

SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

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| JERRY M., et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | C.A. No. 1519-85 (IFP) |
| |) | |
| DISTRICT OF COLUMBIA, et al., |) | |
| |) | |
| Defendants. |) | |

CONSENT DECREE

By agreement of the parties, the following consent decree is submitted for approval by the Court to resolve the issues in C.A. No. 1519-85. The parties agree to the provisions set forth below:

I. POPULATION AND FACILITIES

A. General Principles

1. The parties recognize and acknowledge the right of children to be housed and provided services in the least restrictive setting consistent with the protection of the public, the youth's individual needs and with applicable court rules, statutory and constitutional provisions.

2. The parties recognize the right of a child not to be confined in any District of Columbia secure juvenile facility if that child is capable of functioning safely by himself or with the responsible assistance of others, without serious danger to himself or others, in a community-based program.

3. The parties recognize and acknowledge that it is in the best interest of children to remain in secure pretrial detention for as short a time as possible but not to exceed any period longer than (30) days or, in the case of a pretrial shelter house placement, any period longer than (45) days. The parties further recognize that it is not in any party's interest for more detention slots to be created solely because of pretrial detention periods exceeding these periods; the parties further recognize that the presence of children in pretrial detention for

periods longer than that set forth above because of delays in court proceedings, a factor which, in many cases, is beyond the defendants' control, creates a need for a greater number of detention slots, including in the community, than that which the defendants should be required to provide.

B. The plaintiffs and defendants agree that an assessment and study of the juvenile population in the existing YSA juvenile facilities will be done in order to determine an appropriate configuration and design for the confinement of children in the custody of YSA. The parties further agree that the juvenile population confined to secure beds in the District should be reduced to the lowest number possible pursuant to those general principles set forth in Section A above. The defendants are committed to and shall take all reasonable action within their authority to reduce the population of the secure facilities to the lowest number possible. In order to determine the appropriate number of juveniles in need of secure confinement in the District and to develop a system for appropriate care, services, and placement of securely confined juveniles in YSA custody, the following mechanism shall be implemented:

1. A panel of three experts, selected as follows by the parties, shall be convened as soon as possible from the date of the signing of this Decree by the parties. Plaintiffs and defendants each shall select one member of the panel and the plaintiffs and defendants shall agree upon the third member. The following persons have been designated to constitute this panel: Paul DeMuro (designated by the plaintiffs);

_____ (designated by the defendants); and Margaret Beyer (mutually selected by plaintiffs and defendants). Jerome Miller shall be a non-voting consultant to the panel, and will be compensated for his services out of the panel's budget. If for some reason a panel member cannot continue to serve in this capacity, the successor panel member shall be selected in the same manner as his/her predecessor. If, after two weeks from receiving notice that the mutually selected panel member intends to resign, the parties can not agree on a successor for that

member, then the two remaining panel members shall select the third member of the panel within five days. If at the end of this period, the two panel members can not agree upon that member, then the matter is considered a substantial dispute to be submitted to the monitor for resolution.

2. In accordance with the time frames set forth in Section I(B)(3), the panel shall:

a) determine the number of children that the District of Columbia may confine in secure facilities in accordance with those principles set forth in Section A. above. This determination shall be based upon the panel's assessment of the current population within YSA custody, including in the secure facilities; discussions with their consultants, if necessary; information and data about the D.C. juvenile justice process; interviews with pertinent D.C. Government employees, with DHS/YSA staff, including those persons whom the parties may suggest, with youth in YSA custody, with the Public Defender Service, and the Juvenile Branch, Corporation Counsel, and with representatives of the Superior Court Family Trial Lawyers Association; and any other documents and sources deemed appropriate by the panel. The panel shall have access to all relevant records and files and access to all DHS/YSA facilities and staff; and access to D.C. Superior Court officials and staff, as available.

b) prepare a specific comprehensive plan for the design, development, and implementation of community-based programming and alternatives with specific objectives and time tables in accordance with the principles set forth in Section A above. The continuum of alternatives to facility confinement shall include but not necessarily be limited to group homes, shelter houses, foster care, specialized placements, family support services, home detention services, day treatment programs, and any needed residential construction of a non-secure nature (not to exceed a designated number of

confinement slots per facility as determined by the panel), such as pre-release housing or therapeutic unit housing;

c) establish standards and procedures as well as a mechanism for the on-going review and community placement of all detained and committed children confined in YSA custody. At a minimum, such children shall be reviewed by defendants every 30 days (unless a different time frame is otherwise determined by the panel), to assess whether children are being confined in the most appropriate and least restrictive setting.

