a daily basis, cleansing powder, mops, and brooms for the maintenance of the detainees' living area.

11. An adequate insect control program shall be established and regularly maintained to prevent infestation by insects and rodents.

12. Upon a detainee's admittance to the Platte County Jail, all items which are necessary for personal hygiene shall be issued free of charge and shall include, but not be limited to, soap, toothpaste, razor, sanitized mattress and pillow, shirt and pants, clean sheets, blankets and towels.

13. There must be adequate lighting in the new facility.

14. There must be a sufficient number of showers and sufficient hot water so that detainees may receive showers on a daily basis. Showers shall be maintained in a safe and sanitary manner.

15. Each cell shall be furnished with a mirror for the purpose of shaving and personal hygiene.

16. Each detainee shall be furnished with a space or locker for storing personal items, including clothing.

17. Each cell shall be equipped with a lock which can be operated and locked by the detainee from inside the cell and also controlled by correctional officers.

Medical Care

18. All detainees shall receive an appropriate medical screening examination at the time of admission.

19. A physician shall be available on a 24-hour basis.

20. A physician, registered nurse, or other public health trained personnel shall visit the jail at least once a week to have sick call and examine detainees.

21. There shall be sick call on a daily basis to determine which detainees require the services of a doctor and to provide treatment and necessary emergency care.

22. Untrained correctional officers shall not make final medical decisions in regard to whether detainees are in need of medical care.

23. There shall be an established procedure for maintaining medical records for each detainee and for controlling and dispensing medication. There shall be a log maintained that will indicate which detainee has

received medication, the name of that medication, the amount of the dose, and the frequency with which he received it.

24. An appropriate unit shall be maintained to provide adequate facilities for medical examination.

25. There shall be housing units available for detainees with psychiatric or psychological problems or other medical problems who need to be housed in a special medical unit, where they may be supervised on a 24-hour basis by properly trained staff.

26. There shall be an established procedure for handling emergency medical problems on a 24-hour basis, seven days a week, so that the detainees who are in need of emergency medical care may receive speedy and proper medical treatment.

27. Detainees shall be furnished special diets as prescribed by their physician or any other member of the medical staff.

Food Services

28. The advice of a trained dietician, nutritionist, or food director shall be sought regularly to review the food menus, preparation, and service.

29. All individuals involved in the preparation, handling, or service of food to detainees shall meet the minimum public health standards for employees working in restaurants serving the public.

30. Food shall be stored, prepared, and served fresh at the proper temperature, and there shall be a reasonable variety and quantity.

31. Detainees shall be furnished appropriate space for taking meals.

32. All meals served in the jail shall meet appropriate minimum nutritional standards.

33. The jail kitchen shall be inspected monthly by the Platte County Health Department or another agency approved by the Court.

34. Three daily meals shall be served on a regular basis.

Correctional Officers

35. Correctional officers or deputies who will work in the jail shall be selected on the basis of merit.

36. Appropriate programs shall be established for the training of correctional officers or deputies who will work in the jail.

37. The new facility must be supervised by adequately trained correctional officers or deputies on a 24-hour basis.

38. There shall be sufficient officers on duty at all times to provide safety and security for all detainees so that a correctional officer may enter the detainees' living area, if necessary, on a 24-hour basis.

39. There must be a matron on call 24 hours daily if women are detained in the new facility.

40. There shall be adequate correctional staff on duty to protect against assaults of all types by detainees upon other detainees.

Classification

41. An appropriate classification procedure shall be established and maintained in the new facility under which detainees shall be classified according to their individual needs.

42. So far as practicable, pretrial detainees shall not be housed in the same cell with any person serving a sentence.

43. An appropriate screening procedure shall be established under which correctional officers will interview each detainee so that the detainee may properly be classified according to age, sex, previous offense, pretrial or sentenced, special problems (such as alcoholism, drug abuse, mental illness, narcotic addiction, sexual deviance, or suicide risk), or any other classifications, which the screening officer may deem necessary for the safety of the detainee and the operation of the jail.

44. Information obtained in the pre-admission medical screening must be considered in classifying detainees.

45. The screening officer shall make appropriate inquiry in regard to whether an individual may be able to make bond or is eligible for release on recognizance and, if appropriate, shall advise him of his rights in regard thereto.

46. The screening officer shall make appropriate inquiry in regard to whether the detainee has any psychological or counseling problems which need the attention of the correctional staff and shall make an appropriate report to the correctional staff in regard thereto.

Recreation, Work Education, Training and Counseling Programs

47. Appropriate and adequate exercise and outdoor recreation shall be permitted each day, weather permitting.

48. Appropriate and adequate exercise and indoor recreation shall be permitted each day.

49. There shall be a library available to detainees. There shall be no censorship of newspapers, books, or periodicals supplied to, purchased by, or given to detainees.

50. Any group and individual counseling programs which may be established shall be staffed by properly trained professionals.

51. Basic and remedial education programs may be established in the new facility.

52. Work release, vocational training release, and educational release programs may be established for the new facility.

53. An appropriate crisis intervention program may be established in the new facility.

Legal Services and Preparation for Trial

54. There shall be space available for private consultation between detainee and legal counsel.

55. All communications between counsel and detainee by telephone, letter, or personal visit must be uncensored, unmonitored, and confidential.

56. Detainees shall have complete access to all legal papers.

57. There shall be provision for telephone communication, unmonitored, between counsel and detainee on a daily basis.

58. There shall be access to a law library as required by law.

59. There shall be no curtailment of the number of times that an attorney may visit with his client.

60. Notary Public Service shall be provided detainees who wish to file legal pleadings in court.

61. Paper and pens shall be provided detainees for the purposes of corresponding with counsel or filing appropriate pleadings in court proceedings.

62. Detainees shall be allowed to shower, shave, and receive clean clothes before appearing before any jury.

Visiting and Communication

63. There shall be no limit on the number of letters a detainee may receive or send.

64. Absent exceptional circumstances, there shall be no censorship of outgoing mail; incoming mail may be inspected for contraband only by opening the letter in the presence of the detainee and without reading or censoring its contents.

65. Detainees shall be supplied pens and writing paper.

66. There shall be not less than weekly visiting in a space separated from the cell areas, allowing for private conversations with family and friends.

67. There shall be an opportunity to make and receive unmonitored telephone calls.

Religious Freedom

68. Detainees whose religious faiths dictate that they may not eat certain foods may be supplied a diet that will take into consideration their religious beliefs (i.e., Muslims and pork).

69. There shall be an opportunity within the jail to attend religious services and to receive religious counseling.

Disciplinary and Grievance Procedures

70. Each detainee shall receive a copy of all rules and regulations outlining the conduct required of the detainee. These rules shall include a list of prohibited conduct which may warrant certain disciplinary actions, which conduct shall be specifically defined.

71. Defendants shall promptly prepare and submit for the Court's approval an appropriate rule and regulation which shall contain provisions for a Grievance Procedure. Counsel for the parties shall attempt to agree upon the provisions of the Grievance Procedure before defendants shall submit the same to the Court for approval.

72. An ombudsman may be established to hear and investigate grievances of detainees and to make appropriate reports to the sheriff.

Part III

Enforcement of the Judgment and Decree

73. The Court shall appoint a panel comprised of three persons to make appropriate inspections of the present Platte County Jail and to recommend the changes necessary for compliance with Part I of this Judgment and Decree. Such panel may later be requested to assist the

Court in its review and approval of the plans and specifications for the new Platte County Jail.

74. The panel shall file a written report of its findings with the Court, with copies to all counsel, after each inspection that it may deem necessary, until further order of the Court.

75. The panel shall be selected in the following manner:

- (a) Plaintiffs and amicus curiae shall submit a list of proposed members from which the court shall select one member. Counsel for plaintiffs are eligible for appointment.
- (b) Defendants shall submit a list of proposed members from which the Court shall select one member. Counsel for defendants are eligible for appointment.
- (c) The Court, after consultation with counsel, shall select a third member who shall have experience in adult and juvenile corrections, to serve as chairman.
- (d) The members of the panel shall be reimbursed for any actual and reasonable expenses.

76. The court shall retain jurisdiction of this action and may order other appropriate relief it deems necessary.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

JOHN DOE, et al.,

Plaintiffs,

CIVIL NO. H 74-49

vs.

THE COUNTY OF LAKE, et al.,

Defendants.

CONSENT JUDGMENT

The parties, excluding the city defendants covered by the Consent Decree approved by the court on May 19, 1977, by counsel hereby agree to, and submit to the court for entry, the following judgment resolving all issues in this case, with the exception of plaintiffs' attorney fees.

I. INTRODUCTION

Plaintiffs filed the Complaint herein on February 20, 1974, and an Amended Complaint on August 2, 1974, seeking declaratory and injunctive relief and damages based on the following contentions:

A. Against the City of Gary and individual city officials:

1. Denial of due process in violation of the fourteenth amendment to the United States Constitution in that they were confined to the Gary City Jail without notice of charges against them, without being advised of

their right to an attorney, and their right to consult with a parent or guardian before being questioned, and without any judicial determination as to the legality of their detention.

2. Denial of their right to treatment in violation of the fourteenth amendment to the United States Constitution in that they were denied medical treatment, psychological services, recreation, and education while confined at the Gary City Jail.

3. Denial of their right under I.C. 1971, 31-5-7-1, at the Gary City Jail, in that they were not provided with custody, care, and discipline as nearly as possible equivalent to that which they should have been given by their own parents.

4. Denial of their rights under I.C. 31-5-7-23, in that they were held in the Gary City Jail without any determination that their habits constituted a threat to other persons.

B. Against the County of Lake and individual County officials:

1. Denial of due process in violation of the fourteenth amendment to the United States Constitution in that they were confined to the Lake County Detention Home without notice of charges against them, without being advised of their right to an attorney and without any

judicial determination as to the legality of their detention.

2. Denial of due process in violation of the fourteenth amendment to the United States Constitution, in that they were subjected to punishment, including solitary confinement and food deprivation, at the Lake County Detention Home without notice and a hearing.

3. Denial of equal protection in violation of the fourteenth amendment to the United States Constitution in that juveniles with non-Anglo American backgrounds were treated more harshly than those of Anglo-American backgrounds.

4. Denial of equal protection in violation of the fourteenth amendment to the United States Constitution and freedom of expression in violation of the first and fourteenth amendments to the United States Constitution in that their heads were shaved while at the Lake County Detention Home.

5. Denial of equal protection in violation of the fourteenth amendment to the United States Constitution and freedom of speech in violation of the first and fourteenth amendments to the United States Constitution in that they were prevented from speaking the language of their choice in the Lake County Detention Home.

6. Denial of freedom of religion in violation of the

establishment and free exercise clauses of the first amendment to the United States Constitution in that they were prevented from worshipping or not worshipping in accord with their own consciences and were forced to be involved with mandatory religious activities.

7. Denial of their rights under the sixth amendment to the United States Constitution in that they were denied free access to counsel while at the Lake County Detention Home.

8. Denial of the protection of the eighth and fourteenth amendments to the United States Constitution at the Lake County Detention Home in that they were denied medical care, psychological services and education and were subjected to cruel and unusual punishment by being confined in isolation, by being kept inaccessible to their parents or guardians for extended periods of time, by having their mail read and censored, by having their heads shaved, by being deprived of meals, by being deprived of all personal possessions, by the arbitrary control of their recreation, and by being subjected to supervision and discipline by staff with inadequate training.

9. Denial of their rights under I.C. 1971, 31-5-7-1, at the Lake County Detention Home in that they were not provided with custody, care, and discipline as nearly as possible equivalent to that which should have been given by

their own parents.

10. Denial of their rights under I.C. 31-5-7-23, in that they were held in the Lake County Detention Home without any determination that their habits constituted a threat to other persons.

II. FINDINGS OF FACT

Based on the agreement of the parties, the court hereby makes the following findings of the fact:

A. Defendant County of Lake has the statutory obligation to provide sufficient funds for the operation of the Juvenile Court System in Lake County.

B. Defendant Joseph Meszar is the Judge of the Juvenile Division of the Lake Superior Court [hereinafter Juvenile Court] and is charged by statute with the responsibility for both the administrative and judicial functions of the Juvenile Court. Defendant Judge Meszar is also charged by statute with administration of the Lake County Juvenile Detention Home and, by his appointment of defendants Michael Kampo, Superintendent, and Emily Slepcevich, Assistant Superintendent, with the supervision of juveniles within the Home.

C. Defendant Board of Commissioners of Lake County and its members, Stanley Olszewski, Atterson Spann and Martin Behnke are legally responsible for maintaining the

building and the grounds of the Lake County Detention Home.*

D. Defendant Lake County Council and its members, Clark A. Metz, Richard J. Blastick, Sydney E. Garner, Gerald J. Mazur, David J. Bracach, Rolland C. Beckham and Frank H. Perry,* are legally responsible for appropriating funds for the Lake County Court system and for the Lake County Detention Home. The County Council and County Auditor, Jose Arredondo, are joined as defendants pursuant to I.C. 1971, 17-1-24-27, which requires such joinder when an action for money judgment is brought against a county and the county council is sued collectively by its legal name.

E. Defendant Michael Kampo, the Superintendent of the Lake County Detention Home, and defendant Emily Slepceovich, the Assistant Superintendent of the Lake County Detention Home, are charged by statute with the responsibility for the Home's administration by reason of appointment of the Juvenile Court Judge.

*Pursuant to Rule 25(d)(1), F.R.C.P., Atterson Spann has been substituted for J.J. Forszt as a County Commissioner; Clark A. Metz, David J. Bradach and Rolland C. Beckham have been substituted for Joseph Baron, William Bielski and James Mundell as County Council members.

F. Defendant Andrew Hiduke, the Chief Lake County Probation officer, holds his office by appointment by the Juvenile Court Judge. The Chief Probation officer has charge by statute of the work of the Probation Department which is to carry out the objectives and provisions of the Indiana Juvenile Code.

G. The following conditions, practices and policies prevailed at the time this action was filed on February 20, 1974:

1. Some juveniles were detained in various city jails in Lake County without being provided notice of charges against them, without being advised of their right to attorney, or their right to consult with a parent or guardian before being questioned, and without any judicial determination as to the necessity of their detention or that their habits constitute a threat to other persons.

2. Some juveniles were detained at the Lake County Juvenile Detention Home without having notice of the charges against them, without being advised of their right to an attorney and without a judicial determination as to the necessity of their detention or that their habits constituted a threat to other persons.

3. Some male juveniles detained at the Lake

County Detention Home were subjected to involuntary haircuts.

4. Some juveniles detained at the Lake County Juvenile Detention Home were prohibited from speaking a language other than English.

5. Some juveniles detained at the Lake County Juvenile Detention Home were required to attend certain mandatory religious activities.

6. Both the outgoing and incoming mail of some juveniles detained at the Lake County Juvenile Detention home was read and censored by officials at the Home.

7. Some juveniles detained at the Lake County Juvenile Detention Home were subjected to discipline without a hearing, and the discipline included confinement to isolation rooms for extended periods of time, inaccessibility to parents and guardians for extended periods of time, and deprivation of full meals.

8. Some juveniles detained at the Lake County Juvenile Detention Home were not provided appropriate education opportunities, medical and psychological treatment, and programs appropriate for such a short-term detention home.

9. The staff at the Lake County Juvenile Detention Home in charge of the supervision and discipline of the juveniles detained there was only partially

integrated on the basis of race and culture and some staff had no particular training, education, or prior experience in dealing with institutionalized children.

III. CONCLUSIONS OF LAW

A. Jurisdiction is conferred on this Court by 28 U.S.C. §§1331 and 1343(3) and (4).

2. Some juveniles were detained at the Lake County Juvenile Detention Home without having notice of the charges against them, without being advised of their right to an attorney and without a judicial determination as to the necessity of their detention or that their habits constituted a threat to other persons.

3. Some male juveniles detained at the Lake County Detention Home were subjected to involuntary haircuts.

4. Some juveniles detained at the Lake County Juvenile Detention Home were prohibited from speaking a language other than English.

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Juvenile Detention Home were subjected to discipline without a hearing, and the discipline included confinement to isolation rooms for extended periods of time, inaccessibility to parents and guardians for extended periods of time, and deprivation of full meals.

8. Some juveniles detained at the Lake County Juvenile Detention Home were not provided appropriate education opportunities, medical and psychological treatment, and programs appropriate for such a short-term detention home.

9. The staff at the Lake County Juvenile Detention Home in charge of the supervision and discipline of the juveniles detained there was only partially integrated on the basis of race and culture and some staff had no particular training, education, or prior experience in dealing with institutionalized children.

III. CONCLUSIONS OF LAW

A. Jurisdiction is conferred on this Court by 28 U.S.C. §§1331 and 1343(3) and (4).

B. Plaintiffs' action for declaratory and injunctive relief and damages is authorized by 42 U.S.C. §1983, the United States Constitution, 28 U.S.C. §§2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure.

C. This is a proper class action brought under Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, and was

individually and in his capacity as Judge of the Juvenile Division of the Superior Court of Lake County, Michael Kampo, individually and as Superintendent of the Lake County Juvenile Detention Home; Emily Slepceвич, individually and as Assistant Superintendent of the Lake County Juvenile Detention Home; Andrew Hiduke, individually and as Chief Lake County Juvenile Probation Officer; and Kenneth Orze, individually and as Probation Officer of Lake County; their agents, employees and successors in office are hereby enjoined from:

1. Authorizing or in any way participating in the confinement of juveniles in city jails, without notice of charges against them, without being advised of their right to an attorney and their right to consult with a parent or guardian before being questioned, and without any judicial determination as to the legality of their detention or that their habits constitute a threat to other persons.

2. Confining juveniles to the Lake County Juvenile Detention Home or to the Lake County Jail without notice of charges against them, without being advised of their right to an attorney, and without any judicial determination as to the legality of their detention or that their habits constitute a threat to themselves or other persons.

3. Cutting or shaving the hair of any child without the child's consent.

4. Prohibiting children from speaking a language other than English.

5. Preventing juveniles from worshipping or not worshipping in accordance with their own consciences or forcing them to be involved with mandatory religious activities.

6. Denying juveniles access to legal counsel.

7. Confining a juvenile in his room for more than eight (8) hours without being seen by a psychologist or a probation officer, whose approval is necessary for any further confinement; in all situations where a child is confined, a staff member shall check the child approximately every hour and release him/her as soon as the child no longer poses a threat.

8. Preventing any child from visiting with parents or guardians during regular visiting hours and from consulting with an attorney at any reasonable time.

9. Reading and censoring the mail of juveniles provided, however, that incoming mail can be inspected (in the child's presence) for contraband if there is reason to believe it might contain contraband.

10. Depriving children of full meals as a disciplinary measure.

11. Depriving juveniles of personal possessions as long as such possessions are in no way dangerous to

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so certified by this Court on July 19, 1974. The class consists of all juveniles who have been, are currently being, or will in the future be held in the Gary City Jail without charges being filed, and/or who have been, are being, or will be held in the Lake County Juvenile Detention Home, and while in that Detention Home, be subjected to any or all of the illegal and unconstitutional practices alleged in the Complaint.

D. The conditions, practices and policies outlined in G of §II above are hereby declared to be in violation of the plaintiffs' rights under the first, sixth, eighth, and fourteenth amendments to the United States Constitution, and the provisions of the Indiana Juvenile Code, Ind. Ann. Stat. §9-3201, et seq., I.C. 31-5-7-1, et seq. (1971).

IV. ORDER

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

A. The following defendants: the County of Lake; the Lake County Council, Clark A. Metz, Richard J. Blastick, Sydney E. Garner, Gerald J. Mazur, David J. Bradach, Rolland C. Beckham, and Frank H. Perry, individually and as members of the Lake County Council; Atterson Spann, Stanley Olszewski, and Martin Behnke, individually and as members of the Board of Commissioners of Lake County; Jose Arredondo, individually and as Lake County Auditor; Joseph Meszar,

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CONTINUED

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themselves or others, will not interfere with the orderly operation of the Detention Home, and are not of sufficient value to invite theft.

12. Forcing juveniles to participate in recreational activities, particularly when the activities entail a risk of harm (e.g., boxing), provided, however, that juveniles can be encouraged to participate in recreational activities.

13. Denying juveniles the education and medical and psychological treatment and services necessary and appropriate to a short-term detention home.

14. Subjecting juveniles to supervision and discipline by a staff which is not racially and culturally integrated and which generally has no training, education, or previous experience in dealing with children such as those confined in the Detention Home.

15. Subjecting juveniles to inappropriate, harsh and/or unnecessary punishment and controls.

B. In accordance with the injunction in ¶ A above, the County defendants shall:

1. Issue an order, over the signature of defendant Lake County Juvenile Judge Joseph Meszar, concerning the pretrial holding of juveniles (see attached Exhibit "A:" which is incorporated as part of this Consent Decree).

2. Within twenty-four (24) hours of their detention, or as soon as possible Monday morning if detained on a weekend, bring every detained juvenile before the court for a detention hearing at which,

- a) counsel for the juvenile shall be present;
- b) counsel will be appointed if the juvenile cannot afford a private attorney;
- c) the juvenile will be informed of the nature of the hearing and of the charges against him, of all his rights, and of the reasons for which he can be detained; and
- d) a determination concerning further detention or release to parents or guardians shall be made by the court.

3. Cease to cut the hair of any juvenile without his consent and refrain from any other form of discrimination against juveniles because of the length or style of their hair.

4. Allow juveniles to speak the language(s) of their choice and refrain from taking any other punitive measures against them because of their nationality.

5. Place absolutely no pressure upon any juvenile to participate in or attend any religious services or activities or to read a Bible or similar religious literature; no Bible or similar religious literature shall

be placed in any private room used by a juvenile unless a juvenile requests it.

6. Make every effort to see that juveniles are able to worship according to their individual beliefs.

7. Allow juveniles complete access to counsel by telephone, letter, and personal contact; such contact may not be restricted to the regular visiting hours, but may be at any reasonable time.

8. Allow juveniles to send and receive an unlimited number of letters with no restrictions on who the correspondents may be; such mail may be inspected for contraband, in the presence of the child, but may not be read or censored; stationery and stamps, not to exceed three (3) of each per week, will be provided for those juveniles who cannot otherwise obtain such items because of poverty; letters received after a juvenile had been released from the Detention Home shall be forwarded to him at his/her last known address.

9. Allow juveniles two (2) free phone calls, to a parent, guardian, or other adult responsible for the juvenile, upon entering the Detention Home; juveniles may also make and receive telephone calls to any of the above individuals at times of stress or emergency for themselves or their families.

10. Allow juveniles to visit with parents, relatives, and guardians at least on Tuesday, Thursday and Saturday afternoons and evenings, from two o'clock (2:00) to three o'clock (3:00) p.m. and seven o'clock (7:00) to eight o'clock (8:00) p.m.

11. Encourage juveniles to participate in recreational activities but not force them to do so, particularly when those activities entail some risk of harm. e.g., boxing.

12. Provide juveniles with suitable clothing appropriate to health and weather.

13. Allow juveniles to retain or receive any personal possessions they wish, as long as such possessions are in no way dangerous to themselves or others, will not interfere with the orderly operation of the Detention Home, and are not of sufficient value to invite theft.