3. Within 3 months of the provisional approval of this Decree by the Court, the panel shall compile the findings and plans required under Section B(2) above, in a draft plan to be submitted to the parties, who, within twenty-five (25) days, shall submit their views to the panel. Within twelve (12) days, the panel, after review and due consideration of the parties' view, may modify the findings and the plan and shall submit this draft plan to the parties. The parties then shall have ten (10) days to submit any further views to the panel, which must within ten (10) days review and consider these further comments. At the end of this ten (10) day review, the panel shall then submit its final plan to the Court. Unless objections to the plan by either party are submitted to the Court within twelve (12) days, the plan shall be reviewed and, upon approval by the Court, shall be incorporated herein by reference. In the event of objections, the Court may hold a hearing and resolve the matter pursuant to the principles in Section A above. The parties will not seek a stay of, or appeal from, those portions of the order affirming the panel's plan except that neither party waives the right, if any exists, to seek a stay of or appeal from those portions of the order which modify the final plan submitted to the Court by the panel. In the event of such appeal, the parties agree that no portion of the Decree itself may be challenged. This paragraph is not intended to impinge upon the court's prerogative to order youth into secure confinement.

4. By December 1, 1987, (unless the panel determines that a different time frame is appropriate): i) the number of children, who pursuant to I(B)(2)(a) the District of Columbia may confine in secure facilities, will not exceed said number above; ii) the system of community based alternatives pursuant to I(B)(2)(b) shall be established and utilized. Within six (6) months of the provisional approval of this Decree by the Court, the on-going review pursuant to I(B)(2)(c) to be devised by the panel, shall be implemented. This paragraph is not intended to impinge upon the court's prerogative to order youth into secure confinement.

5. The panel shall be maintained for 24 months from the time of the submission of its plan to the Court. The panel shall provide recommendations to the defendants to accomplish full implementation of the Court approved plan and shall also monitor the progress of defendants' compliance by submitting semi-annual reports to the parties. Once the panel is disbanded, either party herein may thereafter request that the panel be reconvened to reassess whether a modification of the plan approved by the Court as to the number of children who the District of Columbia may confine in secure facilities should be revised following the procedures set forth in Section I(B)(3) above. In this regard, the panel shall submit a report to the parties, and thereafter the Court, following the procedures set forth in Section I(B)(3) above.

6. The panel may utilize the services of personnel with expertise in the District government where it deems it appropriate. The District of Columbia shall compensate the panel for reasonable costs and fees for the performance of the panel's functions. The panel shall, after consultation with counsel for the parties, propose its budget. If there are no objections to the budget, or if objections are resolved within ten (10) days, the budget shall be accepted and incorporated herein. If the panel and the parties are unable to resolve a dispute concerning the budget, such dispute shall be submitted to the monitor. If the matter still remains unresolved, the issue shall be submitted to the Court.

7. YSA on a monthly basis shall review the status of all detained or committed children in YSA custody. Where a child needs less secure confinement, YSA shall make all reasonable and appropriate adjustments to the system pursuant to the principles set forth in I(A) above (including reassignment of children by YSA to non-secure custody, and notifying and requesting Corporation Counsel, Juvenile Branch, and appropriate defense counsel for youth in YSA custody to file motions with pertinent judges to transfer to less secure settings, to lift restrictions, and to modify the level of detention or commitment as to specific youth). Accordingly, YSA shall have available at all times a priority listing revised on a monthly basis of at least 20 securely detained and 20 securely committed children who are closest to release or most appropriate for being transferred out of secure confinement. It shall also have a priority listing of individuals in alternative placements whose placements may be modified. This provision shall be effective no later than February 1, 1987. In the interim, YSA shall make reasonable efforts to identify youth who need less secure confinement and, as to these youth, it shall take steps to ensure appropriate placements according to the principles set forth in I A above.

8. YSA shall provide to the Corporation Counsel, Juvenile Branch, and to the committing and detaining judges in Superior Court for the District of Columbia, on a daily basis, a count of the children in YSA custody including a breakdown of the population in terms of the respective placements (secure and non-secure), reflecting how the population relates to the capacity of the secure facilities as configured by the panel pursuant to Section I (B).

9. In the event that the daily population has reached 95% of the number of the children who the District of Columbia may confine in secure facilities, according to ¶I(B)(2)(a), the following action shall be taken:

(a) The Youth Services Administration shall advise the monitor, plaintiffs' counsel, the Chief Judge of the Superior Court of the District of Columbia, the Corporation Counsel, Juvenile Branch, the Presiding Judge of the Family Division and the

pertinent committing or detaining judges that the population will exceed 95% of the number of the children who the District of Columbia may confine in secure facilities if a court orders that a child be securely confined;

(b) Within forty-eight (48) hours the Youth Service Administration shall further make all reasonable and appropriate adjustments pursuant to the principles as set forth in I(A) above (including reassignment of children by YSA to non-secure custody, and notifying and requesting that Corporation Counsel, Juvenile Branch, and appropriate defense counsel for youths in YSA custody to file motions with pertinent judges to transfer to less secure settings, to lift restrictions and to file motions to modify the level of detention or commitment or restrictions as to specific youths consistent with the principles set forth in I(A) above, etc), in order that the number of children that the District may confine in secure facilities according to the plan will not be exceeded. Accordingly, YSA shall have available at all times a priority listing revised on a monthly basis of at least 20 eligible securely detained and 20 eligible securely committed children who are closest to release or most appropriate for being transferred out of secure confinement; it shall also have a priority listing of individuals in alternative placements whose placements can be modified. The purpose of these priority listings is to enable and ensure that the defendants comply with I(B)(2) above.

C. Oak Hill Annex will not be used for the housing of any additional youth beyond June 1, 1987, and Oak Hill Annex will not be used for the housing of any youth beyond December 1, 1987.

D. As of June 1, 1987, residents confined at Oak Hill Annex will be confined to single rooms with one child per room unless the panel's plan, as approved by the Court, recommends an increase in the number of secure beds greater than 266. If so, the plan shall include an implementation date for this paragraph.

E. The defendants agree not to build any additional secure juvenile beds until the panel's findings and plans developed under Section B(2) above are finally approved by the Court. This provision shall take effect immediately upon the approval of the Decree by the Mayor.

F. As of October 1, 1986, youth confined at the Receiving Home will be confined to single rooms with one child per room.

G. Residents confined at Oak Hill will be confined to single rooms with one child per room.

H. In the event of emergency conditions such as fire, flood or other events at a facility which render single rooms uninhabitable and therefore make compliance with I(D), (F) and/or (G) unachievable, defendants may temporarily suspend such provisions to the extent necessitated by the emergency. In that event, the defendants shall, within 24 hours of the occurrence of the emergency, notify plaintiffs' counsel and the monitor of the reasons necessitating the suspension of each provision, the duration of the suspension, and defendants' plan to reinstate said provisions as soon as possible. If plaintiffs' counsel believe these suspensions and/or durations are unjustified, then the suspension shall be considered a substantial dispute.

II. Compliance

A. The parties agree that Michael Lewis shall serve as the monitor of this Decree. The monitor shall take office as soon as possible but in no case later than August 1, 1986. The monitor shall not be subject to dismissal except upon agreement of the parties or by the Court upon motion of one of the parties and a showing of good cause. If the monitor resigns, is unable to serve, or is dismissed, a successor must be chosen by the parties. If the parties cannot agree within two weeks on a successor to the monitor, the parties shall each submit three names to the Court, which shall select a successor.

B. The monitor's duties are to observe, monitor, collect information, report as to his findings, and make recommendations

concerning steps to be taken to achieve compliance. The monitor, shall consult with and coordinate his activities as outlined herein with the Mayor's Special Assistant, the Honorable John D Fauntleroy, insofar as the monitoring of this Decree pertains to the general operations of the overall correctional system. The monitor shall not operate or manage YSA facilities and its programs, staffing and procedures. The monitor shall not make findings, observations, evaluations, assessments, recommendations, or reports regarding programs, staffing or adequacy of the alternatives to secure confinement; except, however he shall report whether defendants are in compliance with making available said alternatives as required by I (B) (3) and (4). The monitor may and should assist the parties to achieve compliance and, to this end, may confer with the parties, their counsel and their agents. The monitor shall, when necessary, seek access to D.C. Superior Court officials and shall have access to all D.C. employees; to all appropriate staff and consultants; to all appropriate facilities; to all relevant records and files and confidential access to all children in YSA custody; and to other persons he deems appropriate. The monitor shall submit quarterly reports to the counsel for the parties. Of these quarterly reports, two semi-annual reports shall be submitted to the Court. The reports shall detail whether or not defendants are in compliance with each provision of the Decree.

C. The monitor may utilize the services of expert consultants and shall utilize personnel with expertise in the District of Columbia where the monitor deems it appropriate. The District of Columbia shall compensate the monitor and his agents for reasonable costs and fees for the performance of their functions. In this regard, the monitor shall, after consultation with counsel for the parties, propose to the parties an annual budget. If there are no objections or the objections are resolved within 10 days, the budget shall be accepted and incorporated herein by reference. If the parties are unable to resolve a dispute concerning the budget, such dispute shall be submitted to the Court.