14. Post in conspicuous places in the Detention Home a list of all the Detention Home rules and regulations and punishments for infractions, which are worded and written in such a manner that juveniles can clearly understand them.

15. Provide meals at the Detention Home which are nutritious and adequate to meet the juvenile's hunger, and which are in no way restricted in type or amount for disciplinary purposes.

16. Eliminate isolation or disciplinary confinement except in extreme cases of misbehavior where the juvenile poses an immediate threat to the health or safety of him/herself or others; when such confinement is required it shall conform to the following standards;

a) it shall be imposed by a staff member only after consultation and agreement with at least one other staff member;

b) it shall be in the child's regular, private sleeping room;

c) it shall be continued only so long as the child poses an immediate threat to the health or safety of him/herself or others;

d) a juvenile in isolation or solitary confinement shall be observed approximately hourly by Detention Home personnel to note his/her physical and emotional status and whether he/she has calmed sufficiently to be released from confinement; if a juvenile seems particularly depressed, he/she shall be visited more frequently; a member of the Detention Home staff shall always be within calling distance of juveniles so confined and shall respond within several minutes of being called;

e) while in isolation or solitary confinement, a juvenile may wear regular Detention Home clothing and shall be provided with books, writing materials (at the

discretion of the staff) and other such non-dangerous items as he/she requests, with which to pass the time in confinement; confined juveniles shall also be allowed to visit with parents, relatives, guardians and attorneys as often as other juveniles in the Detention Home;

f) no such confinement shall exceed eight (8) hours without the child being seen by the psychologist or probation officer, whose approval is required for further confinement;

g) all periods of confinement, with the reasons therefor, shall be recorded in writing on the child's record with an indication of the length of time confined, the staff member initiating it, and any involvement by the psychologist or probation officer.

17. Submit rules and regulations governing the conduct of children in the Detention Home (see attached Exhibit "B"), making such rules and regulations reasonably available to all children; and rules and regulations governing the conduct of group leaders (see attached Exhibit "C").

18. Give counsel for the plaintiffs or their delegate regular access to all records necessary to monitor compliance with this judgment.

19. Through consultation with an education program suitable to meet the needs of children confined in the Detention Home.

20. Make available the funds in an amount sufficient to attract competent persons and make every reasonable effort to employ no later than June 1, 1978, the following staff members who shall be employed sufficient hours to maintain the following ratios of staff members to juveniles, based upon the detention home's average juvenile population for the past year and the coming year's projected average juvenile population.

a) one (1) full time psychologist with a Ph.D. degree, whose duties shall include a complete evaluation of each child upon admission to the detention home and the development and implementation of a staff training program, for each forty-four (44) children detained in the detention home. At no time, however, shall the number of psychologists employed decrease below one (1) full-time psychologist;

b) one (1) full time licensed teacher, preferably with special training in remedial education or the education of handicapped children, for each twenty-five (25) children detained in the detention home. At no time, however, shall the number of hours on duty of the teachers decrease below that necessary to provide each juvenile at the detention home at least two (2) hours of education per day;

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c) one (1) group leader, preferably with a B.A. degree in psychology, social work, sociology or education, for each two (2) children detained in the detention home. At no time, however, shall the number of group leaders decrease below that number necessary to adequately supervise the juveniles detained on a twenty-four (24) hour per day basis;

d) one (1) full time registered nurse for each eighty-eight (88) juveniles detained in the detention home whose duties shall include:

1) a physical examination of each child upon admission;

2) conducting a daily sick call during which (s)he shall examine each juvenile who has medical complaints and talk with each juvenile who requests consultation or advice regarding medical problems;

3) making arrangements for each juvenile who requires further medical attention to see a physician or, in the event of an emergency dental need, a dentist as soon as necessary and/or, if appropriate, to be admitted to a hospital;

4) seeing that parents or guardians are informed of the medical conditions and needs of juveniles examined;

5) supervising the administration of all medication and drugs required by juveniles;

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6) maintaining individual records on all juveniles seen or examined; the records shall contain the date of examination or consultation, medical observations, recommendations, and action taken to follow-up on such recommendations;

At no time, however, shall the number of hours on duty of the registered nurse at the detention home decrease below that number required to maintain daily admission evaluations and daily sick calls for the children admitted and detained;

e) one (1) intake supervisor with a B.A. degree, preferably in psychology, social work, sociology or education, whose duties shall include the screening of children brought to the detention home and making preliminary decisions on whether or not they shall be detained, for each twenty-two (22) children detained in the detention home. At no time, however, shall the number of hours on duty of the intake supervisors at the detention home decrease below that number required to maintain daily screenings and preliminary detention decisions for the children admitted. At the discretion of the superintendent and the Lake County Juvenile Judge, one or more of the intake supervisors may be detached duty probation officers.

21. Make available sufficient funds for the positions of Superintendent and Assistant Superintendent of the

Detention Home to make possible, at the next vacancy, the hiring of a Superintendent with at least a M.A. degree in psychology, social work, sociology or education, and an Assistant Superintendent with at least a B.A. degree in psychology, social work, sociology or education.

22. Make available sufficient funds for the purchase of such testing, educational and recreational supplies and equipment deemed necessary by the superintendent, psychologist(s) and teachers.

23. In the future, hire Detention Home staff with a goal of making the staff racially and culturally proportionate to the general racial and cultural make-up of the children detained there.

24. In the future, hire Detention Home staff with the educational backgrounds set out in ¶¶20 and 21 above.

25. Allow a twice per year inspection by any qualified individual or agency to be mutually agreed upon by the parties, and/or by counsel for the plaintiffs or their delegate, in regard to the matters covered by this judgment.

C. Named minor plaintiffs are awarded damages in the amount of Seven-hundred Fifty Dollars (\$750.00) each and plaintiffs are awarded costs in the amount of Five-hundred Dollars (\$500.00); a judgment is hereby entered against the defendants in their official and representative capacities,

and not in their individual capacities, in the amount of Thirty-five Hundred Dollars (\$3,500.00), the amount of damages and costs awarded above. The judgment insofar as it relates to defendant Judge Meszar is confined to the injunctive relief provided for.

D. The matter of plaintiffs' attorney fees will be submitted to the court for decision.

E. The court shall retain jurisdiction over this matter for the purpose of securing final implementation of the provisions above.

JUDGE - U.S. DISTRICT COURT

ENTERED: October 25, 1977

Approved:

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IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

() F.E., et al.,)
)
) Plaintiffs, .) No. 73 CV 43-W
)
) v.)
) C. DUANE HENSLEY, et al.,)
)
) Defendants.)
)
)

FINAL JUDGMENT

() The plaintiffs, patients at the Youth Center of St. Joseph State Hospital at the time this action was initiated, having filed their Complaint for Declaratory Judgment, Injunction, and Other Relief on the 26th day of January, 1973, and plaintiffs and defendants, officials of the State of Missouri involved in their official capacities in the operation of the Youth Center, having consented to this final judgment without trial or adjudication of any issue of law or fact herein, and, without admission by any party with respect to any such issue, and, without this final judgment constituting evidence or an admission of any party hereto with respect to any such issue or fact or law and before the taking of any testimony;

NOW, THEREFORE, upon consent of the parties, it is hereby ordered, adjudged and decreed as follows:

I.

JURISDICTION

This Court has jurisdiction of the subject matter of this action and of all parties hereto. The Court has authority to grant the relief included in this final judgment. This Court will retain jurisdiction for a period of two years from the date this judgment is entered.

II.

PARTIES

Plaintiffs

Each of the individually-named plaintiffs was a patient at the Youth Center of St. Joseph State Hospital as of the 26th day of January, 1973. Not one of the individually-named plaintiffs is a patient at the Youth Center of St. Joseph State Hospital as of the date of this judgment. However, the parties have agreed and the Court so orders, that the individually-named plaintiffs are representatives of a class as hereinafter defined. The class represented by the plaintiffs shall include all inpatient residents of the Youth Center, St. Joseph State Hospital, who had been involuntarily committed to that facility for care and treatment as of the date this final judgment is formally entered. The class represented by the plaintiffs shall not include individuals who have been

patients in the Youth Center during the pendency of this lawsuit or before, and the class, affected by the declaratory and injunctive relief included in this final judgment, shall consist only of patients residing at the Youth Center on the date of this judgment.

Patients, involuntarily committed to the Youth Center, who are there only temporarily for purposes of pretrial psychiatric observation or evaluation or for a determination as to whether they should be committed are not confined for the purpose of treatment and, therefore, are not included in the definition of the class.

The Court finds that this action is properly maintainable as a class action, pursuant to Rule 23(a) and Rule 23(b)(2), Federal Rules of Civil Procedure.

Defendants

The defendants include the present members of the State Mental Health Commission of Missouri, the present Director of the Missouri Department of Mental Health, the present Superintendent of St. Joseph State Hospital, the present Assistant Superintendent for Treatment of St. Joseph State Hospital, and the present Unit Director of the Youth Center, St. Joseph State Hospital. All defendants have agreed to abide by the provisions of this final judgment.

The department of Mental Health is required by Missouri law to provide appropriate full or part-time resident or outpatient care and treatment, examination and report, and education and training of persons suffering from mental illness or mental retardation.

The Department of Mental Health has administrative control over St. Joseph State Hospital. St. Joseph State Hospital, an instrumentality of the State of Missouri, was created to assist the state to carry out its governmental function in respect to the care and treatment of mental illness or mental retardation.

The Youth Center is one of several administrative units at St. Joseph State Hospital. The function of the Youth Center is to provide care and treatment to youthful patients, whether they were admitted voluntarily or confined pursuant to court order.

III.

PURPOSE

All parties to this action share the sincere desire that the rendition of this final judgment shall accrue to the benefit of the patients cared for and treated in the Youth Center and that it will assist those responsible for the supervision of the Youth Center to maintain consistently high standards.

The entry of this Consent Judgment should not be

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construed as indicating that any patient at the Youth Center during pendency of this lawsuit or at the present time has received, or is receiving, less than adequate care and treatment. There is substantial agreement among the parties that many positive changes have occurred in the operation of the Youth Center which have favorably altered the nature and character of the treatment program and environment at the Youth Center during the pendency of this lawsuit. Illustrative of these positive changes are the revision of certain aspects of the behavior modification program, the utilization of outside consultants, a prohibition against the use of "Park 15" (an adult maximum-security ward) for Youth Center residents, changes in record keeping policies and procedures, an increase in the Youth Center staff, more emphasis on the aftercare of Youth Center patients, improvements in the physical facility, and increased efforts to find less restrictive placements for present and prospective Youth Center residents. In some cases, the relief mandated by this Consent Judgment reflects policies already undertaken in whole, or in part, by the defendants. However, there is a consensus between the parties that the entry of this final judgment will assure the continuation of positive policies and practices, as well as providing for the initiation of new policies.

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Also, substantial appropriations have accrued, or will shortly accrue, to the Youth Center which will allow defendants to improve the physical plant and to increase the numbers and quality of staff.

IV.

LEAST RESTRICTIVE ENVIRONMENT

Admission and retention of youth at the Youth Center shall be governed by the principle of least restrictive environment. This concept imposes on the State the obligation to accomplish its legitimate goals by choosing only those means which result in the least curtailment of individual freedom. The defendants should recognize that, within their statutory authority and subject to the resources available, the care and treatment of youthful patients suffering from mental illness, mental disorders, developmental disabilities, mental retardation, or mental deficiencies shall be undertaken in an environment including the least curtailment of individual freedom consistent with the needs of each youthful patient.

The vast majority of plaintiffs' class have been admitted by the juvenile courts of the State of Missouri pursuant to the provisions of Section 211.201, RSMo 1969. That section provides in pertinent part that:

"If the child, after proper observation, examination and diagnosis is found by the division of mental diseases not to be

epileptic, mentally deficient or mentally disordered solely so as to require care and treatment by the division of mental diseases, and if the juvenile court in its order committing the child to the division of mental diseases retains jurisdiction by the terms of its order of commitment, then the director of the division of mental diseases may make application, accompanied by a diagnosis and report, to the court which committed the child for an order relieving the division of custody of the child. If the committing court does not make an order relieving the division of mental diseases of custody of the child within twenty days after the receipt of the application, the jurisdiction of the committing court over the child terminates and the division of mental diseases is authorized to discharge the child from its custody or make such disposition as it deems necessary to promote the best welfare of the child."

As is consistent with its present interpretation of the above statute, St. Joseph State Hospital shall act as follows with respect to the admission of patients pursuant to Section 211.201:

1. Within thirty days of admission to the Youth Center of any youth on an involuntary basis, said youth shall be diagnosed, examined, observed, and otherwise evaluated psychologically, medically, socially and educationally by appropriate specialists.

2. With respect to a patient over which the committing court has not retained jurisdiction by the terms of its order of commitment, the staff of the Youth Center shall discharge that child or adolescent if it is determined that he does not require treatment of a

comprehensive and intensive nature and is not likely to benefit from the programs that the Youth Center has to offer. The staff of the Youth Center will recommend alternatives for less intensive treatment if available and suitable.

3. With respect to a youthful patient over which the committing court has retained jurisdiction, if, at the end of thirty days, it is the opinion of the staff at the Youth Center that the patient does not require treatment of a comprehensive and intensive nature and is not likely to benefit by the programs that the Youth Center has to offer, application will be made to the committing court to relieve the Department of Mental Health of custody of the child and recommending alternatives for less intensive treatment if available and deemed suitable. If, in response to that application, the committing court does not affirmatively act to relieve the Department of Mental Health of custody of the child within twenty days, the child will be discharged from the Youth Center or placed in a less restrictive facility if deemed necessary to promote the best welfare of the child.

4. With respect to the admission of patients diagnosed as mentally retarded, the defendants have undertaken steps and shall continue to implement policies designed to provide special education and treatment

modalities specifically designed for the treatment of mental retardation. If, however, within thirty days of the admission of a mentally retarded patient, the staff of the Youth Center should determine that the best interest of a particular child mandates placement in a facility designed solely for the treatment of mental retardation, steps will be taken to transfer that patient to the mental retardation facility under the supervision of the Department of Mental Health closest to the particular patient's home. Retardation alone is not a criteria for admission to the Youth Center. Mentally retarded youth with other diagnoses which require treatment by Youth Center staff may be retained in the Youth Center for as long as the problems causing the additional diagnoses continue to exist.

5. For admissions made on court order, the rights and responsibilities of the patient and family shall be explained to them, as has been the past practice of defendants, and documented in the patient's medical record.

With respect to all patients at the Youth Center, it has been and is presently the policy of the defendants to consider the question of whether each patient should be discharged upon each periodic staffing of the patient and upon each review of the patient's individualized treatment

plan. The defendants shall continue to do so and shall make such discharges or court applications as are consistent with the criteria set forth above.

The Youth Center shall have a written plan delineating the criteria for discharge of patients. That written plan shall be made available to the patient and his parents or guardians upon admission. The decision that the patient no longer requires or can benefit from the inpatient services at the Youth Center and is ready to leave the facility shall be reached by the professional clinical staff, with appropriate involvement of the patient and family.

If the staff specifically responsible for treatment of an individual patient shall, at any time during that patient's inpatient status, make a recommendation that the patient, although still in need of treatment, would benefit from placement in a less restrictive community-type setting, the staff of the Youth Center shall investigate alternatives for less intensive treatment and, in coordination with the Community Placement Section of the Department of Mental Health, make an alternative placement in such case if such a placement is available and deemed suitable. The investigation of less restrictive alternatives shall include outpatient treatment; day treatment at a hospital; night treatment at

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a hospital; placement in the custody of a relative or friend, placement in a family-style home, group home, or foster home; referral to a community treatment center; use of home health-aid services; and treatment through school or other agencies.

With respect to all class members, staff shall contact the committing court one year after commitment requesting a review of the need for commitment of each youth.

V.

AFTERCARE

There is a consensus between the parties that the Youth Center has the responsibility to continue to provide support to youths upon the termination of inpatient status. The defendants shall continue to allocate staff members of the Youth Center and staff members of Western Missouri Mental Health Center to provide aftercare services for the class to ensure proper transition from the institution to the community. The aftercare provided by the Youth Center shall include the following aspects:

1. From the day that a youth enters the Youth Center, the staff must begin working earnestly to successfully return the youth to his family as soon as possible. The aftercare program should begin at that time so that each home visit, day or night pass, or other contact between

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the youth and the community becomes an opportunity for the aftercare worker to help the youth and his family overcome their problems at home and in the community.

2. The parents or guardians of youth presently hospitalized, or of youth recently hospitalized, shall continue to be urged to attend evening sessions to assist the youth from the Youth Center to the community. At these sessions, parents and guardians shall be counseled concerning the mental status of each youth, critical behavior which each youth lacks at home or in his or her contacts with the outside community, and family problems which reflect on the mental condition of each youth. Every opportunity shall be afforded to each youth and his or her family to participate in the planning for release from the Youth Center.

3. The attempt should be made to include the responsible aftercare worker at each team meeting where a youth is discussed. In cases where the responsible aftercare worker for a particular youth is on the staff of Western Missouri Mental Health Center, communication between the aftercare worker and the patient's treatment team should be frequent and ongoing.

4. Aftercare workers shall work with children prior to, and after release from inpatient status to assist those youths to readapt to living at home, going to

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public school, and having free time in the community.

5. The defendants shall continue in effect the principles of Project A.C.E., which has been implemented as part of the education program of the Youth Center, to ensure that a released youth can adapt to community schools. This program is no longer federally funded but is nevertheless being retained in substance by the staff of the Youth center. The staff shall continue to talk with teachers, administrators, and parents in an attempt to properly place the individual child in the public school classroom and to advise those concerned as to the level of competence which the child has achieved within the educational facilities at St. Joseph State Hospital.

6. The aftercare for each youth shall continue until the caseworker is satisfied that no further aftercare is needed.

VI.

INDIVIDUAL TREATMENT PLANS

A specific individualized treatment program commemorated by written plan, will be in existence for each member of plaintiffs' class. The defendants began the policy of requiring individual treatment plans for each inpatient resident of the Missouri Department of Mental Health by means of Operating Regulation No. 149 dated January 20, 1975, during the pendency of this lawsuit.

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The following policies and procedures will apply to the preparation of an individualized treatment program for each member of plaintiffs' class:

1. A comprehensive physical, psychological, educational, and social testing and evaluation will be made upon admission of each patient to the Youth Center. This testing and evaluation will be completed as soon as practical after admission to the hospital.

2. Each class member shall have a written individualized treatment plan developed by appropriate qualified mental health professionals, including a qualified psychiatrist minimally board eligible with two years or more experience in child psychiatry subject to the availability of individual with those qualifications. Defendants shall always attempt to retain the best mental health professionals available, including a psychiatrist with the above referenced qualifications. An initial written plan shall be completed within five days of admission toward the purpose that each individual can be afforded treatment as soon as possible. A finalized plan shall be completed and implemented as soon as possible after admission but in no event later than twenty-one days thereafter. The parents or guardians of each youth shall be afforded the opportunity to participate in formulating the treatment plan. Each youth shall also be allowed to

participate unless medically contraindicated in which case the contraindication shall be documented.

3. Each plan shall, as a minimum, include each of the following elements:

- (a) Documentation as to why the patient is in the hospital at this particular point in time;
- (b) A statement of the specific problems and the specific needs of each youth, together with comments concerning why the Youth Center is presently suited to meet those specific problems and specific needs;
- (c) A statement of the treatment modalities necessary to meet the specific problems and specific needs of each youth, including a description of intermediate and long-term goals;
- (d) A projected time table for the completion of each treatment modality;
- (e) A stated method for measuring the effectiveness of each treatment modality;
- (f) A statement of the rationale for the use of each treatment modality and how it is expected that each treatment modality will meet the specific problems and specific needs of each youth;

- (g) A designation of the staff person having overall responsibility for the implementation of the treatment plan and a designation of the staff person having responsibility to carry out each specific treatment modality;
- (h) A statement of the proposed family involvement in the treatment program of each youth;
- (i) An explanation of the criteria for release of each youth to less restrictive placements, if available, and for ultimate discharge;
- (j) A form to detail and summarize the progress of each class member while at the Youth Center.

4. Each plan shall be continuously used as a tool to assist the staff in treating each class member.

5. A comprehensive review of each plan shall be undertaken at least ninety days. Each comprehensive review shall follow a staffing by the members of each youth's treatment team. A summary of the comprehensive review shall be made a part of each class member's record, which summary shall detail changes to be made in the treatment plan or require the preparation of a new plan, if necessary.

6. Each patient and/or his parent or guardian is entitled to a copy of the treatment plan.

7. As a component of the individualized treatment plan, an individualized education plan will be prepared for each youth by an interdisciplinary team at the Youth Center in compliance with P.L. 94-142, the Education of All Handicapped Children Act and Section 504 of the Rehabilitation Act. Each education plan shall include:

- (a) Identification of each youth's needs as related to present level of educational performance.
- (b) Statement of long term goals and short term instructional objectives.
- (c) A statement of the specific special education and related services to be provided to the youth including those learning and management strategies to be utilized to obtain each goal and objective.
- (d) An assessment of the least restrictive educational environment and the youth's ability to function in public school in special education and/or regular education programs.
- (e) The projected dates of initiation of services and the anticipated duration of

the services as well as the anticipated date for entry into the public school system.

- (f) Appropriate objective criteria and evaluation procedures and schedules for determining whether short term instructional objectives are being achieved.

VII.

MEDICATION

Medication shall be used at the Youth Center only when found to be medically necessary to the treatment of the patient. The defendants have affirmatively asserted, and continued to maintain, that no class member or former patient at the Youth center has been subjected to unnecessary, contraindicated, or improperly administered medication. Medication should not be used as a substitute for other treatment modalities. However, with respect to certain class members, medication is indicated for the treatment of both physical and mental problems.

Psychotropic drugs shall be used only as an integrated part of an individualized habilitation plan that is designed to lead to a less restrictive way of treating, and ultimately to the elimination of, the behaviors for which the drugs are employed.

The decision to prescribe medication for a member of the class shall be left solely within the discretion of the attending physician, and dosages of medication shall be left to the discretion of the attending physician subject to proper and reasonable medical practices.

The defendants will continue the policy that no medication will be administered at the Youth Center except upon the written prescription order of a physician.

Each class member shall be advised as to what medication he or she is receiving and the reason or reasons that that medication is indicated.

All medications used at the Youth Center will continue to be administered by staff specifically trained to do so. Also, the Youth Center staff will continue to be trained to recognize adverse reactions and side effects of administered medications. Progress notes, which record the daily observations of the nursing staff of the Youth Center as to whether any therapeutic effort at treatment is having the desired effect, will continue to be kept.

Physicians will continue to write frequent progress reports on the therapeutic effects of medicine.

As provided by the Department of Mental Health regulations, all medication prescriptions will be reviewed and renewed, if necessary, every thirty days.

Whenever a change in medication is ordered for a

patient, the attending physician shall describe the reasons for the change, including the behavior of the affected child, in an appropriate progress note. When a prescription is merely renewed, a short note will be prepared indicating no change in the patient's status.