D. If either party believes that there is a substantial dispute concerning compliance, that party shall first make good faith and reasonable efforts to resolve the dispute utilizing the following procedure prior to seeking court intervention. This procedure shall not apply, however, in a situation threatening the life, health or safety of confined children, or if the monitor is unavailable or if the monitor declines to mediate the issue or fails to make written findings within fifteen days of the dispute, or other time limit as proposed by the monitor and accepted by both parties.

1. Counsel for the party shall raise in writing the issue with opposing counsel.

2. Within five (5) business days of notice of the issue so raised, counsel shall submit in writing to opposing counsel their response to these issues.

3. Either party may request, in writing, with a copy to opposing counsel, the monitor to mediate. If the monitor is unable to resolve the dispute through mediation within ten days or other specific time limit proposed by the monitor and accepted by both parties, he shall attempt to resolve the dispute by making within five business days written findings of facts and recommendations to the parties on how to achieve compliance.

E. If the monitor's recommendations are accepted by the parties, they shall be implemented by defendants. If the monitor's recommendations are not acceptable to one or both of the parties, either party may submit the controversy to the Court for de novo resolution. In that event, the monitor's written findings of fact and recommendations may be introduced into evidence and the monitor may be called to testify as an expert witness, by either party or the Court.

F. If a court's order to place a child in confinement results in defendants' exceeding the number of children that the District may confine in secure facilities established by the Decree, or a violation of §I(D)(F) or (G), plaintiffs will not seek to hold the defendants in civil and/or criminal contempt of such provisions as long as defendants have taken all reasonable steps, employing their utmost diligence, to ensure substantial compliance with this Decree.

G. Plaintiffs will not seek to hold defendants in civil and/or criminal contempt of any provision herein as long as defendants have taken all reasonable steps, employing their utmost diligence, to ensure substantial compliance with said provision of the Decree.

H. The defendants and their successors in office and agents, employees or others who are providing services to or on behalf of YSA, related to juveniles placed in YSA custody, shall comply with the terms of this Decree.

I. This Decree was voluntarily and mutually agreed upon by the parties as a compromise settlement of disputes between the parties. The Decree and any plans subsequently developed and incorporated into this Decree do not constitute an admission by defendants of any allegations in plaintiffs' amended complaint or any papers filed by plaintiffs in this action. Any decision by the parties not to appeal as prescribed under ¶I A 3 above merely represents the parties' willingness to resolve all disputes in an amicable fashion.

J. The parties, the monitor, panel and counsel for the parties, shall not disclose any information obtained in this case that may reveal the identity of a juvenile to persons who have no connection to this lawsuit. Said persons also shall not violate the applicable laws or regulations pertaining to privacy of juveniles and of personnel.

K. Counsel for plaintiffs shall have reasonable access to all plaintiffs, to their institutional files, and to the institution and staff at reasonable times and under reasonable circumstances. They shall have access to and receive copies of documents pertaining to the implementation of this Decree.

L. Three years after entry of this Decree, defendants may move the Court for the dissolution of the monitorship which plaintiffs will not oppose upon a showing by defendants of sustained and satisfactory implementation and substantial compliance in all areas of the Decree. In this regard, the monitor shall submit as part of his semi-annual report to the Court, findings and conclusions whether defendants have been showing sustained and satisfactory implementation and substantial compliance in all areas of this Decree.

M. Only plaintiffs' counsel shall have standing to enforce this Decree.

N. By entering into this Decree, plaintiffs are not waiving any rights to pursue individual claims for declaratory, injunctive, and/or monetary relief. The only claims against defendants settled herein are claims for injunctive relief as detailed in the amended complaint filed in this case and which are applicable to more than the individual circumstances of a particular plaintiff class member.

O. There shall be semi-annual meetings, convened by the Mayor or his designee, of the pertinent officials in the juvenile justice process, including the monitor of this Decree and the panel established by §I(B)(1); the parties to this Decree and their counsel; the Chief of the Juvenile Branch of the Corporation Counsel's Office or his designee; the Director of the Public Defender Service, or her designee; and representatives from the Family Trial Lawyers Association to discuss whether the juvenile justice system is operating consistent with the principles set forth in §I(A). The Mayor shall invite the Chief Judge of the D.C. Superior Court or his designee; the Presiding Judge of the Family Division of the D.C. Superior Court or his designee; and the Director of Social Services of the D.C. Superior Court or his designee.

P. Unless otherwise stated, the Decree shall take effect on August 1, 1986.

Q. Unless otherwise stated, the requirements of this Decree apply to the institutions covered by this Decree.

R. The Mayor of the District of Columbia and the District of Columbia Public Schools will take all reasonable steps, employing their utmost diligence, to seek funds sufficient to implement fully the provisions of this Decree.