The behavior of all youth, whether or not on medication, shall be charted in progress notes. Documentation pertaining to behavior shall be reviewed and taken into account by the attending physician when reviewing medication.

VIII.

BEHAVIOR MODIFICATION PROGRAM

One treatment modality presently used, and to be continued, at the Youth Center is a motivational program designed to improve the functioning level of individual patients through reinforcing adaptive behavior. The defendants have adapted, and will continue, a point system program to assist in the implementation of the behavior modification effort.

Attached as Appendix A is the most recent edition, dated March, 1978, of the point system program used at the Youth Center. Subject to such revisions as the professional staff at St. Joseph State Hospital and the Youth Center believe to be necessary to upgrade and improve the point system program, the defendants will

continue in effect the behavior modification program as outlined in Appendix A. Should there be a substantive change in the written point system program within two years of the date of this judgment, counsel for plaintiffs' class will be provided with a copy of the written changes.

IX.

CLINICAL PATIENT RECORDS

With respect to each class member, the staff of the Youth Center will continue to maintain accurate and complete clinical medical records. All information included in clinical patient records will continue to be considered as privileged. These records will continue to be available to personnel having clinical responsibility for patients in the Youth Center and to other persons upon proper authorization.

Each clinical patient record shall include the following:

1. Identification data and consent forms;
2. Source of referral;
3. Reason for referral (i.e., explanation of behavior resulting in institutionalization);
4. A record of the complete assessment of the child's physical, psychological, educational and social condition together with results

- of pertinent evaluations and tests;
5. Record of diagnosis;
 6. A written individualized treatment plan together with written summaries of ninety-day comprehensive plan reviews;
 7. Medication history and record of all medications prescribed;
 8. Record of all medications administered by staff, including types of medication, dosages, frequency of administration, and the name of the person who administered each dose;
 9. Written summaries of all clinical staffings;
 10. Documentation of course of treatment of all evaluations and examinations;
 11. Periodic progress reports to be prepared every thirty days;
 12. All reports of consulting mental health professionals;
 13. Documentation signed by a mental health professional for any restrictions on visitation or communication;
 14. A written summary re any extraordinary incident or accident involving a class member;

15. All other appropriate information obtained from outside sources pertaining to the patient;
16. Discharge and termination summary; and
17. Plan for follow-up and documentation of its implementation.

X.

DISCIPLINE

The parties are in complete agreement that, in the best interest of plaintiffs' class, unnecessary and non-therapeutic discipline should not be employed at the Youth Center. The use of discipline in the Youth Center shall be governed by the following policies and procedures:

1. Physical restraints and/or seclusion are occasionally necessary as environmental restrictions intended to provide appropriate care and treatment to preclude a patient from injuring himself, other patients, or staff, or to avoid extensive property damage. In such cases, physical restraints and/or seclusion shall be used only after other alternatives have been exhausted and thoroughly documented in the patient's clinical record. The use of restraints and/or seclusion shall not be used for punishment, for the convenience of staff, or as a substitute for a valid treatment program.

2. Discipline employed at the Youth Center shall occur within a time period sufficiently proximate to the act which constituted the violation to enable the individual class member to comprehend the connection between the transgression and the discipline employed. Discipline imposed for the purpose of protecting the physical safety and well-being of any resident or staff member or to avoid extensive property damage shall be imposed within a time-frame which can be demonstrated to preserve the safety of all individuals involved or to avoid destruction of property, and the discipline must be therapeutically effective.

3. Class members and their parents or guardians shall, upon admission, be provided copies of patient handbooks which outline the types of discipline employed at the Youth Center including a statement as to when discipline is justified.

4. If the violation of a disciplinary rule or an instance of unacceptable and unsanctioned behavior does not constitute a present threat to the physical safety or well-being of a resident or staff member or constitute a threat of extensive property damage, no discipline shall be imposed; however, if the behavior significantly interferes with the treatment program of the youth or the treatment programs of other patients, disciplinary action

can be initiated. If discipline is clinically determined to be a specific treatment intervention to resolve a recurring behavioral problem, that fact shall be so stated in the individualized treatment plan.

5. The use of discipline shall be sufficiently consistent to put each member of the class on notice as to the likelihood that certain behavior will result in certain discipline.

6. Physical restraints shall be defined as restricting a patient's ability to react to his environment by temporarily limiting freedom of body movement, or all or partial limb movement, by use of physical or mechanical restraints. If restraints are used, they shall be used so as to cause the least possible discomfort and no physical injury. No physical or mechanical restraints shall be used unless they have been approved by the Department of Mental Health. Physical restraints shall be employed only to protect a patient from injury to himself or others. Some opportunity to exercise will be afforded to patients in restraint unless contraindicated. The reasons for the contraindication will be charted.

7. Seclusion shall be defined as a means of restricting a patient's environment by removing him or her from social contact by placement in a locked area. Locked

security wards, or situations in which a resident may be temporarily placed in a locked room solely as protection from injury from other patients shall not be deemed seclusion.

8. All uses of physical restraints and/or seclusion shall be periodically reviewed by the responsible treatment team.

9. The use of restraints or seclusion must be ordered by qualified mental health professionals. Emergency use of restraints or seclusion may be undertaken by ward personnel for no more than thirty minutes, during which time a qualified mental health professional shall have been contacted and consulted.

10. All written orders for restraints or seclusion shall be effective for no more than twenty-four hours. In no instance, however, shall any child be secluded for longer than necessary to effect the treatment goals necessitating the initial use of seclusion.

11. While in restraints or seclusion, the patient shall be seen at least every fifteen minutes by ward personnel who shall be responsible for charting the patient's physical and behavioral condition every hour. Any significant change in behavior of a secluded youth shall be charted as soon as observed. Bathroom privileges shall be afforded every hour and reasonable bathing

privileges shall be allowed.

12. All incidents of restraint or seclusion shall be recorded in the patient's clinical medical records, which recording shall include an explanation of why restraint or seclusion was ordered, what alternative interventions were attempted and considered, and the duration of the restraints or seclusion.

13. Class members placed in seclusion shall be allowed to wear their own personal clothes.

14. The defendants shall continue their policy, which has been in effect for several years, that that portion of St. Joseph State Hospital popularly known as Park 15 shall not be used for seclusion of patients in the Youth Center.

15. It is sometimes necessary for the defendants to temporarily lock a ward at the Youth Center because of the propensity of one or more patients to be dangerous to himself or others or to elope. When this becomes necessary, the reasons for the locked ward will be charted in the records of the patient or patients necessitating the security and staff will take reasonable precaution to guarantee that the least restriction of freedom possible accrues to other ward residents.

16. Whenever a patient is placed on ward restriction, the reasons for the restriction shall be

charted in his/her clinical record.

XI.

PHYSICAL ENVIRONMENT

There is a consensus among the parties that the physical facilities at the Youth Center should provide an environment in which the members of plaintiffs' class are cared for and treated in a therapeutic manner.

To that end, the defendants have succeeded in securing an appropriation from the Missouri General Assembly in the amount of \$1,351,504. for the renovation of the Woodson Building which houses the Youth Center at St. Joseph State Hospital. The defendants anticipate that the building will be under contract for renovation by autumn, 1978. An architectural firm has been chosen and is presently working on the plans. A copy of the architectural plans, when completed, will be made available to the plaintiffs. The plaintiffs can review the plans and make suggestions.

Although no final architectural plans have been approved, the renovation work will include central heating and air conditioning, the division of the dormitory areas into sleeping quarters that will house no more than four people per room, and the renovation of toilets and shower areas. The renovation will also put the Youth Center into complete compliance with the Life Safety Code. In addition, windows will be replaced.

The defendants will continue to provide at least eighty square feet of living space for each class member. The defendants will also continue to provide at least one tub or shower for every six class members.

XII.

STAFF

The defendants shall continue to provide staff in sufficient numbers to provide affective treatment to the members of the class.

To that end, effective on July 1, 1978, the Youth Center at St. Joseph State Hospital was authorized a staff increase of thirty-five positions with an additional appropriation of \$492,384.00. As of November 22, 1978, twenty-five of those additional thirty-five positions had been filled. Efforts are presently being made to recruit individuals for the remaining ten positions allocated by working through the Missouri State Merit System, by advertising in newspapers, by notifying university placement bureaus, and by word-of-mouth. Included in the additional persons hired since July 1, 1978, are one psychiatrist, two clinical psychologists, ten educators, one graduate nurse, one activity aide, and ten psychiatric aides. One of the ten educators is certified in Mental Retardation and Emotional Disturbance. She is also a certified Reading Specialist. This particular individual

has a master's degree in Special Education. In addition to the allocations referred to above, the Youth Center has recently added three staff members to its Social Services Dept.

The efforts of the defendants to provide sufficient numbers of dedicated staff to treat the patients at the Youth Center of St. Joseph State Hospital shall remain unabated.

XIII.

DIET

The staff of the Youth Center have been and will continue to comply with the general and special dietary needs of each patient by the provision of properly prepared and tasty food of adequate nutrition and calorie content attractively served in a relaxed atmosphere.

XIV.

STAFF DEVELOPMENT

There shall be appropriate programs of staff development and in-service training for the professional, administrative, nursing, and support personnel of the Youth Center. Records shall be maintained documenting staff participation in development programs.

Programs for staff development and in-service training should be designed to keep all levels of staff informed of all significant new clinical or administrative

developments and skills. Facility-based programs shall be planned and scheduled in advance and will be held on a continuing basis. The administration of St. Joseph State Hospital shall evaluate the effectiveness of the staff-development programs.

Professional and nursing staff will receive in-service training with respect to all the treatment modalities in use at the Youth Center, including the behavior modification or point system program. Evaluation of all staff members shall be made periodically in accordance with the Missouri State Merit System.

To the purpose that the nursing staff will have sufficient input into the behavior modification program, nursing aides will be specifically instructed with respect to the operation of the point system.

Training programs outside the premises of St. Joseph State Hospital will be instituted to the extent that funds are available and so as not to interfere with the care and treatment of patients.

XV.

WORK ASSIGNMENTS

It has long been the policy of St. Joseph State Hospital that patients not be required to perform labor which involves the operation and maintenance of the institution. There is agreement between the parties,

however, that certain work activities may be therapeutically beneficial to the members of plaintiffs' class. Patients may be required to perform tasks of a personal housekeeping nature corresponding to the work obligations that the patient might have in his or her own home.

St. Joseph State Hospital shall continue to operate a vocational education program and a vocational rehabilitation program which shall be available to patients at the Youth Center for the purpose of teaching marketable skills.

Appropriate opportunities for productive work experience outside the facility shall be considered in relation to therapeutic programs to the extent that such work assignments are available and only upon a voluntary and compensatory basis.

The defendant may institute a limited program of voluntary work assignments on the premises of St. Joseph State Hospital to be made available to the members of the class. Such jobs shall be assigned only if deemed therapeutic by the treating team of the individual patient. The said work assignments program will be subject to written guidelines. Members of the class, voluntarily participating in such a program, shall be compensated at a rate commensurate with each patient's

productivity. Such a work program, if initiated, shall be monitored by the Human Relations Committee of St. Joseph State Hospital. Patients will be allowed to participate in this program only if they and their parents or guardians agree to their participation.

XVI.

COMPLIANCE

Although they are documents of a confidential nature, the defendants will provide counsel for the plaintiffs with copies of each report or accreditation survey made by the Joint Committee on Accreditation of Hospitals which reports or accreditation surveys shall relate to the subject matter of this final judgment and which reports or accreditation surveys shall have been completed within the two years immediately succeeding the date on which this final judgment is entered.

In addition, the plaintiffs shall be allowed on-site inspections of the Youth Center four times during the two years immediately succeeding the date of this final judgment, upon reasonable notice to counsel for defendants. During these inspections, counsel for the plaintiffs may inspect the physical facilities of the Youth Center, review the clinical medical records of all involuntary patients, and have access to regulations, written policy statements, and other written documents,

not subject to the attorney-client privilege, relating to the contents of this final judgment.

XVII.

COSTS

The costs of this litigation are hereby taxed and divided equally between the plaintiffs and the defendants.

Entered this 15th day of December, 1978.

UNITED STATES DISTRICT JUDGE

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IV. - 3.34

YOUTH CENTER
Revised Copy
November, 1978

POINT SYSTEM PROGRAM

I. OBJECTIVES:

This treatment program is based on the principles that behavior is learned and is determined by its consequences. The hospital residential setting provides an opportunity to implement a therapeutic environment in which the child's behavior results in clearly defined consequences designed to lead to socially acceptable behavior. As a part of the therapeutic environment and milieu for the children, socially acceptable behavior will be rewarded by the Point System. Unacceptable behavior will be ignored if it is minor or else measures will be taken to control the children. Accent will be on as positive an approach as possible with the absence of any measures that could be construed as being purposely punitive.

Program goal is that of improving the functioning level of the individual through reinforcing adaptive behavior.

The development of this program was guided by respect for the dignity, privacy and rights of the patient and imposes no restriction on basic needs. It provides for the individual's rights to private visitation and telephone communication to receive and send mail; to be free from social isolation except for emergency situations when necessary; to wear his (her) own clothing or those supplied by the hospital as a basic right; to receive personal hygienic needs; to have regular physical exercise; to be out-of-doors at frequent intervals; to have religious worship; to interact with members of the opposite sex; to view TV; and to have an adequate diet. He (she) will be allowed to have reasonable time for leisure and recreational pursuits. Patients will be required to perform tasks for the purpose of earning points only of a personal housekeeping nature such as cleaning bed area, lockers, and bedside tables. Complete records of performance, points earned and privileges under this Behavior Treatment Program shall be kept on the ward and shall be available to the patient.

Newly admitted residents and those returning from 60 day or more extended pass or from convalescent leave due to failure to adjust outside the hospital will be evaluated

IV. - 3.35

after a minimum period of one week by the Ward Team to determine readiness to benefit from participation in this program. If found to be eligible, he will be required to sign a Behavior Reinforcement Contract.

POLICY:

The policy established by the Point System is aimed at helping the staff reinforce acceptable behavior and as such prepare the patient for a return to the community and help him correct some of the abnormal behavior that caused his or her referral to the hospital in the first place. The primary responsibility of this point system is for managing behavior. Although the policies are guidelines for the staff, the judgment of the staff is very important for the success of this program. Consistency should be the key word but good judgment remains our objective. Problems which may develop with these policies can be changed through discussions and team meetings which are headed by the Unit Director with the goal of improving the service rather than responding to meet a situational stress. The program will be subject to revision as the need arises as determined by the staff.

III. General Considerations:

A general reinforcement program will provide the patient the opportunity to earn points for acceptable behavior. Points will be totaled at each check period. The daily grand total of points will be figured at the 4:10 p.m. check period. The daily grand total of points will be determined in terms of fulfillment of daily responsibilities.

CHECK POINTS WILL BE FROM:

4:10 p.m. to 9:00 p.m.
9:00 p.m. to 6:00 a.m.
6:00 a.m. to 8:30 a.m.
8:30 a.m. to 1:10 p.m.
1:10 p.m. to 4:10 p.m.

During the hours 8:30 to 11:45 a.m. and 1:10 to 4:10 p.m. an individual will have an opportunity to earn 50 points for each of the eight scheduled activity periods (possible 400 points daily). Being on the ward will be classified as a scheduled activity if the individual has no other assignments for that time unless returned to the area for unacceptable behavior. If he is scheduled for only a

20-minute class period time, he will have an opportunity to earn 25 points for class and 25 points for the balance of time spent on ward or in a scheduled second 20-minute class.

Each individual will have the opportunity to earn points for a Target Behavior which he selects individually or he may have the opportunity of having the peer group select such a Target Behavior for him. If the individual, peers, or staff is unable to identify a target behavior for a specific individual, this youth will earn points each check period under "Target Behavior" for not having any specific behavior problems. The staff retains the right to select a Target Behavior that will merit points for the individual in lieu of the Target Behavior selected by him.

In the event a Target Behavior may also be specified under the general behavior listings of the Point System, failure to earn Target Behavior points will be charted under this category by placing the letter "O" in the chart column and a "T" in the column applying to the general behavior category.

An individual may fail to earn points for more than one time during a check period for any specific behavior category. Each failure to earn points will be indicated by placing an "X" in the appropriate chart column. When failure to earn points during any check period exceeds the total number of possible points to be earned the individual will be automatically removed from the Behavior Reinforcement Program until the next 4:10 check period at which time he will be reinstated at Level I status.

Each individual will have an opportunity to earn points for scheduled activities (100 points mornings and 100 points evenings). These points will be credited to the individual's account by the aide on duty, but will not effect or be included in determining levels.

An individual will automatically receive mealtime points for evening meals if he returns from home visit after the Youth Center dinner hour.

An individual will automatically receive mealtime points if he has any meal off grounds other than overnight home visit (example - off grounds with parents).

Wards will be in competition with each other for the one having the highest weekly percentage of youth functioning

on levels IV and Bonus during the period of Sunday at 4:10 p.m. check period to the next Sunday 4:10 p.m. check period. The reward will be a sheath cake to be shared by the youth on the highest functioning ward during the following Monday evening snack time. In the event of a tie between wards, each will receive a cake.

An individual will not receive spending points while on home visit or overnight leave other than Youth Unit scheduled activities.

An individual will under no circumstances ever be required to forfeit any points which he has already earned. Points will be retained in the individual's account while he is on home visit.

In the event an individual is off grounds with family or by self on Saturday, Sunday or a holiday he will be eligible for earning points only for those responsibilities which he fulfills prior to leaving and after returning to the Youth Unit. This will not effect his level status for that day.

New admissions will have privileges at Level I cost until they have an opportunity to establish a functioning level.

To be eligible for weekend or holiday pass, the individual must function on Level IV or Bonus for four days out of a six-day period as figured at the 4:10 p.m. check period prior to leaving for home visits. He must also be eligible for a functioning level status functioning status at time of leaving.

IV. Special Considerations: Specific behaviors and functioning levels will merit special treatment with regard to points and privileges.

A. Restrictions

1. Elopement by an individual will merit a 24-hour unlocked sideroom or complete ward restriction for the first elopement and a 48-hour unlocked sideroom or complete ward restriction for the second elopement within

the three previous months. Restriction time for three or more elopements within a three months' period will be determined by the Youth Unit team. (See Youth Unit Management Policies). The Ward Team will assess behavior during restriction period to determine eligibility for early removal from restriction.

Individuals on complete ward restriction for elopement will be escorted to class by staff and to therapy at discretion of therapist. Teachers are to return child from class if possible; otherwise, ward is to be called for aide escort.

In case of complete ward restriction, the individual may earn points for acceptable behavior and activities in which he participates but will not merit the assignment of a functioning level.

An individual who elopes and is on unlocked sideroom restriction will automatically have an "NL" functioning status and will not have the opportunity to earn points.

2. Individuals on restriction for elopement and in unlocked sideroom will not attend scheduled activities except individual, group or Multiple Family Therapy which attendance will be at the discretion of the therapist.
3. In special instances where there is extended complete ward restriction the doctor will request the school to

make assignments for completion on the ward. The individual's assignments must be conscientiously completed in accordance with the individual's ability as determined by the teacher for the individual to earn points for such assignments completion.

4. When restriction applies to a specific activity only (school, O.T., or recreational therapy) the individual will not earn points for participating in that activity.

5. In the event the restriction from a specific activity extends beyond one day, the individual will fail to earn only the 20 points for not being on restriction for all days beyond the first day of restriction and will automatically be given points for that day's activity although he did not attend.

6. In the event a child's behavior warrants restriction from a meal, failure to earn points for "not being on restriction" applies only to the check period in which the restricted meal falls.

7. An individual placed on a time-out sideroom or privacy room area because of inappropriate behavior or is on 24-hour sideroom restriction for continued refusal to attend scheduled activities will not earn points and will automatically have a "NL" functioning status.

8. Physical aggression: Defined as physical assault directed toward another individual (children or staff -

Minor direct assault = failure to earn points as set forth in Point System; Moderate physical assault = 24 hours in sideroom with door open. May go to therapy at discretion of therapist; Severe physical assault = 24 hours in sideroom with door open followed by complete ward restriction for length of time determined by team. The Ward Team will assess behavior during restriction period to determine eligibility for early removal from restriction. While on ward restriction, he will be escorted to classes by staff to therapy at discretion of therapist.

During sideroom time-out for direct physical assault, the individual will not have an opportunity to earn points and will have a "NL" functioning status. During complete ward restriction he will have an opportunity to earn points for acceptable behavior and activities in which he participates, but will have "NL" functioning status.

9. Tantrum: Defined as an outburst of aggression directed inward with no directed physical assault on another person. The tantrum should be treated as calmly as possible with staff first attempting to verbally help individual regain control of self. If the child is unable to regain control, he or she should be placed in time-out room until tantrum stops and the individual is sufficiently in control. Time-out must consist of

isolation from interaction with others or materials.

10. Self-destructive acts will result in immediate social isolation in seclusion until quiet; then ward restriction for 48 hours. The individual will go to school and therapy only during the restriction period. He will have "NL" functioning status. The Ward Team will assess behavior during restriction period to determine eligibility for early removal from restriction.

11. In the event an individual is involved in physical aggressive behavior or sexual acting out while on group pass, he will not earn points for not exhibiting these specific behaviors in addition to 24-hour ground pass restriction.

12. Anyone found to be smoking or having marijuana will automatically be on one-week ward restriction but may attend classes and therapy; have one-week smoking restriction; and will have "NL" functioning status with opportunity to earn points.

13. Anyone found with alcohol or drugs other than marijuana will be automatically be on one-week ward restriction and will have "NL" functioning status but may earn points. He may be escorted to and from school by staff and may go to therapy at discretion of therapist.

14. Anyone taking unprescribed medication or giving their medication away to another will be on 48-hour complete

ward restriction and will have "NL" functioning status but may earn points. He may be escorted to and from school by staff and may go to therapy at discretion of therapist.

B. Specific behaviors.

1. In the event an individual is involved in any unacceptable behavior while going to dining area, in the dining area, or returning from the dining area, he will fail to earn points for each category applying to the incident.

2. In the event an individual is returned to the ward for physical aggression in the school, O.T., recreation or music therapy, he will have lost the opportunity to earn points (50) for not being aggressive during the check period.

3. Anyone deliberately destroying the personal property of others or state property will be assessed twenty-thousand points (20,000) for each item destroyed. Anyone deliberately inflicting bodily injury to self which requires x-ray services will be assessed twenty-thousand (20,000) for such services.

4. In the event a patient loses his point system card, destroys it, illegally changes it, fails to turn it in on time, or refuses to go to school, O.T., music, recreation, individual or group therapy, he will fail to earn points

for each of the scheduled periods.

5. Any individual who has had sideroom or ward restriction for unacceptable behavior will not merit the privilege of off-ground activities that specific day.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Inmates of the Judge John
J. Connelly Youth Center,
et al.,

Plaintiffs,

v.

Michael Dukakis, et al.

Defendants.

CIVIL ACTION

No. 75-1786-G

CONSENT DECREE

Complaint was filed in the above-entitled proceeding as a class action seeking declaratory and injunctive relief as to allegedly unconstitutional conditions and practices at the Judge John J. Connelly Youth Center. After pre-trial conference, the parties have agreed to an order which resolves all issues raised without trial. Accordingly, without deciding whether the treatment and conditions which have existed in the past with respect to this matter have been unconstitutional, it is hereby ORDERED, ADJUDGED, DECLARED, and DECREED that:

1. This Decree shall be binding on the defendants and their officers, employees, agents, successors and all persons acting in concert with them. It shall apply to all juveniles who are in the custody of the Department of Youth

Services (hereinafter "DYS") at the Judge John J. Connelly Youth Center (hereinafter "Roslindale" or the "facility") awaiting juvenile court hearings. These juveniles are hereinafter referred to as "detainees".

2. Roslindale shall be licensed or approved by the Office for Children (hereinafter "OFC"). DYS shall secure a permanent license or approval in accordance with state law and OFC Regulations.

3. Juveniles held by DYS under the CHINS Statute (Mass.Gen.Laws, Ch. 119, §§39E et seq.) shall not be held at Roslindale.

4. Within six (6) months of entry of the Decree DYS shall cease commingling detainees with committed juveniles awaiting placement. Until such time, committed juveniles awaiting placement shall have the same rights and obligations under this Decree as detainees.

5. DYS may transfer any juvenile from Roslindale to an OFC licensed foster home if DYS provides the detainee with health care in accordance with the other provisions of this Decree. If a detainee is in a foster home for a period exceeding seven (7) days, education shall be provided in accordance with state law.

6. Notwithstanding any other provision of this Decree, DYS may transfer a detainee to any OFC licensed or approved facility which has a program for committed

juveniles, if the detainee consents to such transfer in writing following consultation with his attorney.

7. The Commissioner of DYS shall promulgate and enforce Policy A ("Admissions") which is appended to and incorporated in this Decree.

8. When a detainee arrives at the facility, the intake person designated by the Superintendent of Roslindale shall immediately inform the parents or guardian by telephone that the boy is at the facility and the reason for his admission. In addition, the parent or guardian shall be informed of the facility's rules concerning mail, visits, and phone calls. In the case of detainees held in lieu of bail, the parents of the detainee shall also be advised at this time of the amount of bail, procedures for posting bail, and the name and telephone number of the detainee's attorney, if known. DYS shall provide other means of prompt notification in cases where the parent or guardian has no phone.

9. As soon as possible after admission, the identity, address, and phone number of the attorney or agency representing the detainee shall be ascertained and incorporated in the detainee's record.

10. When bail is set by the District Court, the counselor must inform each detainee of his rights to appeal the bail to the Superior Court. This information shall be

given at the detainee's intake interview which occurs within twenty-four (24) hours of admission. The counselor shall provide any detainee who wishes to prosecute a bail appeal with bail petition forms. The counselor may assist the detainee in filling out the forms. In any case where the counselor elects not to render such assistance, the Superintendent shall be informed in writing of the reasons for such election. A copy of the reasons shall be included in the detainee's file: When a detainee chooses to exercise his right of appeal, his attorney or the agency representing him shall immediately be informed.

11. DYS may not transfer a detainee in Roslindale to a more restrictive placement nor may DYS transfer a detainee at a less restrictive placement to Roslindale unless the conduct of the detainee justifies such an action or subsequent court action or written information received from a court shows that more security may be necessary to insure the detainee's appearance. Rules and regulations, including provision for a written record of reasons for transfer and for an administrative appeal procedure, necessary to effect this section shall be submitted to the Court, the plaintiffs and the Monitoring Board within four (4) months of entry of this Decree.

12. If a detainee is transferred to another detention placement from Roslindale, the counselor shall notify his

parents or guardian and his attorney of the transfer and the reasons for it. Whenever possible, said notice shall be given at least eight (8) hours in advance of the scheduled transfer, but in all cases as soon as possible following the transfer decision. Parents or guardians shall be permitted to visit with the detainee at any time between receipt of notice and the scheduled transfer. In all cases, the detainee shall have the opportunity to phone his parents or guardian and his attorney prior to his transfer, or immediately upon arrival at the new facility.

13. On any occasion when a detainee escapes from Roslindale, including instances of escape while outside the building but in DYS custody, his parents or guardian and attorney shall be promptly notified by DYS. His parents or guardian and attorney shall also be promptly notified when the detainee is returned to custody.

14. Detainees may send mail ("mail" is defined as both letters and packages) to and receive it from any person. Packages received from a detainee will be mailed on the day of receipt at the detainee's expense, or, if the detainee does not wish to incur the expense, the facility shall either mail the package at its own expense or contact the parents immediately and inform them that the package may be picked up at the facility. Incoming mail shall be delivered on the day of receipt and may be opened only in

the addressee's presence and only to inspect for "contraband". The addressee shall be promptly informed of any items which have been confiscated or withheld.

"Contraband" shall be defined in the inmate handbook and be limited to objects the possession of which constitutes a violation of the Massachusetts Criminal Statutes, or which pose a clear danger to other detainees or staff. No letter or other written material may be read, censored, or withheld.

15. The facility shall make available upon request free writing materials, envelopes, stationery, and postage for seven first class letters per week.

16. The facility shall establish and promulgate visitation policies which allow visits to all detainees on the following basis.

(a) There shall be a two-hour visiting period two nights per week for parents and guardians.

(b) There shall be two-hour visits available at any time from 9:00 a.m. to 3:00 p.m. each day upon one hour's prior notice to the facility. The director of the facility shall approve such visitation unless it would create a security risk. In the event visitation cannot be approved, the Superintendent shall arrange a visitation convenient to the visitor at the soonest possible time and in no case later than twenty-four (24) hours after the

denial, unless further delay is agreed to by the visitor.

(c) Notwithstanding subsections (a) and (b) of this paragraph, attorneys and clergy may visit clients at any time between the hours of 9:00 a.m. and 7:00 p.m., seven days a week.

17. No restriction shall be placed upon the number of visits by parents, guardians, attorneys and their agents, adult relatives or clergy to any detainee nor the duration of visits within the allotted visiting periods. Persons not described in the group above may visit the detainee if accompanied by a parent or guardian of the detainee, or with prior permission of the Superintendent on advice of the counselor.

18. During allotted visiting periods, detainees may have unmonitored conversations. For security reasons, however, a supervisor may remain in visual contact with the detainee and the visitor.

19. The facility may restrict or deny visits by persons who have given the detainee contraband or who created a disturbance during a visit. However, visits by a parent or guardian shall not be denied without the written consent of the detainee. Any restriction or denial of visits to any person, and the reason for it, must be made in writing by the person making the decision, reviewed by the counseling supervisor and placed in the detainee's

record.

20. The facility shall establish and promulgate the following policies regarding the use of telephones:

(a) Each detainee shall be allowed to make phone calls of five (5) minutes duration on each of six (6) days per week. Local calls and calls to parents, guardians and attorneys shall be at DYS expense. All other calls shall be at the detainee's expense or collect.

(b) No limitation may be placed on the identity of the person called or on the privacy of the call, except that a staff person may ascertain the identity of the person being called and enter this information in a log, and that calls to committed juveniles may be monitored, if this fact is logged.

(c) A detainee shall be able to place calls at any time reasonably calculated to ensure that he will be able to reach the person called.

(d) DYS may require the parties to renegotiate this policy within six (6) months of entry if significant security problems are encountered in complying with its provisions. Problems which cannot be resolved by negotiation may be brought to the attention of the Court for resolution.

21. Current employees and persons henceforth offered employment at Roslindale shall undergo screening to

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determine their emotional fitness to work with children in a custodial setting. The defendants shall develop a plan for screening within four (4) months of entry of this Decree and shall submit it to the Court, the plaintiffs, and the Monitoring Board.

Screening of all current employees shall be completed and the report on each employee submitted to the Assistant Commissioner of DYS for Clinical Services, the Court and the Monitoring Board within six (6) months of the entry of this Decree. No person who fails the screening shall be employed at Roslindale.

The Monitoring Board shall have access to all screening reports during the monitoring period. However, specific reports shall not become public information without the written consent of the individual tested.

22. During the monitoring period the facility shall maintain a personnel file at Roslindale for each employee. Said file shall contain the employee's job application, reports of all incidents or investigations involving the employee, notations of all disciplinary actions and the reasons for them, and the reason for employment termination.

23. Within twenty-four (24) hours of admission each detainee shall be assigned a specific employee of the facility to act as a counselor, and the detainee's parents

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or guardian and attorney shall be notified of the counselor's identity within twenty-four (24) hours of the assignment. It shall be the responsibility of the counselor to assist the detainee in solving problems arising from detention and incarceration, to assist him in maintaining contact with family, legal counsel, and the court, to provide counseling on a short-term basis as needed, to coordinate the activities of other persons in the facility and of outside persons and agencies in order to meet the detainee's needs, and to insure his well-being during the period of detention.

24. For each forty-five (45) detainees or portion thereof, there shall be at least one counseling supervisor employed full time at Roslindale who has a master's degree in psychology or a related behavioral discipline, or a B.A. or B.S. degree and training and experience in adolescent counseling. It shall be the responsibility of this person to supervise the counselors, and also to assist and advise both counselors and line staff on a regular basis with regard to particular residents who present behavioral problems.

25. There shall be at least one full time counselor for every fifteen (15) detainees or portion thereof. No person shall be appointed to the position of counselor without having first obtained training in adolescent

counseling.

26. Those individuals who have responsibility for the immediate supervision of detainees (shift administrators and floor supervisors) shall have a high school diploma or its equivalent. On each shift there shall be at least one such person for every seven (7) detainees.

27. Roslindale shall have, at a minimum, a half time recreational worker who has undergone training in physical education, or who possesses demonstrated aptitude and work experience in supervising recreational activities for adolescents.

28. All doctors and nurses who provide health services to detainees shall be experienced in the care and treatment of adolescents.

29. All staff who have substantial contact with detainees shall receive pre-service and regular in-service training from qualified professionals in the areas of behavior management, short term and crisis counseling, fire safety and first aid, recognition of and procedures for dealing with severe psychological disturbance, drug overdose and medical emergencies, and the structure and function of the juvenile court system. Attendance at all training sessions shall be a condition of continued employment.

Within four (4) months after the entry of this Decree,

the defendants shall submit to the plaintiffs, the Court, and the Monitoring Board a specific compensatory training program to be given to all current staff, a schedule for future pre-service and in-service training, and minimum departmental requirements for all pre-service and in-service training programs.

30. The defendants shall provide each detainee access to an adequate educational tutorial program while at Roslindale. Said program shall be designed around the individual needs and educational level of each youth, and there shall be provision for education at a remedial level.

Classes shall be conducted year-round, excepting on weekends and regular school holidays. Teachers at Roslindale shall be certified by the Massachusetts Department of Education. Maximum class size shall be twelve (12) students.

Each detainee shall receive four (4) hours a day of educational programming, at least two (2) hours of which are in academic subjects. The educational level of any detainee incarcerated more than seven (7) days shall be assessed. Following such an assessment, the detainee shall receive educational programming specifically designed to meet his assessed needs.

31. Each detainee shall be examined by a registered nurse or doctor within twenty-four hours (24) of admission

to Roslindale and at intervals of four (4) months or less thereafter. Said intake examination, at a minimum, shall include: the taking of a medical history, necessary immunizations, hearing and vision examinations, urinalysis, screening for drug use, tuberculosis, and venereal disease. Any detainee or employee who handles food shall have a complete physical examination prior to commencing his employment and thereafter in accordance with state law.

32. The defendants shall make provisions for twenty-four-hour-a-day emergency medical, psychiatric and dental treatment to be available to call detainees.

33. Sick call shall be held daily and be attended by a registered nurse or doctor. Each detainee has the right to be seen by a registered nurse or doctor at sick call or at the emergency room of the local hospital nearest to the facility.

34. Any detainee desiring psychiatric treatment shall promptly notify his counselor. If the counseling supervisor deems that the counselor does not have the professional capability to provide the help the detainee needs, the counselor shall immediately consult with a psychologist or psychiatrist and make the appropriate referral. The communications between the detainee and his therapist shall be privileged as to all persons.

35. No detainee shall be isolated from the general

population at admission or thereafter for medical or psychiatric reasons without the written approval of a licensed medical doctor, nurse or psychiatrist who has personally examined the detainee.

36. A detainee's parents or guardian shall be promptly advised of any medical or psychiatric problem except that the detainee's written consent shall be required prior to notification in cases involving venereal disease or homosexuality.

37. The facility shall have certificates of compliance with the State Sanitary Code as it applies to the living, kitchen and pool areas, and with the local fire safety code. Article II of the State Sanitary Code shall be the standard for living areas. Such certificates shall be updated by reinspections as required by statute, and the defendants shall maintain the facility in compliance with said standards at all times.

38. Each detainee shall be provided with a private room of at least seventy square feet or a semi-private room of at least one hundred and fifty (150) square feet, containing a bed with a mattress, drawers or shelving for possessions, a window, and electric lighting adequate for reading and operable by the detainee or at his request. In addition, each detainee shall be provided with a locker within or without his room, in which he may securely store

personal belongings. There shall be at least one common room having adequate comfortable furniture for each twenty (20) detainees. Toilets in common lavatories shall have partitions.

39. The facility shall be kept clean and in good repair at all times by the staff. On at least a bi-monthly basis, all floors in the facility shall be waxed. The bathroom shall be thoroughly scrubbed and disinfected daily. These duties shall be performed by staff, who may be assisted by detainees in accordance with Paragraph 40.

40. Upon admission, a detainee shall receive a clean room and shall not be expected to clean up after a previous occupant. While in the facility the detainee shall be responsible for keeping his own room clean, and on a voluntary basis, may assist maintenance staff in keeping common areas clean.

41. Defendants shall obtain complete engineering and code upgrading surveys of Roslindale, with proposals and cost analyses for recommended changes. The defendants shall seek capital outlay budgets for F.Y. '78 from the Legislature to effect the recommended changes. In seeking these funds, the defendants shall exercise every effort within their individual spheres of authority to insure that said funds are allocated.

Defendants shall submit monthly reports on steps being

taken to obtain the surveys and the funding, and the surveys when completed, to the court, the plaintiffs and the Monitoring Board.

42. Each detainee shall be liable for damage done to the facility. However, DYS shall provide the detainee the opportunity to repair whatever damage he has done prior to seeking court action.

43. There shall be sufficient windows to provide adequate natural ventilation and light. Windows shall be kept clean and in good repair at all times.

44. The facility shall provide a minimum of two (2) hours outdoor recreation on school days and a minimum of four (4) hours on non-school days for each detainee who desires it, except where weather prevents such programming.

45. The facility shall provide a program of indoor recreation, of both the sedentary and active type. There shall be an area in the facility sufficiently spacious to permit large muscle exercise in those instances where a detainee either cannot go outside or chooses not to go outside for exercise. The facility shall have sufficient recreational equipment in good repair to provide each detainee the opportunity to participate in some large muscle activity during the recreational periods. The facility shall also provide a variety of sedentary games as well as books, periodicals, and reading materials

appropriate to ages, heritages, and educational background of the detainees. Detainees shall have reasonable access to these materials.

46. Mandatory sleeping hours shall not exceed eight (8) hours per night.

47. Upon admission, each detainee shall receive a clean mattress, clean blankets as required by the temperature, freshly laundered sheets, pillow case and towel, pillow, soap, tooth paste and tooth brush.

48. Sheets and pillow cases shall be changed weekly, and clean blankets provided monthly. Sheets shall be fitted or large enough to stay on the bed after allowing for shrinkage.

49. A detainee shall be provided with clothing purchased by the facility. As nearly as possible, this clothing shall be equivalent to that worn by most adolescents. The facility shall provide a daily clean change of undergarments and socks to each detainee, and shall provide warm outdoor clothing to the detainees in cold weather.

50. Institutional clothing shall be regularly changed and laundered by the facility. Personal clothing shall be marked and receipt given to the detainee to insure against loss or theft. A detainee's personal clothing shall be stored in such a manner to insure that it will be as

presentable as possible for court. The detainee's counselor shall inform the parents or guardian when clean personal clothing is required to make the detainee presentable for court.

51. Each detainee will be provided with an opportunity for a daily shower or bath. Towels shall be changed at least twice a week.

52. The facility shall be strictly liable for all property and valuables, including clothing received by it from a detainee for storage, and shall promptly replace or give value for any item lost. The facility shall provide the detainee with a receipt cataloging the items it has received for storage. A copy of the receipt shall also be placed in the detainee's file.

53. Detainees shall be able to purchase personal articles not provided by the facility. The defendants will be deemed in compliance if said items are purchased for detainees on at least a twice a week basis after payment in advance.

54. The same breakfast shall be provided at the facility for all detainees, including those who are transferred out of the facility in the morning.

55. If the facility serves the evening meal before 5:00 p.m., it shall provide a snack to all detainees during the evening. In addition, a light meal shall be available

at all times between the evening meal and breakfast for newly admitted detainees who desire it.

56. Inmates shall not be deprived of meals.

57. Corporal punishment, whether inflicted by the staff or by a fellow detainee, is strictly forbidden.

58. On any occasion which a staff person or inmate uses physical force or restraint against a detainee, an incident report shall be filed with the director of the facility within twenty-four hours. Said report shall be immediately forwarded to the Assistant Commissioner of DYS for Clinical Services for investigation and appropriate action.

59. The Commissioner of DYS shall promulgate and enforce Policy T ("Use of Isolation Room") and Policy W ("Grievance Procedure"), which are appended to and incorporated in this Decree.

Within six (6) months after the entry of this Decree, either party may require the other to renegotiate the terms of Policy T. Difficulties which cannot be resolved by negotiation may be brought to the attention of the Court for resolution.

60. Visits, packages, mail and phone calls may not be restricted in any way for disciplinary purposes unless the detainee has abused his right to a specific form of communication. Such restrictions may only be imposed by

the Superintendent after a hearing. The detainee shall have at least three (3) hours prior notice of the hearing. The hearing shall be held on the same basis as hearings conducted under Policy T ("Use of Isolation Room"), appended hereto. If it becomes necessary for security reasons to impose a restriction between 5:00 p.m. and 8:00 a.m., a hearing shall be held as soon as possible the next morning.

If a restriction is imposed, the Superintendent, within twenty-four (24) hours of the hearing shall notify the detainee of his adverse decision and of the detainee's right to avail himself of departmental and commissioner's hearings under Policy W ("Grievance Procedure"), appended hereto. The superintendent shall ensure that an aggrieved detainee receives whatever assistance he needs to perfect such an appeal.

61. Within thirty (30) days after the entry of this Decree, the defendants shall submit to the plaintiffs, the Court and the Monitoring Board a proposed handbook for inmates. The handbook shall be written in simple language and shall describe with specificity each detainee's rights and privileges while in the facility, what is acceptable behavior and what is proscribed. The handbook shall describe fully the facility's disciplinary procedures and the specific punishment which may be imposed for given

infractions of the rules. The plaintiffs shall have ten days to object to the form or content of the handbook.

62. Each detainee shall receive a copy of the inmate handbook as soon as he enters the facility. Within twenty-four (24) hours of admission his counselor shall go over the handbook with him to be sure that he understands it fully. Additional copies of the handbook shall be available to detainees at all times and shall be kept in a prominent place in the facility. Copies of the handbook in Spanish shall be available to be distributed to detainees who speak that language.

63. A detainee may not be disciplined for acts or conduct which are not specifically proscribed by the facility handbook.

64. Following receipt of any set of rules and regulations, plan, handbook, or other written submission developed pursuant to this Decree, the plaintiffs and Monitoring Board shall have thirty (30) days in which to submit written objections and recommendations to the defendants, unless a shorter time is provided. The parties shall endeavor to resolve disputes by negotiation, but may move the Court to do so if such negotiations fail.

Following waiver or resolution of objections, or an approval by the Court, the set of rules and regulations, plan, handbook, or other written submission, shall be

incorporated herein, shall replace the provision ordering its development and shall become binding upon the parties.

65. Eight months after entry of this Decree the defendants shall be in full compliance with all its provisions, with the possible exception of paragraph 2. Absent full compliance, the plaintiffs may move the court to close Roslindale or for any other appropriate relief.

66. Any waiver by OFC of OFC Standards for Licensing or Approval shall not deprive the plaintiffs of the right to seek enforcement by the Court of any provisions of this Decree.

67. Following entry of this Decree, a Monitoring Board of five persons will be appointed to serve for a two (2) year period. Two monitors shall be nominated by the plaintiffs, two by the defendants, and one jointly by the plaintiffs and defendants. No person who has been employed by either party in the preparation of investigation of the present case shall be appointed a monitor. The monitoring scheme and the individuals who serve as monitors shall be subject to the approval of the Court.

68. The monitors shall evaluate the defendants' compliance with this Decree in whatever manner they deem suitable. They shall also provide technical assistance on an advisory basis to the Assistant Commissioner of DYS for Clinical Services, and shall inform the Court and the

parties in writing of their findings and recommendations. Such findings and recommendations shall be made regularly, and at least bi-monthly, for a period of eight (8) months following entry of this Decree, and quarterly thereafter for the duration of the monitoring period.

69. The Board, upon majority vote, may secure additional services from time to time, as needed. The Board shall endeavor to secure these services at no cost to the parties. However, if payment is necessary to secure said services, DYS shall provide the necessary funds, not to exceed two thousand dollars (\$2000) during the monitoring period.

70. Within thirty (30) days of entry of this Decree the parties and the Monitoring Board shall define the methods to be used by the Board within the facility.

71. The provisions of this Decree shall apply with full force and effect to any facility which commences operations after entry of the Decree and whose primary purpose is to act as a substitute facility for detention of all or part of the population presently incarcerated at Roslindale.

72. During the monitoring period, the Superintendent and his employees shall maintain central "monitoring files" at Roslindale, containing copies of all writings required or produced under Paragraphs 2, 6, 10, 11, 19, 21, 22, 35,

37, 58, 59, and 60 of this decree. Said files shall be available to monitors and their agents at all times.

73. The overnight arrest program for boys operated by DYS at the Charlestown YMCA, located in Boston, shall only hold boys until the next available arraignment session or for no more than four (4) days, whichever is longer. In the event that boys are detained there for longer periods, all the provisions of this Decree shall apply with full force and effect to said program.

74. Four (4) copies of this Decree shall be permanently posted at Roslindale in locations readily accessible to the detainees.

75. This Court will retain jurisdiction over this case and enter such further orders as may be required.

United States District Judge

Date: April 2, 1976

Consented :

For the Plaintiffs:

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436-6292

Steven M. Limon
Massachusetts Defenders Committee
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482-62-12

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For the Defendants:

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727-2220

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ADMISSIONS

Admissions refers to the process whereby the youth is brought to and processed into a secure detention unit.

The following youth will be accepted in secure detention if the director of the unit or his designee determines that the youth has been properly referred by the regions:

1. Youth who have committed serious offenses against a person and who have been assigned a high bail.
2. Youth being held for Superior Court Action.
3. Youth who are continual runners from other DYS facilities and private placements and who are in need of a more secure placement.