S. It is clearly understood by the parties that the Court is not a party to this agreement, and that the duties, statutory or otherwise, owed by the parties to the Court with regard to persons in the juvenile justice system, are not abridged by this Decree.

III. STAFF DISCIPLINE AND TRAINING

A. With respect to newly hired staff, defendants shall comply with the Standards of the ACA for Juvenile Training Schools (2nd ed. 1983) pertaining to Training and Staff Development, Standards 2-9085 to 2-9099. As to current staff, defendants shall comply with said standards by June 1, 1987. In the event that defendants believe that certain non-YSA personnel providing services to youth do not require such training, the YSA Administrator shall notify all counsel. If the plaintiffs' counsel disagree with the view of the Administrator, the matter shall be considered a substantial dispute.

B. Defendants shall take appropriate steps including disciplinary action against any staff who fail to comply with the requirements of this Decree consistent with written policies and procedures, and applicable D.C. personnel regulations, statutory requirements, and constitutional standards.

C. As of January 1, 1987, all staff who have direct contact with youth as well as all medical personnel will be trained in and will maintain valid and updated certification in cardiopulmonary resuscitation (CPR).

D. As of January 1, 1987, Project Hands, consisting, at a minimum, of three fulltime staff persons, will report in writing all allegations of staff violations of regulations applicable to youths, and shall investigate said allegations. It shall submit quarterly reports regarding the results of its investigations by staff person, type of allegation, and actions taken to the institutional superintendent, the YSA Administrator, and the CSS Commissioner.

E. Sufficient numbers of trained and qualified cottage life staff shall be employed in each of the facilities to supervise youth at all times. The ratio of cottage life staff to children shall be 1:10 at a minimum at all times that children are in the cottage or unit, except during normal sleeping hours. This ratio shall be fully complied with by January 1, 1988. As of the date of the signing of the Decree, defendants

will recruit 20 new cottage life staff, all of whom will be employed by January 1, 1987. Staff may work overtime only as provided for pursuant to DHS Transmittal Letter No. 291, dated July 10, 1986.

IV. INSTITUTIONAL PROGRAMS FOR YOUTH IN YSA INSTITUTIONS

A. Mission

1. As to committed youth, the mission of institution programs is habilitation. Youth have many educational, emotional, vocational, familial, recreational and social needs. The experience of success is central to the habilitation process. Youth must be offered opportunities to be competent, have a sense of self-worth, and be accepted by adults and peers. Staff in all parts of the institution must work to create a positive milieu in which youth succeed and form constructive relationships with adult and peers.

2. Youth are detained in YSA secure facilities by the court. The goals of YSA for the securely detained are (1) to provide a humane environment in which short-term educational, recreational and emotional needs are met; (2) to prepare recommendations on individual needs for disposition; and (3) to maintain a child and to prevent his deterioration during his period of detention. The secure detention program must be short-term and focused on preparing the youth for a more positive next step in his/her life, either after dismissal, disposition of probation, or a disposition of commitment.

3. After 45 days of detention, each youth will receive services and programs consistent with the goals set forth above for committed youth in accord with his Individual Services Plan.

B. Diagnostic Services for All Youth in YSA Institutions

1. Diagnostic Procedures

As of February 1, 1987, classification procedures will be developed and implemented to:

(a) identify the least restrictive alternative placement to meet the needs of each youth and to protect the

public, including placement in community-based programs as permitted by the court and consistent with the principles in I(A) (1) and (2) above.

(b) specify an initial screening and diagnostic process;

(c) define how youth will be classified based on social, psychological, and behavioral needs and assigned to housing units according to treatment needs and security considerations.

(d) enable the facility to move youth to the next least restrictive setting when youth are ready to move, as permitted by the court and consistent with principles in I (A) (1) and (2) above.

Procedures will be developed in compliance with the provisions of the ACA Standards for Juvenile Training Schools (1983 ed.) pertaining to classification (2-9381 through 2-9399).

2. Diagnostic Unit

As of January 1, 1987, there will be a unit designated for diagnostic purposes. As of February 1, 1987, written procedures will be developed and implemented to:

(a) limit the stay of youth on the diagnostic unit or within the diagnostic phase;

(b) prohibit the use of isolation during the diagnostic phase, except in individualized cases for medical/psychiatric or disciplinary reasons.

(c) ensure that youth in the diagnostic unit have a structured daily program;

(d) ensure that youth wear appropriate daytime clothing on the diagnostic unit.

3. Initial Assessment

Beginning no later than February 1, 1987, based on initial screening, each newly admitted youth will have a temporary service plan developed within three days of admission. This plan must provide for an educational, recreational and counseling program on the diagnostic unit for each youth during the two-week diagnostic phase, including medical and other services as needed.

4. Diagnostic Package

As to youth residing at the facilities prior to February 1, 1987, defendants will make their best efforts to comply with IV (B) (4).

(a) Beginning no later than February 1, 1987, in order to develop an individual service plan for each newly admitted youth, the diagnostic unit staff will compile a thorough needs assessment. Observation, interviews, information from previous evaluations, and testing, including individualized testing, are the ingredients of thorough assessment: the goal of the diagnostic unit is to develop as accurate picture as possible of each youth's needs. The diagnostic process must result in specific identification of needs and strengths which direct the services to be delivered to youth. An integrated diagnostic package must be done in such a way that it produces an understandable needs and strengths list which can be used by the team to develop the individual service plan.

(b) The diagnostic package shall include psychological, educational, vocational, medical and family assessments. These assessments must not be more than a year old, and may be repeated more frequently if the diagnosticians see the need to do so. Additional assessments (e.g., psychiatric, neurological, speech) must be done as needed. Assessments must incorporate the observations of cottage staff, probation, and others who have worked with the youth previously.

(c) Educational assessments will identify academic needs and strengths and learning problems to be addressed during confinement and current functioning levels as well as vocational interest and aptitude utilizing individualized instruments and measures.

(d) The educational assessment will be completed within 3 days of admission. In the event a youth is suspected of being handicapped and in need of special education services under P.L. 94-142, he will be referred by the next working day after his assessment and will be evaluated by the DCPS eligibility teams within 20 days of his referral except that where there is

lack of pre-referral observation or lack of outside assessment information, it shall be within 30 days of his referral. In the event an IEP is necessary one shall be developed as required by P.L. 94-142 and its implementing regulations within 30 days of a youth's evaluation, whether he/she is located at the Receiving Home or at Oak Hill or the Oak Hill Annex. There shall be two DCPS eligibility teams for youth confined at Oak Hill and Oak Hill Annex.

5. Diagnostic Staff

As of January 1, 1987, the diagnostic unit will have sufficient qualified assessment professionals in each field to produce a diagnostic package on each youth within two weeks of admission. A full-time licensed clinical psychologist (Ph.D) will be responsible for supervising diagnostic staff and diagnostic procedures and performing other appropriate diagnostic services. In addition, there shall be, at a minimum, the equivalent of one full-time masters' level social worker, one full-time certified educational diagnostician, diagnostic referral resources, and support and clerical staff. On or about April 1, 1987, two qualified mental health consultants (designated by the parties) shall review whether this is sufficient staff to meet adequately the youth's diagnostic needs. The consultants shall report their findings to the parties and the monitor.

Staff involved in the assessment process will receive special training to enhance their skills of evaluating the needs of delinquent youth.

C. Cottage Life Services For All Youth In YSA Institutions

The provisions of Section C, unless otherwise specified will take effect no later than April 30, 1987. As to youth residing at the facilities prior to April 30, 1987, defendants will make their best efforts to comply with Section C.

1. Individual Service Plan (ISP)

By the end of the youth's second week after admission to custody of YSA, he/she will be moved out of the

diagnostic unit (unless a longer diagnostic phase is needed for an individual and justified in writing in his/her temporary service plan). At this point, the Team Leader will convene a team meeting to develop the Individual Service Plan (hereinafter ISP). The ISP will list the needs and strengths identified by the diagnostic package, including emotional, educational, vocational, physical and family. The ISP will specify educational, vocational, medical, recreation, cottage life, mental health and aftercare services to be provided to meet these needs. Needs, specific long- and short-term goals, and a specific timetable for each goal will be specified in the ISP. The staff person responsible for monitoring that each service is delivered will be specified in the ISP. The ISP will include documentation of whether the youth is in the least restrictive alternative and will specifically state the criteria for the youth's movement to the next least restrictive alternative, as permitted by the court, and consistent with the principles in I (A) (1) and (2) above. The educational plan component of the ISP will include prescriptive goals for remedial, GED, and vocational classes or the IEP goals for special education students.

2. The Team

The Team will consist of the youth's Team Leader, cottage staff, teachers, mental health professional staff, and recreation staff, and medical and vocational specialists as recommended by the Team. In the case of detained youth there will also be a social service representative on the Team. Individuals who performed the assessments will meet with the Team at its initial meeting to contribute to the development of the ISP. For committed youth, the aftercare worker will participate in the initial Team meeting to contribute to the ISP and in its meetings at 60 days prior to release and subsequently. The Team will include the youth in meetings, and his/her parents will be invited to attend as appropriate. Teams will be organized by living unit. The Team Leader will ensure consistent personal participation by the members of the youth's team and will ensure

that each discipline is represented. In the absence of a member, a substitute from the absent member's discipline must be present with a written report from the absentee on the youth.