Each unit will have a maximum capacity which shall not be exceeded. Proper referral will constitute:

1. Availability of a slot for the particular region.
2. Call from the proper regional liaison confirming use of the slot.
3. Proper papers accompanying the youth, i.e.: mitt medical release, appropriate behavior or medical need records or reports.

When a youth arrives at the unit, the following procedures are to be followed:

1. The youth will be greeted by a staff person

assigned to take his personal history on the proper form. Rules of the unit will be explained to the youth. An orientation handbook will be given to each new admission and read with him. When read, the youth will sign a sheet indicating that he has read and understands the handbook. The signed sheet will be placed in the youth's folder. The youth will make a phone call home telling his parents or guardian where he is. The staff person will also talk with the parents explaining visitation, and operation of the program. (Refer to Parental Involvement Policy).

2. The youth will be given a shower and observed for any medical condition needing attention. The youth's personal clothing and possessions will be searched. Personal items will be properly stored in a secure locker and a receipt of these items given to the youth and a copy placed in the youth's file. The youth will be assigned clothing provided by the unit.

3. Sick call will be given by a licensed physician. Every new admission will be given a physical examination. (Refer to Medical Policy).

4. The youth will be introduced to other staff people, assigned a counselor and made a part of the program. The youth will be assigned a room with clean sheets, blankets, towels. He will be given necessary toilet articles.

unit decision within 5 days of the receipt of the decision to the Assistant Commissioner of Clinical Services, DYS, or his designee who must grant a hearing within 7 days of the receipt of the appeal. The resident may be represented by counsel or by a lay advocate of his choice at any Departmental formal hearing.

At any hearing, the resident and his representative or advocate may participate. The common law rules of evidence shall not apply. Such hearing shall be conducted in any orderly manner before the proper authority.

The hearings officer shall adjust the grievance at once to the satisfaction of the aggrieved resident or shall notify the resident in writing of his adverse decision within 5 days of the hearing.

3. Commissioner's Hearing

The resident may in writing appeal the adverse decision of the hearings officer to the Commissioner of Youth Services. The Commissioner shall grant a hearing within 7 days of the receipt of the appeal. Such hearing shall be conducted by the Commissioner, and the resident or his legal representative or advocate may compel employees to testify at such hearing. The hearing shall be conducted

in conformity with the Administrative Procedures Act and the decision of the Commissioner shall be final.

POLICY T

USE OF ISOLATION ROOM

"Isolation" is placing a resident in a room by himself for a period of time. The room may be the resident's own room or a room used specifically for isolation; it may be locked or unlocked. The use of isolation as a method of control is a constantly debated subject. Because it is controversial, proper safeguards must be implemented.

In the secure detention setting, isolation may be used for two purposes: (1) to quell out-of-control behavior which presents an immediate danger of physical harm to the resident, other residents or staff, and (2) to discipline a resident for serious infractions of the facility rules.

On any occasion when isolation is used, a complete report must be made in the log of:

1. name of resident
2. date and time placed in isolation room
3. reason
4. staff members checking the room at 15 minute intervals
5. time and duration of conversations between counselors or other staff and the resident

6. date and time released for physical exercise, if any

7. date and time released

Each entry should be initialed by the staff member making it.

When a resident is so out of control that his behavior presents immediate danger of physical harm to those around him, the staff may separate him from the other residents until he calms down. Upon separation, the staff should first try to calm him without the use of an isolation room. However, if all else fails, the resident may be placed in his own room. The person placing him in the room shall tell the resident that he will be released as soon as he calms down enough so that he will not resume the unacceptable behavior when let out. The staff persons shall immediately notify the shift administrator and the resident's counselor, if on duty, and make the appropriate log entries. Prior to the end of the shift, this staff person shall also submit a detailed incident report to the shift administrator who shall promptly give it to the director.

Upon being told that a resident has been isolated, his counselor shall promptly go to the isolation room and speak with him. The counselor shall tell the resident why he was separated from the other residents and shall explain that

as soon as he calms down he will be released.

While a resident is in isolation to quell behavior, he shall be checked every 15 minutes by a counselor or staff person assigned by the shift administrator. At these checks, the staff person shall question the resident to ascertain whether or not he has calmed down enough to be returned to the general population. Except between 10:00 p.m. and 8:00 a.m., while a resident is in isolation his counselor shall talk with him at least ten minutes out of each hour in an effort to get the youth back into the general population. (If the counselor is off duty, this should be done by another counselor or the shift administrator). As soon as the counselor or shift administrator feels that the resident is sufficiently calmed down to be allowed back with the other residents, the resident shall be released.

Under no circumstances shall a resident who is isolated to quell behavior be kept in isolation more than 2 hours.

EXTENDED ISOLATION

Isolation may only be used on an extended basis for disciplinary purposes after the resident has received a fair hearing with the administrator "on call" acting as hearing officer.

When an infraction occurs or is reported, a staff

member shall escort the resident involved to the shift administrator. If the boy is still acting out in a way which endangers the safety of others, he may instead be placed in his room in accordance with the previous section, and the shift administrator then immediately brought to the resident. The staff shall inform the administrator briefly of what occurred or was reported, and the administrator shall decide whether or not disciplinary isolation should be sought. The administrator may decide not to seek a hearing. (If the resident had been placed in his room, he should be released pending his hearing as soon as he appears calm enough to rejoin the rest of the group).

If the administrator decided that disciplinary isolation may be justified, he shall tell the resident that there will be a hearing. The shift administrator shall then notify the administrator "on call" and set the time for hearing. He shall then write up a notice of the infraction, stating the details of the charge and the time of the hearing, and give it to the resident. He should also make a copy to be given to the hearing officer at the hearing. The hearing shall not be held sooner than 2 hours after the resident receives the notice, but in all cases within 24 hours.

If the administrator "on call" witnessed the incident or was otherwise involved, he shall appoint a counselor or

other administrator who has not witnessed the incident or been otherwise involved to act as hearing officer.

The resident, if he wishes, should be allowed to have his counselor or other person of his choice assist him in preparing for the hearing and at the hearing. The resident should always be given adequate time to prepare his case.

At the hearing, the hearing officer shall inform the resident of what information he has already learned of the incident and of his rights to make a statement, to be present throughout the hearing, to call and question witnesses, to confront his accuser, and to know any other information that the hearing officer may learn through investigation. Then the hearing officer shall hear the evidence on both sides and shall do such other investigation as he deems appropriate.

If the hearing officer determines that the evidence leaves no reasonable doubt in his mind that the resident did the act charged in the matter, he shall then consider information that the staff or resident may wish to present on the question of sanction. He may then impose such sanction as he deems fit within the limits set forth below. Isolation is not mandatory in any situation, and other disciplinary measures should be used where possible.

The hearing officer shall write a detailed report stating the evidence relied on, the sanction imposed and

the reasons for the sanction. The report shall be completed and copies delivered to the director of the unit and the resident within 24 hours after a sanction is imposed. If the hearing officer finds for the resident, he need only submit the report to the director. As soon as possible after receipt the director shall review the report and may at that time reduce the sanction if he deems it appropriate. The hearing officer may also reconsider his decision and impose a lesser sanction at any time. All reports shall be promptly forwarded to the Assistant Commissioner of DYS for Clinical Services.

Disciplinary isolation may only be used for the following infractions and with the following limitations:

1. Use of controlled substances within the facility (maximum 1 day)
2. Repeated harassment or threats to other residents after other disciplinary measures have failed to control the behavior (maximum 1 day)
3. Causing major damage to facility property (maximum 1 day)
4. Escaping without the use of physical force (maximum 1 day)
5. Escaping or attempting to escape by means of physical force (first offense - maximum 1 day) (subsequent offenses - maximum 2 days)

6. Inflicting physical harm upon another resident or staff (minor offenses and first serious offense - maximum 1 day) (subsequent serious offenses - maximum 2 days)

7. Taking money or possessions of other residents by force or threat of force (first offense - maximum 1 day) (subsequent offenses - maximum 2 days)

When justified by aggravated circumstances or continued violations, however, the maximum period of isolation for any of the above offenses may be extended to a period of 3 days by the Assistant Commissioner for Clinical services following a written recommendation by the hearing officer. The recommendation shall be included in the hearing officer's report and shall set out the reasons which, in the opinion of the hearing officer, justify the extension.

The resident shall be told at the end of the hearing that a recommendation for extension will be made. Before any decision is made by the Assistant Commissioner, the resident shall receive a copy of the report and recommendation and any other material submitted to the Assistant Commissioner, and shall be given the opportunity to communicate with the Assistant Commissioner by phone or otherwise. The Assistant Commissioner shall make his decision based upon the hearing report and recommendation, any other materials submitted, and any communication he has with the resident. If he approves an extension of

isolation, he shall do so in writing, stating his reasons, and a copy shall be placed in the resident's file. He may also decline to extend the isolation or reduce the period imposed by the hearing officer. Any extension must be imposed prior to the termination of the initial period of isolation.

Disciplinary isolation shall occur in a normally furnished room, unless the resident himself necessitates removal of some furniture or other items. The resident shall remain fully clothed, except that his belt and shoes may be removed. If shoes are removed, substitute footwear shall be provided. He shall receive the same meals as other residents and shall be allowed out for physical exercise at least 2 hours a day, exclusive of bathroom calls. He shall also have access to counseling staff upon request and his counselor shall see him at least once a day. At all times there shall be a person with a key to the isolation room within calling distance of the resident, and each shift administrator shall insure that the resident is checked every 15 minutes and the check logged.

Staff and counselors should constantly bear in mind that any of the above behaviors which lead to isolation can be caused by conditions which require psychiatric counseling. Be alert for this and seek such counseling whenever it seems advisable. It may be wise to seek a

psychiatric evaluation in any situation where physical restraint is to be used on a new resident with whom the staff is unfamiliar. Also, when a resident unfamiliar to the staff is isolated, special care should be taken by the staff until they have assured themselves that isolation will have no unexpected adverse effect upon that resident.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

() SANTIAGO, et al., : CIVIL ACTION
vs. : NO. 74-2589
CITY OF PHILADELPHIA, et al. :

STIPULATION IN PARTIAL
SETTLEMENT OF THIS ACTION

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PREAMBLE

The following factual background is agreed to by the parties and is incorporated as preamble to the stipulation of settlement.

In February, 1975, the Court of Common Pleas of Philadelphia appointed a new Board of Managers to the Youth Study Center. Thereafter, in September of 1975, Malcolm Amos was appointed by the Board of Managers as Executive Director and he has occupied that position to the present day.

A reorganization of the Youth Study Center commenced in 1975 and various educational, recreational and other programs were introduced. Shortly thereafter, through the joint efforts of the Family Court and the Youth Study Center, the Detention Alternative Program came into being. This Program releases to other facilities status offenders and first offenders not involved in violent crime. Social workers were engaged (subject to budget limitations) and requests were made of city authorities for capital funds with which the Center could improve the building and the conditions under which the residents lived.

Certain changes in personnel were made, subject to Civil Service Commission restrictions as to improper dismissal.

Center programs planned and implemented since 1975 have bettered conditions for residents, and have covered the items now contained in the present stipulation. In most instances the programs and operations of the Youth Study Center set forth in this stipulation reflect current practice and in all instances are intended to be maintained in the future.

Although the parties intend that this stipulation be enforceable in this court, the parties agree it gives rise to enforceable rights only in the event of a material breach in its observance. Upon execution of the stipulation, the original complaint will be withdrawn and its allegations will not be the subject of future proceedings, legal or equitable.

I Alternative Detention Placement: The parties recognize that one of the primary goals of juvenile detention is "to provide custody which minimizes the damaging effects of confinement, and physical care which fosters growth." Regulation 6403, C & Y Manual, The Office of Family Services, Pennsylvania Department of Public Welfare, October, 1968. Because at present the Youth Study Center (hereinafter "YSC") provides only the most severe form of custody, secure custody, the YSC shall continue to implement the plan for less restrictive detention placements. (The YSC has already taken steps to increase

beds in off-site locations by obtaining a LEAA grant of \$212,195 to expand community placements from 40 to 52.) This Plan shall consider models similar in kind to those utilized in the Detention Alternative Program (hereinafter "DAP"), including but not limited to, small community-based group homes, foster placements, and mentor homes. Intake at the YSC shall be in conformity with the standards set forth in Paragraph XXI, infra.

II Discipline of Children at the YSC:

A. Corporal Punishment:

(1) Subsequent to any use of physical force by a staff member, a "Use of Force" report (86-141) shall be filed immediately by the staff member with his supervisor, describing specifically the reason for the use of force, the amount and type of force used, the resident involved, and the names of all resident and staff witnesses. The supervisor shall investigate the incident and report his findings to the Executive Director of the YSC within 24 hours of the incident. In all cases where there is evidence uncovered that force was used or a "Use of Force" report was filed, the Executive Director shall interview the staff member, resident involved, and any witnesses, a) to determine whether or not force was necessary, b) to counsel all parties about the confrontation and c) to decide if further action should be taken, including, where

appropriate, suspension and/or dismissal of staff in violation of this policy.

(2) Whenever a "Use of Force" report is filed, the Executive Director or his deputy (the Program Coordinator or Administrator-on-Duty) shall also notify the resident's parent or guardian by letter, documenting the incident and the results of the investigation. A copy of this letter shall also be sent by the resident's social worker to the resident's attorney of record, and another copy shall be included in the resident's Family Court juvenile file.

(3) Whenever any YSC resident believes that he has been the victim of unwarranted use of force by a staff member, the resident may, if desired, file a report with his social worker setting out the allegations. The YSC shall provide forms for this purpose. This report shall be forwarded immediately to the Executive Director or his deputy and investigated and processed in the manner provided for "Use of Force" reports, including notification of parent, attorney of record, and Family Court, as outlined above.

B. Crisis Intervention/Disciplinary Isolation *
Procedures:

* The following procedures are subject to modification in order to conform with DPW regulations on the subject of isolation.

(1) "Isolation" is placing a resident in a room by himself for a period of time. The room may be the resident's own room or a room used specifically for isolation; it may be locked or unlocked. The use of isolation as a method of control is a constantly debated subject. Because it is controversial, proper safeguards must be implemented.

(2) Isolation may only be used in the following situations:

(a) When a resident is so out of control that his behavior presents immediate danger of physical harm to himself or to those around him. ("Crisis Intervention")

(b) To discipline a resident for the following wilful infractions of the facility rules:

- (i) Use of controlled substances within the facility;
- (ii) Repeated harassment or threats to other residents after other disciplinary measures have failed to control the behavior;
- (iii) Causing major damage to facility property;
- (iv) Escaping from the facility;

(v) Inflicting physical harm upon another resident or staff;

(vi) Taking money or possessions of other residents;

(vii) Repeated refusal to adhere to Center regulations, where this results in substantial interference with discipline on the unit;

(c) Court-ordered isolation.

(3) Isolation is not mandatory in any situation, and other measure should be used wherever possible.

Staff and counselors shall bear in mind constantly that any of the behavior for which isolation can be imposed may be caused by severe psychological conditions requiring psychiatric counseling. Be alert for this and seek such counseling whenever it seems advisable, especially where a resident is unfamiliar to the staff.

As an added precaution the resident's social worker shall speak to each resident within an hour of the commencement of isolation and evaluate his condition. (If the social worker is not on duty, then another social worker or the Social Work Supervisor should see the resident. At night, and on weekends, the Program Coordinator shall fulfill this function.) The social worker or Counselor Supervisor may advise that the

resident be seen immediately by a psychiatrist, or that the child be released as soon as he has calmed down, and not be subject to any disciplinary isolation, if that initially had been imposed. The counselor or Supervisor shall request that the social worker re-evaluate the situation whenever necessary. At the end of the isolation period, the social worker shall prepare a report and submit it to the Executive Director.

(4) Whenever a child is isolated because of uncontrollable behavior requiring crisis intervention pursuant to B(2)(a) above, the child must be released as soon as he calms down, unless a psychiatrist advises otherwise. This should be explained to the child at the time of isolation.

(5) Whenever a child is isolated for discipline pursuant to B(2)(b) above, the maximum time for which a resident can be isolated is 24 hours, unless the procedures in (10) below are followed.

It is stressed that this is a maximum period. A 24 hour period of isolation should rarely be necessary.

When a child is isolated for disciplinary reasons, the maximum period should only be imposed in an extreme case. Normally a far lesser period shall suffice as a disciplinary measure. The counselor shall explain to the child that he will be released as soon as he calms down

and/or his attitude improves significantly. The counselor, social worker or Counselor Supervisor shall recommend to the Program Coordinator that a child be released as soon as his attitude has shown significant improvement. The Program Coordinator or Executive Director shall make the decision to release.*

(6) In all cases where a resident may be isolated, the matter must be discussed with the resident by the unit counselor and the Counselor Supervisor. The Counselor Supervisor shall consult with the Program Coordinator, who, after ascertaining all the facts, shall make the decision as to whether isolation is necessary or not. If the decision is made to isolate, the resident shall be told the reason for the decision. The social worker shall be notified immediately, and the procedure outlined in (3) above shall be followed.

At the end of the isolation period, the Program Coordinator shall prepare a report and submit it to the Executive Director.

If a resident believes that the period of isolation was imposed unjustly, he may present his grievance to the

*Upon release, a resident shall be returned to the Youth Study Center School if classes are still in session.

Citizens' Advisory Committee, and the matter shall be thoroughly re-investigated by the Executive Director.

(7) Checks During Isolation: The unit counselor shall check on an isolated resident every 15 minutes, determine whether he is ready to be released, and record his checks in the unit log. The Counselor Supervisor shall check the isolated resident at least once every 2 hours and he shall report to the Program Coordinator as to the resident's condition. The Supervisor shall record his checks in the log.

(8) Record Requirements: On any occasion when isolation is used, a complete report must be made in the log of:

- (a) Name of resident;
- (b) Date and time placed in isolation room;
- (c) Reason;
- (d) Counselor's 15 minute-interval checks;
- (e) Times of Counselor Supervisor's checks;
- (f) Times of social worker's checks;
- (g) Times of checks by any other staff, including psychiatrist;
- (h) Time, duration and content of conversations between counselors, social workers or other staff and the resident;
- (i) Date and time released for physical

exercise, if any

(j) Date and time released, and reason.

A complete incident report must be made by the counselor and submitted to the Executive Director or Program Coordinator by the end of the counselor's shift.

(9) Isolation Room: Before isolating a resident, thoroughly inspect the isolation room and the resident's person to make certain they do not contain contraband of any type. Check the screen, window, and the locks.

The resident shall remain fully clothed, except that his belt and shoes may be removed.

The following must be provided for a resident in isolation:

(a) A room equipped with light adequate to read between the hours of 9:00 A.M. and 9:00 P.M.

(b) Sufficient clothing to meet seasonal needs.

(c) Bedding including sheets, blankets, pillows and mattress. Such bedding must be changed frequently.

(d) Personal hygiene supplies including soap, toothpaste, toothbrush, comb, towels, sanitary napkins and toilet paper.

(e) A change of pajamas and socks every

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day.

(f) Minimum writing materials: pen, pencils, paper and envelopes.

(g) Prescription eyeglasses, if needed (unless in the opinion of the Executive Director a dangerous situation is likely if permitted).

(h) Access to books, periodicals, and other reading materials located at the YSC.

(i) Daily showers and adequate toilet facilities.

(j) Daily access to medical facilities, including the availability of 24 hour nursing services.

(k) Correspondence privileges generally applicable to juveniles in the institution.

(l) The same meals as provided for the rest of the residents. (All meals to be eaten in the room.)

(m) Access to social workers upon request.

If the resident is aggressive and there is a fear of the resident harming himself or others by breaking furniture and damaging property, the counselor and supervisor may remove such furniture and bedding from the room as is necessary. These articles will be returned as soon as it is believed that the resident's aggressiveness

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has subsided.

The supervisor may also decide that possession by a resident in isolation of any of the items described above might be dangerous to the youngster, and may remove them. A report of that decision must be made in writing and placed in the log.

A resident must have adequate exercise, if isolated for longer than an 8 hour period.

(10) Isolation for Periods Longer than 24 Hours:

When justified by aggravated circumstances or continual violations, the maximum period of disciplinary isolation may be extended to a maximum period of 2 days.* Within 24 hours of making such a decision, the Executive Director of the YSC shall forward a written report to the Regional Youth Services Director of DPW, setting out the reasons which, in his opinion, justify the extension. All reports connected with the particular resident's isolation, as well as his YSC and Family Court files, shall be made available to the DPW Director. H/she shall receive a copy of that report within 24 hours of its being made, and shall be given the opportunity to communicate with the Director of Regional Youth Services, by phone or otherwise. The Director of Regional Youth Services shall

* Unless there is a court-ordered extension.

review and investigate cases of isolation beyond 24 hours where he deems appropriate or where there is any appearance of abuse in such isolation.

Any extension must be imposed prior to the termination of the initial period of isolation.

III.A. Handbook for Residents:

(1) Each new resident of the YSC shall receive a handbook which, in clear and simple language, shall describe the services and facilities provided at the Center, explain the rules regarding discipline and outline the procedures of the Family Court. Incorporated by reference herein, and attached hereto as Exhibit A, is the handbook presently provided residents of the YSC, which fulfils the above functions, and a set of "Guidelines for Residents", to be included as a slip-note in the present handbook until republication, and then to be incorporated therein.

(2) Within 24 hours of admission, each new resident's social worker shall go over the handbook with him to be sure that he understands it fully. Copies of the handbook in Spanish shall be available for those who speak that language.

III.B. Grievance Procedure:

(1) The Citizens' Advisory Committee, composed of

representatives of community organizations, shall hear complaints from residents relating to matters covered in this stipulation or to events or conditions at the YSC.

(2) The Committee shall meet at least once every two weeks at the YSC, and its members shall have access to all residents, including residents in isolation, in order to discuss any grievances they might have.

(3) The Committee shall prepare a summary of grievances presented to it and submit this to the Executive Director within one week of the date of its meeting. The Executive Director or his deputy shall investigate thoroughly and resolve each complaint, and submit a written response to the Committee by the date of its next meeting.

(4) Both of the aforementioned documents shall be forwarded once a month to the Director of Regional Youth Services, DPW.

(5) The Committee shall meet at least once a month with the Executive Director. Every six months a summary of complaints received will be prepared by the Committee and submitted to the Board of Managers and the Director of Regional Youth Services, DPW.

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IV. General Institutional Conditions:*

A. Room Furnishings:

(1) Each room shall have a bed, mattress, desk, chair, and a locker in which to keep personal belongings, provided that one or more of those furnishings may be removed where a resident exhibits assaultive behavior and may use furniture to hurt himself or others. These furnishings shall be provided within 120 days of the signing of this stipulation.

(2) The individual rooms and sleeping areas shall be painted at least once every two years, and residents shall be allowed to decorate their area so long as walls are not marred or defaced. All beds shall be kept in good repair, and mattresses shall be aired out and/or cleaned when necessary.

B. Physical Plant: The YSC shall make all repairs and renovations provided for in the Architects' Plans prepared for the City of Philadelphia and incorporated by reference herein. Utmost priority shall be given to the completion of the following:

(1) Installation of a fully operable heating system, regulated to avoid overheating and discomfort.