The Team will meet monthly to report on the youth's progress in meeting his/her goals and to modify the ISP as needed. The Team Leader will have the responsibility to ensure that staff from all parts of the institution modify their services to enhance the youth's progress, as needed.

The Team will determine release dates (depending on the court order), and 60 days before projected release will develop a specific aftercare plan with the aftercare worker (see below). Written policies will govern the determination of readiness for release and the release process, developed in accordance with I (B) (2) (C) above.

3. Team Leaders

The Team Leaders will have demonstrated skill as counselors and treatment planners. The majority of the Team Leaders will have master's degrees in psychology, social work, education or counseling. The remainder will have B.A. degrees with equivalent experience and training. Of the remainder, the equivalent experience and training shall be determined by Michael Milan and Margaret Beyer.

The Team Leader will:

- (a) supervise the cottage life staff with respect to all areas of the youth's ISP;
- (b) convene the Team to develop the ISP for each youth and monthly thereafter to review the youth's plan;
- (c) counsel youth individually and assist cottage staff in leading regular group counseling sessions;
- (d) ensure that the services specified in the ISP for each youth are being delivered;
- (e) coordinate with the aftercare worker on family contacts, home visits, and release, and with the social service representative in the case of detained youth;
- (f) monitor court dates and prepare progress reports for committed youth for court hearings, as needed;

(g) be responsible for the recording of the youth's progress on at least a monthly basis.

The Team Leaders will work on the units on a flexible schedule so as to be accessible to staff and youth on weekdays, evenings, and weekends. The ratio of Team Leaders to youth will be no less than 1:20. This ratio shall be fully complied with by no later than March 1, 1987.

The Team Leaders will receive adequate individual and group supervision from either a MSW, a Ph.D psychologist or other person with equivalent clinical experience. Although lines of authority in the institution may follow a departmental model, the Team Leader will play the central role in ensuring collaboration among the team and the departments they represent. The Team Leaders will receive a special pre-service training program, designed by Margaret Beyer along with special in-service mandatory training to enhance their counseling techniques and their treatment planning skills. The Team Leaders will have sufficient support staff to prepare the ISPs and court reports and maintain individual casefiles.

D. Recreation

Recreation is an essential part of a youth's development and must include:

1. participation in a range of individual and group outdoor and indoor activities by each youth for a minimum of two hours every weekday, one of which will be one hour outdoors, weather permitting. One hour of the two hours shall be large muscle activity, such as team sports and jogging and regular gymnasium activities. Facilities for daily large muscle activities during inclement weather must be available.

2. A planned structured recreation program shall be provided on the weekends and evenings. On the weekends, at a minimum, that which is required in D (1) above shall be provided.

3. Staff trained in therapeutic recreation, adequately supervised, will work on a flexible schedule to include afternoon, evening and weekend hours in a ratio of no less than 1:50 youth. This ratio will be complied with no later than March

1, 1987, and the programs within Section D will take effect no later than April 30, 1987.

E. Mental Health and Social Services for Youth in YSA Institutions

1. Adequate mental health services will be provided for youth to supplement the individual and group counseling provided by Team Leaders, cottage staff, recreation staff, and teaching staff. This provision will be effective no later than April 30, 1987.

2. The mental health program for Oak Hill and the Oak Hill Annex will be directed by a licensed clinical psychologist and will be staffed by the following full-time personnel: licensed psychologists in a ratio of no less than 1:100 youth, and a board-certified psychiatrist in a ratio of no less than 1:300 youth. These psychologists and psychiatrists will provide individual and group therapy and other relevant mental health services to youth. The above referenced psychologists shall be in place by January 1, 1987. The above referenced psychiatrist shall be in place by no later than March 1, 1987.

3. In addition to these staff, at both the Receiving Home and Oak Hill and Oak Hill Annex, self-esteem building programs including but not limited to art therapy, music therapy, and dance/movement therapy will be provided as an important part of mental health services for all youth. Qualified and trained staff will offer these programs at the facilities in a ratio of no less than 1:50 youth. These programs may be a collaborative effort of mental health and education. This provision will be effective no later than March 1, 1987.

4. Adequately trained and a sufficient number of personnel will be available at the facilities to provide drug educational and counseling services, as needed based on the ISPs, and will be part of the mental health program. This provision will be effective no later than March 1, 1987.