*Expenditures necessary for purchase of room furnishings and physical plant repairs will be provided by Defendant City.

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(2) Installation of a fully operable air conditioning system, which shall ventilate all areas of the institution where the residents move about, including sleeping quarters.

(3) Installation of sufficient windows in appropriate places to provide adequate ventilation.

Regular extermination services shall be secured to remedy any rodent and insect problems.

V. Freedom of Movement: Defendants shall make every effort to provide adequate supervision so that doors between the front sections of the units and sleeping areas will be open as often as possible, allowing residents to have access to either. Free access to bathrooms shall be assured at all hours.

On a broader level, residents shall be allowed as much freedom of movement as is possible without increasing the risks of absconding by residents.

VI. Privacy: Renovation plans for the YSC shall include provisions for quiet rooms, reading rooms, and observation rooms which afford privacy under supervision.

VII. Visitation: The visiting policy shall be as follows:

<u>Visiting Hours:</u>	Tuesday and Thursday:	2:30-3:45
	Saturday and Sunday:	2:30-3:45
	Monday Evening:	6:30-8:00
	Wednesday Evening:	6:30-8:00

Visiting shall be encouraged on the following "family" holidays: New Year's Day, Thanksgiving, Easter Sunday, and Christmas (2:30-3:45).

Parents, legal guardians, and grandparents, are permitted to visit on any of the scheduled days. Adult aunts and uncles, brothers and sisters, may receive permission to visit if accompanied by one of the parents or legal guardians.

Ministers of the faith and social service personnel are permitted to visit with permission of Administrative staff. Proper identification is required.

The number of visitors is limited to two persons per visit, but there is no limit to the number of visits per week. All residents, boys and girls, are permitted visits regardless of their length of stay. Those boys and girls who have been placed in isolation can receive visits on the approval of the administrative staff.

Special visiting privileges may be arranged by the Administrative or Social Service staff, for reasons of special interest to the resident or parent.

Any restriction or denial of visits to a person, and the reason for it, must be made in writing by the person making the decision, reviewed by the resident's social worker and the Executive Director or his deputy and placed in the resident's file. The resident shall be informed of the reasons for such a restriction, and shall

have access to an appeal through the grievance procedure (as established in section III.B of this Stipulation), if so desired.

A special visiting area shall be developed which provides for quiet and privacy. Conversations shall be unmonitored, but a supervisor may remain in visual contact for security reasons.

VIII. Mail

(1) Incoming and outgoing mail shall be unopened and uncensored. All mail, both outgoing and incoming, shall be the responsibility of each resident's social worker, who shall deliver mail on the day that it arrives. If there are reasonable grounds to suspect contraband, the social worker may open the particular item of mail, but this procedure can only be followed in the presence of the resident concerned, and only after the social worker has explained to the resident the reason for this suspicion. A record is to be made of the incident.

(2) Social workers shall pick up outgoing mail at the same time as they deliver incoming mail, and shall deposit it that day with the U.S. Postal Service.

(3) The YSC shall make available free writing materials, envelopes, stationery and postage stamps, which shall be supplied by the resident's social worker, upon request.

IX. Telephones: Outgoing calls to parents, relatives and attorneys shall be made available on request. Other calls shall be arranged by each resident's social worker in a reasonable manner, not to exceed one call per day. An up-to-date log shall be kept of calls made by or on behalf of each resident. Privacy shall be afforded within the space limitations provided, and subject to the need for adequate supervision.

X. Recreation:

(1) The YSC shall provide a minimum of one hour indoor physical recreation per day and a minimum of three hours outdoor physical recreation per week, weather permitting. Suitable clothing shall be provided for cold weather. The gym shall be furnished with sufficient recreational equipment to provide each resident the opportunity to participate in large muscle activity each day. Such equipment shall be maintained regularly.

(2) A wide selection of reading and writing materials, art supplies and games shall be available and regularly maintained. Regular opportunities for co-educational activities shall be provided, not solely as a reward for good behavior.

(3) Every recreational worker employed at the YSC shall have undergone training in physical education and shall possess such demonstrated aptitude and work

experience as shall qualify him or her to supervise the recreation of children who have behavioral problems or are emotionally disturbed. To this end, every recreational worker shall participate in mandatory in-service training.

XI. Library: The YSC shall supplement the services of the YSC School by providing library services on each unit for use after school hours, on weekends, and during school vacations.

XII. Medical Services:

(1) Within 120 days of the signing of this stipulation, the medical and dental procedures, equipment, staffing and services provided by and through the Center, shall be studied by a university hospital based team, composed of medical doctors and dentists, approved by both parties. Every effort shall be made to implement any recommendations made by such a team.

(2) There shall be no involuntary vaginal examinations for girls upon admission to the Youth Study Center.

(3) No thorazine or other tranquillizing drugs shall be administered at the YSC unless specifically prescribed, in writing, by a physician. In such instances, the physician shall examine the youth to review such use every 24 hours and keep full documentation for the resident's file.

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(4) Each resident shall be afforded reasonable access to a psychiatrist and/or a psychologist in accordance with his/her wishes, including consultation and crisis intervention. As noted in the Pennsylvania DPW Annual Review of 1976, both a psychiatrist and a psychologist shall be available at the YSC in order to provide ongoing treatment services where needed.

XIII. Hygiene:

(1) Adequate soap, toothpaste, toothbrushes, and deodorant of a commercially acceptable brand shall be available to all youths. Residents shall be allowed to shower daily.

(2) Bed linen shall be changed weekly, and blankets washed on a regular basis. Towels shall be changed twice a week.

(3) Clothing provided by the Center shall be similar to what is worn in the community. Clean underwear shall be furnished daily for girls, and at least twice a week for boys. Clean clothing shall be issued at least every 3 days.

(4) Custodial services shall be provided daily, with special emphasis on bathrooms. Showers and toilets shall be disinfected daily, and the cafeteria, kitchen and eating areas shall be kept in a clean state.

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XIV. Food Services:

(1) Within 120 days of the signing of this stipulation, the Youth Study Center shall obtain a certification from City, State and Federal authorities that the YSC is in compliance with all codes and regulations applicable to the kitchen and dining areas. Such areas shall be maintained so that compliance with such codes is continued.

(2) Staff "sufficient to prepare and serve the meals that meet the nutritional needs of the children" (DPW Annual Review of 1975) shall be provided. A fully qualified dietician shall approve all menus on a regular basis.

(3) Within 120 days of the signing of this stipulation, a nutritional consultant, acceptable to all parties, shall evaluate the quality, quantity and preparation of food at the YSC, and make recommendations. Evaluation by a City Food Services Consultant shall then continue on a monthly basis, to ensure continued compliance with such recommendations.

XV. Custodial Services:

(1) Residents shall be required to clean their own sleeping rooms and living areas, and adequate cleaning supplies must be provided for this purpose. All other custodial services, including cleaning of the bathrooms,

shall be provided by YSC employees.

(2) Nothing in this section shall prohibit a resident of the YSC from participating in a work/study or vocational education program organized and supervised by the YSC School.

XVI. Fights Among Residents:

Staff members shall not allow residents to fight with one another. When a fight occurs, counselors shall make every effort to break it up immediately.

XVII. Sexual Incidents:

Homosexuals shall be protected from harassment, and shall not be stigmatized by putting them in isolation, segregating them by unit, or otherwise discriminating against them. Counselors, however, shall be aware of the possibility of homosexual rape, and provide protection for potential or actual rape victims. Only the initiator of such an assault may be punished.

XVIII. Conversion of Personal Property:

A system to reduce the incidence of missing property shall be maintained, and modified when necessary. Records of items "checked in" by residents shall be kept, and legible receipts given to residents. Lockers shall be provided in individual sleeping rooms* so that residents

*See Par. IV.A., supra.

can keep personal possessions and the aforementioned receipts in safe-keeping, if so desired. In addition, a system for reporting missing items shall be maintained.

XIX. Social Services:

(1) The Social Work Supervisor shall have an M.S.W. Each social worker employed by the YSC shall have a B.S.W.

(2) Within 24 hours of admission, each resident shall be assigned a specific social worker, and the resident's parents or guardian and attorney shall be notified of the social worker's identity within 24 hours of the assignment.

(3) It shall be the responsibility of the social worker to assist the resident in solving problems arising from detention and incarceration, to assist him in maintaining contact with family, legal counsel, and the court, to provide counseling on a short-term basis, especially family counseling, as needed, to coordinate the activities of other persons in the facility and of outside persons and agencies in order to meet the resident's needs, and to insure his well-being during a resident's stay at the YSC.

(4) Social workers shall be provided in sufficient numbers to provide such individualized attention.

XX. Child-Care and Professional Staff at the YSC:

(1) The staff-child ratio mandated under the Title 6400 regulations shall be maintained.

(2) Qualifications: Each counselor (except for CETA aides) shall have completed 2 years' college education and 2 years' experience in child care, or 4 years college. All counselors, including CETA aides, shall possess a demonstrated aptitude which qualifies him or her to act as a child-care worker with children who have behavioral problems or who are emotionally disturbed. To this end, the Executive Director of the YSC shall interview all potential counselors, and shall monitor closely their performance during the probational period.

(3) In-house training:

(a) Initial training at the YSC shall consist not only of orientation to the YSC, its facilities, procedures and policies, but also shall include training from qualified professionals in the areas of management and understanding of the behavior of disturbed juveniles, recognition of and procedures for dealing with severe psychological disturbances, drug overdose and medical emergencies, and the function of the juvenile court system.

(b) Ongoing training shall be provided on a regular, mandatory basis.

(i) The Consultation and Education Services of the Hahnemann Community Mental Health/Mental Retardation Center shall design and administer such

training programs, taking into account the specific needs of the YSC, in a manner similar to the organization of the compensatory training program given current staff in 1977 by the same consultant. A summary of this program, attached as Exhibit B, is incorporated by reference.

(ii) Budget allocations for staff development shall be made on an annual basis to ensure compliance with Regulations 6423.2a and 641.D of the C & Y Manual, DPW, and to ensure continuance of current training programs.

(iii) Defendants shall submit to plaintiffs' counsel a copy of the evaluation of the compensatory training program given current staff in 1977, and a summary of the training program to be undertaken in 1978-1979, as soon as they become available.

(iv) If at any stage the services of the aforementioned consultant are discontinued, DPW shall approve the new consultant.

(4) Regular communication between social workers, teachers, probation officers and child-care workers shall be maintained, and child-care workers shall review a child's file as part of their duties, in order to have as full a picture as possible of a child's background.

XXI. Intake Standards:

I. Standards for YSC Intake Personnel:

A. Mandatory Release: The intake official shall release the accused juvenile unless the juvenile:

1. is charged with an assaultive crime which in the case of an adult would be punishable as a felony (any degree) or misdemeanor of the first degree, and one or more of the following additional factors is present:

(a) the juvenile is an escapee from an institution or other placement facility to which he/she was committed under a previous adjudication; or

(b) the juvenile is alleged to be delinquent by reason of actions which resulted in serious bodily injury to the complainant; or

(c) the juvenile has a demonstrable record during the last year of wilful failure to appear at juvenile proceedings resulting in the issuance of bench warrants to assure his/her presence in court.

2. has been verified to be a fugitive from another jurisdiction, an official of which

has formally requested that the juvenile be placed in detention.

B. Mandatory Release Pending Dispositional Review:

The intake official shall release a juvenile who has been committed to an institution or other placement facility under a previous adjudication and who is returned to the YSC pending a review of commitment and new disposition unless the juvenile:

1. has been returned by the institution or placement facility by virtue of acts which caused serious bodily injury or damage to the property of the placement facility; or
2. is an escapee from the institution or placement facility; or
3. has a demonstrable record during the last year of wilful failure to appear at juvenile proceedings resulting in the issuance of bench warrants to assure his/her presence in court; or
4. is considered by the institution or placement facility to be no longer amenable to that institution's treatment program, and is otherwise eligible for detention at the YSC according to the standards set forth in this document.

Any juvenile who is not released pursuant to this provision shall have a detention hearing before a judge within seventy-two hours to review the intake official's decision.

C. Mandatory Detention: A juvenile who is excluded from automatic mandatory release under subsections A. and B. need not necessarily be detained. No category of alleged conduct or background in and of itself shall justify a failure to exercise discretion to release.

D. Discretionary Situations: In every situation in which release of an arrested juvenile is not mandatory, the intake official shall first consider and determine whether any form of control (such as intensive probation) short of detention is available to reasonably reduce the risk of flight or danger to others. If no such measure will suffice, the official shall state explicitly in writing the reasons for rejecting this alternative to detention. When an intake official determines that a form of detention is a permissible interim status under subsections A. or B. above, secure detention (i.e. YSC) may be selected only if it is likely the release will result either in serious bodily injury to others or flight to avoid appearance in court. Absent such evidence, the accused shall be placed in non-secure

detention (i.e. DAP). The intake official shall give written reasons for his determination.

E. Protective Detention: Placement in a detention facility solely for the protection of an accused juvenile may be permitted only upon the voluntary written request of the juvenile or his/her attorney.

F. Protective Care: A juvenile shall not be detained at the YSC solely because he/she has no parent, relative or guardian who is willing and able to provide custody and care, provided that an alternative facility or interim placement is available, including the DAP.

II. Standards for Court Ordered Detention at Detention

Hearings:

A. Mandatory Release: Release by the court is mandatory in any situation in which the arresting officer or intake official was required to release the juvenile, but failed to do so, or when the Commonwealth fails to establish probable cause to believe that the juvenile committed the offense charged.

B. Discretionary Situations: In all other cases, the court shall review de novo all factors that officials earlier in the process were required by these standards to have considered. The court shall review with particularity the adequacy of the reasons for detention recorded by the intake official.

C. Statement of Reasons: If, after reviewing de novo the intake official's detention decision, the court orders a juvenile detained in secure or non-secure custody, the judge shall set forth his reasons for declining release.

D. Release Alternatives: The court may release the juvenile on his or her own recognizance, on conditions, under supervision, including release on a temporary basis to the attorney if so requested for the purpose of preparing the case.

XXII. Monitoring by Department of Public Welfare (hereinafter DPW):

(1) Within 90 days after the signing of this Stipulation, DPW shall designate a team which shall evaluate the YSC's compliance with this Stipulation and all applicable city, state and federal laws. This evaluation shall take place within 120 days after the signing of this Stipulation and a full report, detailing areas of compliance and noncompliance, shall be provided to each party within 10 days of the completion of the evaluation, and shall be filed of record with the Court.

(2) For a period of one year after the 120-day period set out in (1) above, DPW shall evaluate the YSC on a quarterly basis. Full reports of these evaluations, including areas of compliance and noncompliance, shall be

provided to all parties within 10 days of the completion of these evaluations and shall be filed of record with the Court.

(3) During the second year after the 120-day period set out in (1) above, DPW shall evaluate the YSC on a six-monthly basis. Full reports of these evaluations, including areas of compliance and noncompliance, shall be provided to all parties within 10 days of the completion of these evaluations and shall be filed of record with the Court.

(4) After the aforementioned two-year period, DPW shall evaluate the YSC at least annually, to assure compliance with this Stipulation and all applicable city, state, and federal laws. Nothing in this Stipulation shall limit DPW from requiring the YSC to comply with any other requirements which DPW deems appropriate

XXIII Modification

This Stipulation or any portion thereof may be changed, modified or amended upon agreement of all parties.

XXIV Jurisdiction

The parties intend that breach of this Stipulation will create enforceable rights. Any alleged violations are to be raised before the Court for the sole purpose of adjudicating issues related to compliance with this

Stipulation and would not subject the named defendants or their successors in office to contempt penalties unless, subsequent to the Court's decision and Order, the determined violations continue.

COUNSEL FOR DEFENDANTS:

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For: City of Philadelphia
Defendants

ALFRED MARROLETTI, ESQ.
For Family Court

NATHAN POSNER, ESQ.
For: Board of Managers

Dated: _____
APPROVED BY THE COURT:

LORD C.J.

COUNSEL FOR PLAINTIFFS:

JACK J. LEVINE, ESQ.
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Community Legal Services

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Juvenile Law Center

ELLEN JOSEPHSON, ESQ.
Community Legal Services

DATED: December 21, 1978

N.Y. State Assn. for Retarded Children, Inc. v Rockefeller

CONSENT JUDGMENT

Proposed Final Judgment and Appendix "A"
(Steps, Standards, and Procedures)
in the Willowbrook case, 72 Civ. 356/357
Subject to approval by the Court

April 21, 1975

Approved by the Court, April 30, 1975

CONSENT JUDGMENT

Upon the joint motion of plaintiffs, defendants, and the United States, it is hereby ordered, adjudged and decreed:

1. This Court has jurisdiction of the subject matter and of the parties hereto, and the complaints state claims under 42 U.S.C. §1983. On April 10, 1973 this Court entered an opinion finding that Willowbrook's residents had constitutional rights, under the Eighth and Fourteenth Amendments, to protection from harm. Subsequently, a trial was held on plaintiffs' request for permanent relief. Without admission and prior to final findings of fact and conclusions of law, the parties have now agreed to entry of a consent judgment, specifying additional steps, standards and procedures necessary to secure the constitutional right to protection from harm

for Willowbrook's residents and members of the class. The Court has issued notice of the class, and finds that this judgment is supported by evidence in the record. This judgment and Appendix "A" thereto are hereby approved pursuant to Rule 23(c) of the Federal Rules of Civil Procedure. The steps, standards and procedures contained in Appendix "A" hereto are not optimal or ideal standards nor are they just custodial standards. They are based on the recognition that retarded persons, regardless of the degree of handicapping conditions, are capable of physical, intellectual, emotional and social growth, and upon the further recognition that a certain level of affirmative intervention and programming is necessary if that capacity for growth and development is to be preserved, and regression prevented.

2. Within their lawful authority, including the State constitution and applicable State laws, and subject to any legislative approval that may be required, defendants are hereby ordered and enjoined to take all actions necessary to secure implementation of the steps, standards and procedures contained in this judgment and in Appendix "A" hereto, which appendix is expressly made part hereof, in a prompt and orderly manner.

3. The steps, standards and procedures contained in this judgment and in Appendix "A" hereto

shall be applicable to all residents of Willowbrook and, unless inappropriate, to all other members of the class. Specifically, defendants shall delegate among themselves and their subordinates responsibility for the appropriate and relevant actions necessary to implement this judgment. Defendants shall take all steps necessary to ensure the full and timely financing of this judgment, including, if necessary, submission of appropriate budget requests to the legislature.

4. This judgment and Appendix "A" hereto shall be applicable to and binding on the defendants and their successors, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of this judgment by personal service or otherwise. In addition, defendants shall include in every future contract requiring an agent or independent contractor to perform steps, standards and procedures that would otherwise be performed by defendants or their employees, a clause requiring the agent or independent contractor to meet the steps, standards and procedures specified in Appendix "A" hereto, insofar as they are relevant to said contracts.

5. This judgment shall have no binding force or effect with respect to any other action or proceeding.

6. Defendants shall place in each building

where members of the class reside a notice that the Court has issued a judgment setting forth steps, standards and procedures to be applicable to those residents, and that a copy of that judgment is available for inspection by employees in the office of each such building. In addition, defendants shall make a copy of this judgment available for inspection by parents, relatives or guardians at the administration building during regular business hours.

7. (a) Within 45 days of the date of this judgment, a Review Panel shall be appointed, consisting of two persons chosen by defendants and approved by the Court, three persons chosen by plaintiffs and approved by the Court, and two recognized experts in the field of mental retardation who are not otherwise currently employed or retained by defendants. One of the two experts shall be experienced in the management and operation of public institutions for the mentally retarded, and the other in the establishment and operation of community facilities and in the care and placement of mentally retarded persons in such facilities. The two experts shall be agreed upon by the parties and approved by the Court; if the parties do not agree, each party shall submit one nomination for each undisputed position and the appointments shall be made by the Court. The

Court may terminate and replace any of the seven Review Panel members at any time, for good cause. Upon resignation, termination or inability of any Review Panel member to continue to serve on the Review Panel, his or her replacement shall be appointed in accordance with the procedures specified in this paragraph.

(b) The Review Panel shall promptly hire at least one, but not more than three, full-time staff members with appropriate experience in mental retardation and/or institutional administration to assist the Review Panel in performing its duties.

(c) Review Panel members and Review Panel staff shall receive appropriate compensation from defendants, on a monthly basis, and shall promptly be reimbursed by defendants for reasonable out of pocket expenses incurred in performing the duties of the Review Panel. Defendants shall at their expense provide appropriate office space, telephone service, postage, clerical staff, typewriters, and similar support equipment to enable the Review Panel to carry out its duties. The classification and status of the Review Panel and its staff (i.e., as employees, consultants, or otherwise) shall promptly be determined by defendants.

(d) All Willowbrook unit chiefs, team leaders and department heads (referred to hereafter as

"supervisors") shall compile and submit to the Director and to the Review Panel every 60 days written reports which show in detail the progress towards implementation within the building, unit or department of which they are supervisors of each relevant provision of this judgment, and which describe problems or obstacles to full implementation. For this purpose, the Review Panel shall consider issuance of recommended check lists and appropriate forms. Supervisors shall be allowed sufficient on-duty time, and shall be provided sufficient clerical and other support, to carry out this responsibility.

(e) The Review Panel staff shall periodically compile written reports showing in detail the degree of progress with respect to implementation of this judgment and specifying recommendations for consideration by the Review Panel, and shall perform such other duties as the Review Panel directs.

(f) Members of the Review Panel and its staff shall be allowed access to all information, records (including budget records), buildings and areas, and shall be permitted to interview any member of the class or employee of defendants, at reasonable times and places, to the extent necessary to the discharge of their duties under this judgment.

(g) Any interference with the Review Panel, its staff, or with supervisors in connection with their performance of the duties described herein, by any person having notice of the contents of this judgment, may be punishable as contempt of court and subject to other sanctions provided by law.

(h) All reports submitted to the Review Panel by the Professional or Consumer Advisory Boards, by supervisors, by Review Panel staff, or by consultants, shall be available for inspection and copying by all parties to this action.

8. (a) The Review Panel appointed pursuant to paragraph 7 above shall receive the reports described in said paragraph and any reports submitted by the Professional and Consumer Advisory Boards or by consultants pursuant to this judgment. The Review Panel and its staff shall conduct any additional inquiries they deem necessary or appropriate with respect to the matters contained in such reports or with respect to other matters which may come to the Review Panel's attention relative to the provisions of this judgment.

(b) The Review Panel, by majority vote of the entire panel, shall periodically make written recommendations to defendants of steps deemed necessary to achieve or maintain compliance with the provisions of this

judgment. Such recommendations shall include, where necessary, timetables for implementation of steps or measures for which timetables are not specified elsewhere in this judgment. Copies of such recommendations shall be served upon counsel for plaintiffs and the United States, the New York City Regional Director of the Department of Mental Hygiene, and upon such other persons as the Review Panel deems appropriate.

(c) Panel members may also make informal suggestions to the defendants, in whatever form they deem appropriate, which in their opinion will facilitate compliance with this judgment.

(d) The Review Panel shall, by majority vote of the entire panel, recommend a resolution of any disagreements which arise concerning the interpretation or application of the steps, standards and procedures contained in Appendix "A" hereto. Such recommendations shall be communicated in writing to defendants, to counsel for plaintiffs and the United States, to the New York City Regional Director of the Department of Mental Hygiene, and to such other persons as the Review Panel deems appropriate.

(e) All parties to this judgment shall be bound by and shall implement the recommendations of the Review Panel issued pursuant to paragraphs 8(b) and 8(d)

hereof, unless within 15 business days following receipt of such recommendations they serve on all other parties and file with the Review Panel a written objection to such recommendations. The filing of such an objection by any party shall automatically stay the effect of any such recommendation until further order of the Court.

(f) After receipt of written objections, the Review Panel, by majority vote of the entire panel, or any party, may apply to Court for an order implementing the recommendations to which objection has been taken. Such applications shall be upon prior written notice to all parties and to the Review Panel.

(g) Any party may request the Review Panel to issue a specific recommendation, and upon the Review Panel's failure or refusal to do so, that party may apply to Court for appropriate relief.

(h) Any employee, resident, parent, foster parent, next of kin or guardian may bring a situation or disagreement related to the provisions of this judgment to the attention of the Review Panel for appropriate action in accordance with the procedures outlined above.

(i) The Review Panel, by majority vote of the entire panel, shall establish such formal and informal hearing procedures, bylaws and regulations as it deems necessary in order to perform its duties.

(j) The Review Panel shall hold meetings every four months, or more often, at which any employee, resident, parent, foster parent, next of kin or guardian, or any other person deemed by the Review Panel to have a similar or appropriate interest, may appear and make recommendations, comments, or suggestions as to any matter within the jurisdiction of the panel. Such meetings shall be held alternately at Willowbrook and at the New York City Regional Office of the Department of Mental Hygiene, and shall be adequately publicized at Willowbrook and in the general community no less than 7 days prior to the date thereof. Such meetings shall be in addition to any other meetings, hearings, or conferences which the Review Panel deems necessary in order to carry out its duties under this judgment.

(k) Where appropriate, the Review Panel shall draw upon and utilize the experience and expertise of the Consumer and Professional Advisory Boards established pursuant to this judgment, and upon the advice and assistance of other recognized experts. The defendants herein shall bear the costs, within reasonable limitations, of the services provided and necessary expenses incurred by such other experts.

A. Resident Living

1. Residents shall be provided with the least restrictive and most normal living conditions possible. This standard shall apply to dress, grooming, movement, use of free time, and contact and communication with the outside community, including access to educational, vocational and therapy services outside of the institution. Residents shall be taught skills that help them learn how to manipulate their environment and how to make choices necessary for daily living.

2. In addition, the staff shall prepare residents to move from 1) more to less structured living; 2) larger to smaller facilities; 3) larger to smaller living units; 4) group to individual residences; 5) segregated from the community to integrated with the community living and programming; 6) dependent to independent living.

3. Living groups shall not contain unrelated residents differing widely in age level (e.g., young children and adults) or level of retardation (e.g., profoundly and moderately retarded) unless designed to test out special models within a research framework. Blind residents shall not be grouped with lower functioning residents simply because of their blindness, nor shall the multiply handicapped be segregated unless particular circumstances so require.

4. The institution's rhythm of life shall be modified to conform with practices prevalent in the community. For example, older residents ordinarily shall not be expected to live according to the timetable of younger children.

5. Multiply handicapped and non-ambulatory residents shall, except where otherwise indicated by a physician's order, spend a major portion of their waking day out of bed, spend a portion of their waking day out of their bedrooms, have planned daily activity, and be rendered mobile by suitable methods and devices. Residents shall not stay in beds, cribs, wheelchairs or orthopedic carts all day long, except on the order of a physician, which must be in writing if the order is to remain in effect for more than four hours.

6. The Director and the Consumer Advisory Board shall prepare a document listing the legal and civil rights of residents, which shall be approved by the

parties, circulated to staff and residents, and posted throughout Willowbrook.

7. Residents shall be provided with clean, adequate and seasonally appropriate clothing, including shoes and coats, which shall be readily accessible for residents' use. Such clothing shall be comparable in styles and quality with clothing worn by persons of similar age and sex in the community.

B. Environment

1. Defendants shall provide living facilities which afford residents privacy, dignity, comfort and sanitation. This shall include, but not be limited to:

- accessible, private and easily usable toilets and bathing facilities, including specialized equipment for the physically handicapped;
- accessible and easily usable sinks and drinking facilities;
- adequate toilet paper, soap, towels, linen and bedding;
- training for residents in the use of toilet facilities;
- individual bed and dresser or storage place;
- attractive, comfortable and spacious living and sleeping areas;
- attractive and normalizing furnishings and leisure equipment, including materials to reduce noise level;
- normal temperatures and adequate ventilation;
- separate clean and dirty linen storage areas.

2. Living areas shall be sectioned and partitioned so that no more than eight residents live or sleep in one unit. Programming and working areas shall be quiet, appropriately designed and conducive to programming. Architectural barriers which impede living and programming for handicapped residents shall be corrected or removed. Residents shall be encouraged to decorate their living areas and furniture.

3. Every building shall be kept clean, odorless, and insect-free at all times, and sufficient equipment such as brooms, mops, etc., shall be provided to housekeeping staff for this purpose. In particular, lavatory areas are to be cleaned as often as necessary every day, and bathtubs shall be cleaned after the bath of each resident.

4. Housekeeping staff and services shall be provided to all living units every day on both the day and evening shifts. Additional housekeeping staff shall be employed for this purpose.

5. Residents shall ordinarily sit or be on the floor only for therapeutic reasons (i.e., physical therapy positioning). If placed on the floor for play or other purposes, they shall be on mats, a sufficient number of which shall be provided so that residents are not crowded together.

6. Residential life shall be structured so that it is possible for residents to wear and use glasses, hearing aids, crutches, braces, rolling walkers, and similar aids in their living units, and residents who need such aids shall be provided with and assisted to use them.

7. Toys and equipment shall be readily accessible to residents during waking hours.

C. Direct Care Staff, Mid-Level Supervisors & Clinical Staff

1. Each resident at Willowbrook shall receive appreciable and appropriate attention each day from the direct care staff in his living unit, whose primary responsibility shall be the care and development of each resident. To this end, appropriate provision shall be made to ensure that direct care staff are not required to perform routine housekeeping chores, except during the 3rd (night) shift.

2. Direct care staff shall participate in the inter-disciplinary team decision-making process and individual care, development and services programming, as described in section D, with the responsibility for individual residents set forth in that section.

3. Willowbrook shall employ and maintain sufficient therapy aides at the grade 7 and 9 levels to ensure that the following numbers shall be present and on duty:

a) During the hours of the day and evening when residents are awake:

- 1) One therapy aide for every four residents in buildings primarily for residents who are children, non-ambulatory or multiply handicapped, and for those residents receiving intensive psychiatric care;

- 2) One therapy aide for every sixteen adult residents presently residing in buildings 19 and 32;

- 3) One therapy aide for every resident receiving an intensive behavior modification program;

- 4) One therapy aide for every six residents for all residents and buildings not covered above;

b) During sleeping hours, an average of one therapy aide for every twelve residents on an institutional basis.

4. So long as defendants maintain the ratios required by paragraph 3(a) hereof within buildings, they may provide a lower staff to resident ratio for one or more living units within a building, in order to provide higher staff to resident ratio for another living unit, or units, within that building, provided that such deviation is not regular, chronic or permanent for any living unit or units, and provided further that in no living unit shall the staff to resident ratio ever be lower than 1:8, except in those living units covered by paragraph 3(a)(2) above.

5. Schedules of residents and employees shall be revised so that day ratios apply when residents are waking and preparing for breakfast.

6. The direct care staff to resident ratios specified above shall be achieved and maintained as promptly as possible and in no event later than 13 months from the date of this judgment.

7. Sufficient mid-level supervisors, i.e., grade 11 and grade 13 therapy assistants, or registered or practical nurses where appropriate, shall be employed to ensure that there will be one such person present on duty per 24 residents on both the present on duty for every 48 residents on the third (night) shift, such ratios to be achieved within 13 months of the date of this judgment. At least 1/4 of the persons employed at grades 11 and 13 shall be employed at the grade 13 level.

8. Willowbrook shall establish and maintain an overall ratio of clinical staff to residents of 1 to 3. For this purpose, clinical staff shall include, without

limitation, physicians, psychologists, dentists, nurses, teachers, physical therapists, social workers, speech and hearing therapists, recreation therapists, music therapists, unit chiefs, and team leaders, but shall not include the direct care staff (including therapy aides and mid-level) supervisors as defined in paragraph 7 above), and other administrative, support and clerical staff. Each of the above clinical disciplines shall be adequately represented by appropriately qualified staff. The numbers of persons to be included within each discipline shall be at the discretion of the Director. Within 13 months of the date of this judgment, at least one-third of the total clinical staff, and at least one-third of the clinical staff within each discipline other than social work and occupational therapy, shall be employed at the professional, as opposed to the paraprofessional or trainee, level. Within 18 months of the date of this judgment, at least one-third of the clinical staff within the social work and occupational therapy disciplines shall be employed at the professional level. All persons employed at the professional level shall meet the standards for licensure, certification or registration that would be required for similar practice in the community.

9. Defendants shall begin immediately and shall continue to hire such staff as is necessary to maintain steady progress towards achievement of the ratios specified in paragraphs 3, 7 and 8 hereof.

D. Programming and Evaluation

1. Each resident shall have an individual plan of care, development and services (referred to hereafter as the "development plan"), which shall be prepared and re-evaluated at least annually by an interdisciplinary team of direct care and appropriate professional staff, as described in this judgment, after comprehensive diagnostic testing and evaluative screening, with the assistance of the resident, his or her parents, relatives or guardian. The development plan shall include all education, speech, physical therapy or other plans required by this judgment. The development plan shall be regularly reviewed by the team, at least quarterly.

2. Each development plan shall describe the nature of the resident's specific needs and capabilities, his or her program goals, with short range and long range objectives and timetables for their attainment. The

development plan shall provide for six (6) scheduled hours of program activity per weekday, designed to contribute to the achievement of objectives established for each resident, and each resident shall receive six hours of such program activity per weekday. In exceptional cases, residents may receive fewer than six hours of program activity per weekday if a physician certifies in writing that such activity would be medically harmful to the resident. Such certification shall promptly be submitted to the Professional Advisory Board for approval. The development plan shall state criteria for release to less restrictive settings, including criteria and projected date for release, discharge, or transfer to a community placement, and programming necessary to achieve such release, discharge or transfer.

3. A single team member, identified in the development plan, shall be responsible for reviewing and supervising the resident's program progress, including his progress toward community placement, and for coordinating the inputs and assignments of other professionals and disciplines. For each shift a specific direct care employee shall be designated to have continuing responsibility for each resident's daily living and safety. Records shall be maintained listing such employees and the residents for whom they are responsible. Such records shall be available to the Review Panel and to parents, relatives or guardians. Professional team members shall be responsible for training, supervising and evaluating therapy aides and direct care staff who implement any part of the program.

4. Defendants, in collaboration with plaintiffs, shall promptly establish and submit to the Review Panel for consideration a mechanism for an appeal by residents, parents, guardians or relatives when they disagree with the resident's individual development plan.

5. Residents shall not be sent back to their living units from programming activity as punishment, and programming shall not be withdrawn from any individual except as part of an approved behavior modification program. Programming shall be regularly scheduled for both the day and evening shifts.

6. Parents, relatives and guardians shall be kept informed on at least a quarterly basis of the resident's educational, vocational, and living skills, progress, and medical condition, and shall be allowed access to the

resident's records, subject to objection of the resident, who shall also have access to his or her records.

E. Personnel - Recruitment, Screening, Training Qualifications, Termination.

1. Defendants shall actively recruit qualified staff, including top level management and professionals, whose licensure, certification or qualifications would be suitable for practice or employment in comparable circumstances in the community.

2. There shall be full staff orientation and training programs to increase employees' skills and interest in achieving the program goals of the residents. Within 60 days of the date of this judgment, defendants shall prepare and submit to the Review Panel for evaluation and recommendation a plan to improve Willowbrook's orientation and in-service training programs, which plan shall specify the proposed staffing, curriculum and duration of such programs.

3. Personnel policies shall be directed at the best use of individual employees' skills and at the enhancement of effective programming for residents and working conditions for employees. In order to continually improve personnel policies, systematic interviews of employees terminating employment shall be carried out, summaries of which shall be reviewed by the Willowbrook personnel department, the New York City Regional Office of the Department of Mental Hygiene, and by other appropriate persons, to determine any causes of employee dissatisfaction and instances of dehumanizing or abusive practices and other relevant information, including the determination of appropriate criteria for hiring and screening new employees.

4. All employees with direct care responsibilities shall be able to communicate in English. Sufficient bilingual staff shall be hired to serve the needs of Spanish-speaking residents.

5. Staff shall be actively involved by the administration in the development and assessment of Willowbrook policies and programming.

6. Supervisors shall be responsible under appropriate law and regulation for the regular review and assessment of the performance of their subordinates,

including most particularly their success in meeting program objectives. The administration shall be responsible for pursuing every procedure and requirement provided by law, regulation or contract, in the termination or reassignment of employees whose performance is found unsatisfactory.

7. Whenever necessary to expedite recruitment or to maintain staff, whatever exceptions are permitted under the State Civil Service Law or any other law shall be utilized. In addition, defendants shall develop a plan for increasing the length of the probationary period for grade 7 mental hygiene therapy aides, and shall seek, where necessary, approval for such plan from the Civil Service Commission.

F. Education

1. The education philosophy shall be that all residents are presumed to be capable of benefitting from education. Except for residents over the age of 21 who are involved in six or more hours of appropriate, formal, daily programming, all residents shall be provided a full and suitable educational program, regardless of chronological age, degree of retardation or accompanying disabilities or handicaps. No resident shall be presumed to be incapable of educational development. Each resident in a formal education program shall have an individual education plan which shall specify short term and long term objectives. The education staff shall consult on at least a weekly basis with those individuals and teams responsible for the daily care and programming of each resident.

2. Educational services at Willowbrook shall, at least, be generally equivalent to the special educational services provided in New York City in terms of:

- a. Staff qualifications and competencies, in-service training, and diagnostic or prescriptive teachers;
- b. Program hours per student;
- c. Nature, content and quality of programs;
- d. Curriculum guides, equipment, resource materials and diagnostic, testing, and screening procedures.

3. There shall be provided sufficient teachers' aides, therapy aides and other assistants to achieve an average of one such aide or assistant for each teacher, to assist the education staff.

4. There shall be no more than six residents in a class for severely and profoundly retarded residents, nine in a class for moderately retarded residents, and twelve in a class for mildly retarded residents. Generally, classes for school-age children shall be conducted for six hours per day. For this purpose, classes shall include lunch periods if they are used for training purposes, physical education, and similar non-academic programs of instruction. In exceptional cases, residents may receive fewer than six hours of educational activity per weekday if a physician certifies in writing that such activity would be medically harmful to the resident. Such certification shall promptly be submitted to the Professional Advisory Board for approval.

5. The Department and the Director shall seek out and develop educational services in the community for residents who are able to take advantage of such services.

6. Those residents with specialized needs, such as the blind, deaf and multiply handicapped, shall receive programs of special education and development specifically designed to meet those needs, and special education staff shall receive specialized training for this purpose.

7. Toilet training shall not be a prerequisite to receiving educational services.

8. All necessary classroom materials and equipment shall be on hand and re-ordered as necessary. Teachers shall have a major voice in deciding what is needed. All necessary diagnostic equipment shall be ordered immediately. Teachers shall be trained to use such equipment.

9. Education shall be provided on a year-round basis to those residents who require year-round educational services as part of their individual development plan set forth in section D.

10. Defendants shall advise the New York City schools of the number of school-age Willowbrook residents being prepared for transfer to the community, and shall

supply the New York City school with a projected timetable for the transfer of such residents to the jurisdiction of such schools.

11. Sufficient bilingual/bicultural staff and instructional and testing materials shall be provided to meet the needs of residents for Spanish-speaking backgrounds.

G. Recreation

1. There shall be a recreational program at Willowbrook which meets the recreational needs of each resident, as set forth in his or her development plan described in section D, as to design of equipment, functional level, and physical or visual handicap. There shall be enough recreational equipment to provide adequate recreation services to all residents. There shall be special emphasis on equipment for lower functioning residents. The recreation program shall conform as closely as possible to normal community recreation activities, in particular in terms of equipment, age and sex grouping, facilities and surroundings.

2. Unless there is a medical order to the contrary, a minimum of two hours per day of recreation activities shall be provided for each resident, and weather permitting, recreation activities shall take place outdoors.

3. Recreation shall be conducted in small groups, except for activities such as baseball or swimming, where larger numbers are appropriate.

4. Whenever possible, recreational activities shall take place in the community. Additional vehicles shall be provided to ensure adequate transportation for all residents, regardless of handicap.

5. There shall be at least one recreational therapist for every 60 residents, assisted by recreation therapy aides. Recreation staff shall receive in-service training and shall conduct activities during the day and evening. Additional supervised recreational and leisure activities shall be available on weekends and holidays.

6. Recreation may be considered a part of programming if it consists of organized and structured activity related to the achieving of program goals. A

resident shall not be considered to be receiving recreational programming merely because he or she is outdoors.

7. Library facilities shall be developed for the use of residents, containing reading materials, coloring books, film strips and the like.

H. Food and Nutrition Services

1. Consistent with their capabilities and handicaps, residents shall be taught to feed themselves and shall be fed both hot and cold foods and beverages in a normal fashion with due regard for personal hygiene (including washing hands of residents before and after every meal), use of utensils, appropriate quantities of food, appropriate dining room surroundings, meal schedules which correspond to normal community standards, with no less than 30-45 minutes allotted for each resident's meal. Where appropriate, residents shall be taught to eat in leisurely family style and to choose their own quantities and items according to individual tastes and preferences. Direct care staff shall be trained in and shall utilize proper feeding techniques.

2. A nourishing, well-balanced, nutritionally adequate diet shall be provided. Residents shall be given liquids at appropriate intervals during each meal, not just at the end of the meal. The food and nutrition needs of residents shall be met in accordance with the Recommended Dietary Allowance of the Food and Nutrition Board of the National Research Council, adjusted for age, sex, activity, disability and special therapeutic needs of individual residents. There shall be a mechanism for ensuring that residents who require special diets receive them.

3. A medical order shall be required if residents are to be fed a diet of other than solid foods, are to be fed in any setting other than a suitable dining area, or are to be fed in a prone position.

4. There shall be a sufficient number of competent personnel, including personnel with experience in mental retardation, to instruct the staff and to fulfill the objectives of the food and nutrition services, including:

- Institution Food Administrator;
- Nutritionists and/or dieticians;
- Other food service personnel;
- Clerical personnel.

Every person engaged in the preparation and serving of food at the facility shall have food handler's permit or a pending application for such a permit.

5. Dining areas and food storage, preparation, and distribution shall be in compliance with state and local sanitation requirements. There shall be sufficient dishes and utensils for all residents, which shall be thoroughly cleaned between uses.

6. Food shall be prepared by methods that preserve nutritive value, served at normal temperatures, and protected from contamination in transport and storage.

7. Denial of a nutritionally adequate diet shall not be used as punishment, or as part of a behavior modification program.

I. Dental Services

1. As part of each resident's overall health services program, the full range of necessary appropriate dental services shall be supplied by qualified professionals, and such services shall include diagnosis, treatment, and at least annual examination and cleaning. Emergency treatment by a dentist on a 24-hour seven-day a week basis shall be available. In addition, each resident shall be provided with and taught to use toothpaste and his or her own toothbrush, or, if incapable, such brushing shall be performed for the resident by the staff each morning and evening.

2. Specialized services shall be made available to all residents in need and shall include orthodontics, false teeth, and dental plates. Painkillers normally associated with dental work shall be administered when needed.

J. Psychological Services

1. These services shall include at least annual psychological evaluations which shall be conducted as part of each resident's development plan pursuant to section D. In addition, evaluation, consultation, development plan preparation, therapy and behavior modification shall be

provided, where necessary or appropriate, by sufficient qualified psychology staff and supporting personnel.

2. All psychology staff other than M.A. or Ph.D. psychologists shall be actively and regularly supervised by M.A. or Ph.D. psychologist.

K. Physical Therapy Services

1. Individualized physical therapy services on a regular basis (including 7 days a week where needed) shall be provided to those residents who can benefit therefrom, including all cerebral palsy residents and all non-ambulatory residents, and shall include positioning, feeding programs, self-ambulation programs, intervention and activation. Each physical therapist shall keep evaluation and progress records for each resident under his or her care, in accordance with the requirements of section D.

2. Sufficient numbers of qualified staff and personnel shall promptly evaluate all non-ambulatory and physically handicapped residents to determine the number of wheelchairs (including electric), braces, orthopedic shoes, walkers, crutches, positioning equipment, bolsters, helmets, adaptive chairs, etc., that are needed. Such equipment shall be ordered and/or constructed and issued as quickly as possible. Carpenters shall be employed to make adaptive equipment, tailored to the physical needs of individual residents.

3. There shall be immediate physical therapy follow-up on residents who have undergone orthopedic surgery.

L. Speech Pathology and Audiology Services

1. The purpose of speech pathology and audiology services shall be to improve the verbal or non-verbal communication skills of all residents. For this purpose, it shall be presumed that all residents can benefit from such services. Speech pathology and audiology services shall be provided, as needed, to all residents. Speech therapy shall be integrated with the educational program described in section F, and residents shall be entitled to both educational and speech services, where appropriate.

2. To this end, there shall be available sufficient appropriately qualified staff and necessary supporting

personnel to carry out speech pathology and audiology services, in accordance with goals and stated objectives in individual development plans. Staff who assume independent responsibilities for clinical services shall possess the educational and experience qualifications required for a Certificate of Clinical Competence issued by the American Speech and Hearing Association (ASHA) in the area (speech pathology or audiology) in which they provide services, or equivalent qualifications.

3. The annual evaluation described in section D shall include an audiometric test conducted by an audiologist, and an evaluation by a speech therapist to identify speech and hearing problems. Sufficient audiometers shall be provided for testing, conditioning and therapy, and all speech therapists and specialists shall be trained in their use. Testing shall be diagnostic and shall include speech and language evaluation. A speech therapist shall develop an individual plan for each resident after each evaluation, as part of the development plan requirements of Section D.

4. Speech therapists shall teach parents and relatives how to stimulate language.

5. Residents who require hearing aids are to wear the aids as the therapist recommends.

6. Speech therapists shall consult with physicians if they believe surgery is appropriate. Physicians trained in this area shall be available.

7. Speech therapists' recommendations as to DNT, dental referrals and continued programming shall be considered by the interdisciplinary team described in Section D.

8. Where appropriate, deaf residents shall be taught sign language.

M. Medical and Nursing Services

1. Willowbrook shall have a comprehensive program of health services for residents which provides quality, continuity and accessibility of care. Each resident shall have at least annually a comprehensive medical examination. A full range of preventive, acute, and specialized medical services and resources shall be available to residents as needed. In keeping with section

D, medical services and diagnosis shall be closely coordinated with an individual resident's development plan.

2. Residents not requiring specialized medical or nursing care shall not be kept in the infirmary for reasons of personal safety, discipline, or any other reason.

3. Adequate provision shall be made for direct-care supervision of residents isolated with contagious diseases. Such isolation shall be permitted only upon written order of a physician after personal examination. Such order shall only be valid for 10 days, and renewals shall not be employed excessively. No resident shall remain in isolation for more than 30 days without contemporaneous written approval of the Director for each succeeding 30 day period. Isolation of a resident alone in a locked room, living unit or areas shall be deemed seclusion, and therefore prohibited.

4. All residents who remain in the infirmary for more than 5 days shall receive the same amount and kind of programming they would otherwise receive, unless the written order of a physician certifies that such programming would be medically harmful to the resident.

5. A full-scale immunization program shall be established so that all residents receive all necessary immunizations within 3 months after the date of this judgment and as often thereafter as is medically usual.

6. Arrangements shall be made to increase and improve the ambulance services presently available at Willowbrook so that ambulances will always be available when requested and can respond rapidly (on the average, within fifteen minutes) to emergency calls. To the extent this requirement is met by the utilization of personnel employed at Willowbrook, they shall meet the same standards required for public or private ambulance personnel in the Willowbrook geographical area.

7. There shall be regular training sessions for direct care staff on the identification and treatment of medical problems, with particular emphasis on seizure control, aspiration, prevention of bed sores, etc.

8. Physicians' schedules shall include adequate provision for medical coverage, including care for medical emergencies on a 24-hour, seven-day-a-week basis. In

particular, an additional and adequate number of physicians, in no event less than two, shall be scheduled to be present on duty during the early morning, breakfast, and dinner periods, and during the third (night) shift.

9. Willowbrook shall maintain a contract for acute, medical care with one or more accredited hospitals. In addition, service agreements with backup medical facilities shall be developed, where appropriate.

10. The comprehensive medical evaluations specified in paragraph "1" hereof shall include evaluation of the need for comprehensive eye examinations. An adequate number of optometrists and ophthalmologists shall be employed or retained on a contract basis to ensure that every resident receives such eye examinations, when indicated. Glasses shall be provided when indicated and promptly replaced if broken.

11. Defendants shall employ or contract for the full-time services of at least one DNT physician, and at least one neurologist or other physician with specialized training in diagnosis, treatment and control of seizures who shall not be assigned responsibility for a building, or any other responsibility that would interfere with performance of these functions.

12. Nurses shall be considered part of the care service team. Residents shall be provided with nursing services in accordance with their needs. Such services shall include:

- a. Provision of skilled nursing care as needed; and
- b. Control of communicable diseases and infections through:
 - (1). Identification and assessment;
 - (2). Reporting to medical authority;
 - (3). Implementation of appropriate protective and preventive measures.

13. Defendants shall request appropriate authorities to conduct a public health inspection immediately throughout Willowbrook, and all recommendations required to meet applicable health codes shall be implemented immediately.

N. Restraints and Abuses

1. Mistreatment, neglect or abuse in any form of any resident shall be prohibited. The routine use of all forms of restraint shall be eliminated. Physical restraints shall be employed only when absolutely necessary to prevent a resident from seriously injuring himself or others. Restraints shall never be employed as punishment, for the convenience of staff, or as a substitute for programs. In any event, restraints may only be applied if alternative techniques have failed (such failure to be documented in the resident's records) and only if such restraints impose the least possible restriction consistent with their purposes. Willowbrook shall have a written policy defining (1) the use of restraints, (2) the professionals who may authorize such use, and (3) the mechanism for monitoring and controlling such use.

2. Only professionals designated by the Director may order the use of restraints. Such orders shall be in writing and shall not be in force for over 12 hours. A resident placed in restraint shall be checked at least every 30 minutes by staff trained in the use of restraints and a written record of such checks shall be kept.

3. Mechanical restraints shall be designed for minimum discomfort and used so as not to cause physical injury to the resident. Opportunity for motion and exercise shall be provided for a period of not less than ten minutes during each two hours in which restraint is employed.

4. The use and duration of all restraints; including mittens, tying devices, camisole and restraint shirts, shall be documented in daily reports made to the Director by those professionals ordering such use.

5. Straitjackets shall never be used, nor shall any resident be tied, spread-eagled to a bed, or subjected to either corporal punishment, degradation, or seclusion, which is hereby defined as placing a resident alone in a locked room, living unit or area, which he or she cannot leave at will.

6. Alleged instances of mistreatment, neglect or abuse of any resident shall be reported immediately to the Director, and there shall be a written report that the allegation has been thoroughly and promptly investigated (with the findings stated therein). Such written reports

shall be made available to the Consumer Advisory Board and the Professional Advisory Board, on request, and their confidentiality shall be maintained.

7. Parents, relatives or guardians shall be notified in writing whenever restraints are used.

O. Labor

1. Institution Maintenance: No resident shall be required to perform labor which involves the operation and maintenance of the institution or for which the institution is under contract with an outside organization. Privileges or release from the institution shall not be conditioned upon the performance of labor covered by this provision. Residents may voluntarily engage in such labor if the labor is compensated in accordance with applicable minimum wage laws. No resident shall regularly be involved in the care, feeding, clothing, training, or supervision of other residents.

2. Training Tasks and Labors:

(A). Residents may be required to perform vocational tasks which do not involve the operation and maintenance of the institution, subject to a presumption that an assignment of longer than 4 months to any task is not a training task, provided the specific task or any change in assignment is:

(i). An integrated part of the resident's development plan has been approved as a program activity by a professional responsible for supervising the resident's program; and

(ii). Supervised by a staff member.

(B). Residents may voluntarily engage in habilitative labor during non-program hours for which the institution would otherwise have to pay an employee, provided the specific labor or any change in labor is:

(i). An integrated part of the resident's development plan and has been approved as a program activity by a professional responsible for supervising the resident's program;

- (ii). Supervised by a staff member; and
- (iii). Compensated in accordance with applicable minimum wage laws.

3. Personal Housekeeping: Residents may be required to perform tasks of a personal housekeeping nature such as the making of one's own bed.

4. If defendants bill residents for the costs of their care, treatment and maintenance, the total amounts so billed shall not exceed 50% of the total amounts of any payments received by residents, pursuant to this section, and shall not be deducted from such payments prior to receipt by the residents.

P. Behavior Modification, Research, and Hazardous or Experimental Treatment

1. Residents who require, in addition to regular programming, services for psychiatric or emotional problems shall be treated in their living units or in small residential groups within a living unit of no more than four residents. Defendants shall promptly prepare and submit to plaintiffs' counsel for approval a plan incorporating appropriate due process standards and procedures to precede transfer of any resident to a specialized psychiatric unit, or detention therein.

2. The use of aversive conditioning shall be permitted only after positive reinforcement procedures and other less drastic alternatives have been explored and approval has been obtained:

- A. from the resident, if he or she is capable of giving informed consent, or
- B. from the parent, relative or guardian if the resident cannot give informed consent and the parent, relative or guardian can give informed consent, and
- C. from a three person special committee on aversive conditioning, designated by the Director, which shall include at least one designee each from the Consumer Advisory Board and Professional Advisory Board.

The Deputy Commissioner for Mental Retardation, and the New York City Regional Director of the Department, shall be advised when a decision has been reached and approved to utilize such aversive conditioning. Aversive conditioning techniques shall be employed only under the supervision of and in the presence of a psychiatrist or psychologist licensed to practice in the State of New York who has had proper training in the use of such techniques, and who is specifically authorized by the Director to conduct such aversive conditioning.

3. Behavioral research or experimentation shall be conducted only after approval has been obtained as set forth in paragraph 2(A)-(C) above.

4. Because of the necessity to concentrate on the basic programmatic needs of Willowbrook residents and the history of experimentation at Willowbrook, no physically intrusive, chemical, or bio-medical research or experimentation shall be performed at Willowbrook or upon members of the plaintiff class. This standard, however, recognizes the possibility that such research or experimentation, under proper safeguards, may be appropriate for persons who are not members of the class, in other facilities or programs.

Q. Medication

1. No prescription medication shall be administered except upon order of a physician. Such orders shall be confirmed in writing by a physician as promptly as possible, within twenty-four hours.

2. Notation of each individual's medication shall be kept in his medical records. At least weekly the attending physician shall review the drug regimen of each resident under his care. All prescriptions shall be written with a termination date, which shall not exceed 30 days. The chief medical or pharmacological professional shall provide an annual statement of the volume and frequency of drugs administered, by type and condition of resident.

3. Residents shall have a right to be free from unnecessary or excessive medication. The resident's records shall state the effects of psychoactive medication on the resident. When dosages of psychoactive medications are changed or other psychoactive medications are prescribed, a notation shall be made in the resident's

record concerning the effect of the new medication or new dosages and the behavior changes, if any, which occur.

4. Medication shall not be used as punishment, for the convenience of staff, as a substitute for program, or in quantities that interfere with the resident's program.

5. Pharmacy services at the institution shall be directed by a professionally competent and licensed pharmacist. Such pharmacist shall be a graduate of a school of pharmacy accredited by the American Council on Pharmaceutical Education. Appropriate officials of the institution, at their option, may hire such a pharmacist or pharmacists fulltime or, in lieu thereof, contract with outside pharmacists.

6. Whether employed full-time or on a contract basis, the pharmacists shall perform duties which include but are not limited to the following:

- a. Receiving the original, or direct copy, of the physician's drug treatment order;
- b. Reviewing the drug regimen, and any changes, for potentially adverse reactions, allergies, interactions, contra-indications, rationality, and laboratory test modifications, and advising the physician of any recommended changes, with reasons and with an alternative drug regimen;
- c. Maintaining for each resident an individual record of all medications (prescription and nonprescription) dispensed, including quantities and frequency of refills.

7. Only appropriately trained staff shall be allowed to administer drugs. Persons administering oral medications shall ensure that they are swallowed by the resident.

8. Written policies and procedures that govern the safe administration and handling of all drugs shall be developed by the responsible pharmacist, physician, nurse, and other professional staff.

- a. The compounding, packaging, labeling, and dispensing of drugs, including samples and investigational drugs, shall be done by the pharmacist, or under his direct supervision, with proper controls and records. Each drug

shall be identified up to the point of administration. Procedures shall be established for obtaining drugs when the pharmacy is closed.

- b. There shall be a written policy regarding the administration of all drugs used by the residents, including those not specifically prescribed by the attending practitioner. There shall be a written policy regarding the routine of drug administration, including standardization of abbreviations indicating dose schedules. Medications shall not be used by any resident other than the one for whom they were issued.

9. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

- a. All drugs shall be kept under lock and key except when authorized personnel are in attendance.
- b. The security requirements of federal and state laws shall be satisfied in storerooms, pharmacies, and living units.
- c. Poisons, drugs used externally, and drugs taken internally shall be stored on separate shelves or in separate cabinets, at all locations.
- d. Medications that are stored in a refrigerator containing things other than drugs shall be kept in a separate compartment with proper security.
- e. A perpetual inventory shall be maintained of each unit in which such drugs are kept, and inventory records shall show the quantities of receipts and issues and the person to whom issued or administered.
- f. If there is a drug storeroom separate from the pharmacy, there shall be a perpetual inventory of receipts and issues of all drugs by such storeroom.

10. Discontinued and outdated drugs, and containers worn, illegible, or missing labels, shall be returned to the pharmacy for proper disposition.

11. Medication errors and drug reactions shall be recorded and reported immediately to the practitioner who ordered the drug.

R. Maintenance, Safety and Emergency Procedures

1. All necessary steps shall be taken to correct health and safety hazards, including the covering of radiators and steam pipes in a manner to protect residents from injury, the prompt repair of broken windows, and the removal of cockroaches and other insects and vermin.

2. All lead paint on the interior and exterior of buildings shall be removed and replaced with safe agents, or covered with panelling or other suitable materials, to the extent necessary, so that old lead paint is not accessible to residents.

3. Willowbrook shall comply with the provisions of the Life Safety Code of the National Fire Protection Association. Staff and residents shall be trained in emergency procedures, particularly for use in case of fire. Procedures to be followed in case of fire, medical, missing person, or other emergencies, shall be promulgated by the Director. Special attention shall be paid to the needs of physically handicapped residents. There shall be monthly fire drills for each shift except the night shift, and periodic fire drills for the night shift.

4. Defendants shall take whatever steps are necessary to improve security and to protect residents, staff, parents and visitors.

5. All buildings commonly used by residents, other than the gymnasium, shall be air-conditioned as promptly as possible.

6. Defendants shall establish and maintain a program of adequate maintenance of buildings and equipment which shall include prompt elimination of existing maintenance backlogs.

7. Outside windows and doors shall be provided with screens.

8. Floors in living or sleeping areas other than dining or bathroom areas shall be provided with carpets or rugs, consistent with a pleasant, clean, quiet and safe residential environment.

T. Management

1. A meaningful table of organization shall be maintained, clearly defining areas of responsibility and accountability by position and name. A means of resolving disputes between units and professional departments, including disputes concerning the deployment or supervision of staff, shall be created, including methods for clarifying any misunderstandings that may arise in this regard. There shall be regular outside evaluation of management and of all major program elements covered by this judgment.

2. A current and meaningful policies and procedures manual shall be developed at once, incorporating recommendations from key institution staff as well as consultants.

3. Consultants shall be used as catalysts, evaluators, and monitors of programs and services on a structured and regular basis. Whenever consultants or outside evaluators are utilized, they shall prepare written reports and evaluations which shall be forwarded to the Director, the Review Panel, and the parties. Where appropriate, such reports may be made available on request to the Professional and Consumer Advisory Boards by the Director or the Review Panel, and their confidentiality shall be maintained.

4. The Director shall prepare an intelligible budget request complying with applicable laws, with program objectives.

U. Records

1. There shall be a system of records for each resident, developed and maintained under the supervision of a competent librarian or registrar. Each resident's records shall be readily available to all professional staff. Direct care staff involved with a particular resident shall have access to those portions of an individual's records relevant to programming. Information shall be incorporated in the resident's record in sufficient detail to enable those persons involved in the

resident's program to provide effective, continuing services. All entries in the resident's record shall be legible, dated, and have the signature and identification of the individual making the entry.

2. These records shall include:

- a. Identification date including the resident's legal status;
- b. The resident's history, including but not limited to:
 - (i) relevant family data, including family visits and contacts, educational background, and employment record;
 - (ii) prior and institutional medical history, both physical and mental, including prior institutionalization;
- c. An inventory of the resident's life skills;
- d. A record of each physical examination, psychological report, and any other evaluations, including all those required by this judgment;
- e. A copy of the individual's development plan, and any modifications and evaluations thereof, with an appropriate summary to guide direct care staff in implementing such plan;
- f. The findings made in periodic (at least quarterly) reviews of the individual's response to his or her development plan, with directions as to modifications, prepared by a professional involved in the resident's program;
- g. A copy of the post-institutionalization plan and any modifications thereof, a summary of the steps that have been taken to implement that plan, and all social service reports;
- h. A medication history and status, as required by Section Q;
- i. A signed order by authorized personnel for any physical restraints, as required by Section N;

- j. A description of any extraordinary incident or accident in the institution involving the resident, to be entered by a staff member noting personal knowledge of the incident or accident or other source of information, including all reports of investigations of resident mistreatment, as required by Section N;
 - k. A monthly summary of the extent and nature of any work activities and the effect of such activity upon the resident's progress;
 - l. All team minutes relating to the resident.
 - m. All other orders and certifications specifically required by this judgment.
3. Defendants shall employ an adequate number of appropriately qualified staff, and necessary supporting personnel, to facilitate the prompt and accurate processing, typing, checking, indexing, filing and retrieval of records and record data.

V. Community Placement

1. Defendant shall take all steps necessary to develop and operate a broad range of non-institutional community facilities and programs to meet the needs of Willowbrook's residents and of the class. Within six years from the date of this judgment, Willowbrook shall be reduced to an institution of 250 or fewer beds to serve the needs of residents who require institutional care and who come from the geographic area of Staten Island. The Review Panel shall annually evaluate progress towards this objective.

2. To this end, defendants shall each year for the next five years request the legislature to appropriate sufficient additional funds for the development and operation of community facilities and programs to serve the needs of the class to ensure that an increasing proportion, exclusive of increases in salaries, of the Department's budget, resources and expenditures relevant to the class, shall be devoted to the development and operation of such facilities and programs.

3. Until such time as other private or governmental agencies develop and operate community facilities and programs sufficient to meet the needs of Willowbrook's residents and of the class, defendants shall accept direct responsibility for the development and operation of such facilities and programs, including the development and operation of hostels, halfway houses, group homes, sheltered workshops, and day care training programs.

4. Within 12 months of the date of this judgment, defendants shall develop and operate, or cause to be developed and operated, at least 200 new community placements to meet the needs of Willowbrook's residents and of the class. For purposes of this section, except for placement in hostels currently under construction or development, which in no event shall exceed 15 beds, a "community placement" shall mean a non-institutional residence in the community in a hostel, halfway house, group home, foster care home, or similar residential facility of fifteen or fewer beds for mildly retarded adults, and ten or fewer beds for all others, coupled with a program element adequate to meet the resident's individual needs.

5. Promptly following the date of this judgment, defendants shall request an appropriation of not less than two million dollars (\$2,000,000) in order to finance the leasing and operation of the 200 community placements required by paragraph 4 hereof. If such request is not approved by the legislature, defendants shall earmark and utilize for this purpose a sum of not less than two million dollars for sums already appropriated by the legislature for the 1975-1976 fiscal year.

6. Within six months of the date of this judgment, the Review Panel, working in close collaboration with the plaintiffs and with the defendants, who shall provide all necessary assistance and information for this purpose, shall prepare and recommend for implementation by defendants a detailed and comprehensive plan for the development and operation of additional community facilities and programs to meet the needs of Willowbrook's residents and of the class. Said plan will be referred to hereafter as the "community placement plan."

7. The community placement plan may recommend that additional community facilities and programs be developed and operated during the six months following recommendation of the plan, and shall recommend, by type

and size of facility and program, the development and operation of a specified number of community facilities and programs, together with a recommended timetable for their development and operation.

8. In order to prepare the community placement plan described in paragraphs 6 and 7 hereof, the Review Panel shall be authorized, at its discretion, to retain consultants with expertise in the development and operation of community facilities and programs. Defendants shall provide a sum of not less than \$50,000 to be used by the Review Panel for this purpose.

9. The primary goal of Willowbrook and of the Department shall be to ready each resident, with due regard for his or her own disabilities and with full appreciation for his or her own capabilities for development, for life in the community at large. To this end, defendants shall develop a full program of normalization and community placement with a full complement of community services.

10. The Director shall proceed immediately to identify those residents, including those with only physically handicapping conditions, who lack only the proper preparation to benefit from community placement. There shall be at least an annual review of each resident's progress for this purpose, as provided in section D.

11. Interdisciplinary teams shall be responsible for the development of specific programming for an individual's normalization, including a projected date for his or her progress to a community setting, in consultation with the individual resident and his or her parents or guardian. An individual staff member shall be designated to ensure the carrying out of each resident's program plan. Preparation for advancement to community placement, as provided in section D, shall include specific instruction, both at Willowbrook and in the community, in living skills, and shall also include participation in residential-type programs housed in smaller units on the Willowbrook grounds, by conversion of residential facilities currently used by staff, to accommodate such programs.

12. The community services office shall conduct an intensive campaign to secure appropriate community placements. Evaluation by interdisciplinary teams shall

include recommendations as to the community alternative best suited for each resident.

13. No resident shall be placed in the community or transferred to another State institution unless and until the Director shall find that such placement will offer the individual better services, an opportunity for personal development, and a more suitable living environment than Willowbrook. Services offered in the community shall include, where appropriate, work placement, legal services, health services, recreational services, citizen advocacy, respite care and family planning services and education.

14. The Department will urge and facilitate the development of New York City proposals to take full advantage of some of the \$2,000,000.00 authorized and appropriated by the legislature by Chapter 620 of the Laws of 1974, for the purposes specified therein.

W. Miscellaneous

1. Unless otherwise specified herein, and except for steps, standards and procedures relating to capital construction and renovation, all other steps, standards and procedures contained herein, including those relating to staffing, programming, clothing, housekeeping, recreation, education, food and maintenance, shall be achieved, and thereafter maintained, within thirteen (13) months from the date of this judgment. Capital construction and renovation shall be completed as promptly as possible. To this end, defendants shall promptly prepare and submit to the Review Panel for evaluation and recommendation a detailed plan for all capital construction and renovation required by this judgment, which plan shall include timetables for the achievement of specific objectives.

2. The moratorium on admissions to Willowbrook shall be continued indefinitely. This moratorium, however, shall not preclude "paper admissions" to Willowbrook of persons who are not actually admitted to Willowbrook, but are, instead, placed by Willowbrook in other facilities and programs, and shall not preclude short-term readmissions of members of the class or residents of Staten Island for the purpose of respite care or for specialized intensive services that cannot be provided in the community, and shall not preclude emergency admissions of residents of Staten Island to the Staten Island Unit of Willowbrook Developmental Center, upon notice to the Professional Advisory Board.

3. Defendants shall promptly prepare and submit to the Review Panel for evaluation and recommendation a plan for adequate hearing procedures, incorporating appropriate due process safeguards, to precede any (1) refusal after demand to admit or transfer any Willowbrook resident to a less restrictive setting, or (2) transfer of a Willowbrook resident to any other residential placement. Community placements and transfers to other institutions or developmental centers shall be accompanied by written notice to the Mental Health Information Service, and to parents, relatives, or legal guardians, at least one month prior to the date of transfer.

4. Defendants shall not reduce the level of services and programming provided in other facilities and programs for the mentally retarded in order to meet the requirements of this judgment.

5. The Review Panel shall evaluate and make recommendations concerning the appropriateness of the Keener Unit as a residential facility for the retarded prior to the transfer to or admission of any member of the class to Keener.

6. Nothing in this judgment shall be deemed to expand or restrict the classes of persons otherwise entitled to participate in any disciplinary proceedings authorized by law or contract. The Review Panel, however, may designate one of its members to observe one or more of such proceedings. That member shall not participate in such proceedings, except as an observer, and shall keep confidential the name or names of any employees or residents involved in such proceedings.

7. Plaintiffs and defendants expressly waive the rights of the residents to confidentiality of resident records under §15.13 of the Mental Hygiene Law for the limited purpose of allowing the Consumer Advisory Board or its designees to act in Loco Parentis with respect to residents whose interests under those sections are not actively represented by a parent, relative or legal guardian or committee. If necessary, or advisable, the Consumer Advisory Board may apply to an appropriate court for authority to exercise directly, or through its designees, the function of a guardian, with respect to this judgment. In general the defendants shall support such application but reserve the right to oppose the particular person or persons nominated to serve as such guardian.

END