5. At the Receiving Home, the mental health program will be directed by a full time qualified master's level social worker who shall provide therapy services and supervise mental

health staff. In addition, the mental health unit will include, besides the other staff listed in ¶ E (3) and (4) above: a part time (at least 20 hours per week) board-certified psychiatrist; a full-time psychiatric nurse; and a full-time licensed psychologist (M.A. level). This provision will take effect October 1, 1986. On or about January 1, 1987, two qualified mental health consultants shall review whether there is sufficient staff to meet adequately the mental health needs of the youth at the Receiving Home. The consultants shall report their findings to the parties and the monitor. In addition, at the Receiving Home, social services representatives shall be employed at a ratio of no less than 1:40 detained youth, which representatives shall perform the services listed below in ¶6.

6. At Oak Hill and Oak Hill Annex, the director of social services shall be a masters' level social worker. Under the supervision of the director, the social services unit will have masters' level social workers in the ratio of 1 to 100 youth who shall provide counseling and other appropriate services and guide the activities of the social services representatives. Social services representatives shall be members of the social services unit in a ratio of no less than 1:40 detained youth. The above referenced staff shall be in place by January 1, 1987. Social Service representatives shall:

- (a) meet weekly with each youth;
- (b) contact family members and arrange visiting; make referrals to services needed by family members;
- (c) discuss dispositional alternatives with probation and/or aftercare workers and attorney;
- (d) recommend to Probation and request to Corporation Counsel, Juvenile Branch, and defense attorneys to file motions recommending the court lower levels of detention for youth as needed;
- (e) prepare for submission to the court a disposition report.

7. Mental health services for YSA institutions will be coordinated in the office of the YSA Administrator. As long as

this coordinator position is located within CSS, the coordinator shall be a licensed Ph.D psychologist or the equivalent. The coordinator will be appointed no later than January 1, 1987.

F. Aftercare for Committed Youth in YSA Institutions

The provisions within Section F will take effect no later than April 30, 1987.

The goals of aftercare are to:

(a) provide youth with opportunities for vocational, educational and social success in the community.

(b) insure a supported transition from the institution to the community, including in-home family services and transfer of institutional school, vocational and counseling programs to comparable services in the community.

An aftercare worker will be assigned to the youth at commitment and will have a meeting to discuss aftercare with the youth during the first two weeks after institutional admission. Tentative aftercare plans will be incorporated into the ISP. A more detailed aftercare plan will be developed 90 days after admission, and the aftercare worker will be involved in this meeting of the Team.

At least 60 days prior to release, the aftercare worker will meet regularly with the Team and will revise the aftercare plan in a session with the youth and family. The aftercare worker will have a family meeting in the home on each home visit during these 60 days. Starting 60 days prior to release, the aftercare worker will, with the assistance of institution staff, make specific arrangements for the youth's transfer to community programs, including conveying school transcripts, vocational certificates, etc. Youth will be in a pre-release unit for 30 days prior to release, unless his ISP provides otherwise. The aftercare worker will meet weekly with the youth and family during the pre-release unit stay.

Immediately after release, the aftercare worker will provide more intensive support to help the youth and family with re-adjustment. Youth will require considerable support (from aftercare workers and referral agencies) to experience success in school/work and at home after release.

In the event that a youth will be released from the institution in less than 90 days, the above timetable will be changed accordingly. In the event that a youth is unexpectedly released from the institution prior to the pre-release phase, the aftercare worker will prepare an aftercare plan to provide the support services described above.

G. Recordkeeping

In terms of record keeping, the defendants shall comply with ACA Training School Standards 2-9109 through 2-9116 (1983 ed.) by no later than April 30, 1987.

H. Educational and Vocational Programming

The provisions of section H will be fully complied with no later than September 1, 1987 unless otherwise specified.

1. Defendants agree to comply fully with the requirements of P.L. 94-142, §20 USC §1401 et seq., and its implementing regulations by September 1, 1987.

2. By no later than September 1, 1987, in order to provide adequate education to meet the individualized needs of students, educational personnel shall be employed as follows:

(a) Special education teacher to youth will be in the ratio of no less than 1 to 10 youth, except for seriously emotionally disturbed youth which shall be a ratio of 1 to 6.

(b) In addition, defendants at all times shall employ a sufficient number of academic teachers to provide a ratio of one teacher to 15 students (in regular academic classes). This ratio shall be achieved by September 1, 1987. The number of teacher positions for regular academic classes filled as of September 1, 1987 may not be reduced unless there are fewer than 10 students per teacher. If the number of students per teacher in regular academic classes increases above 10, the number of such teacher positions shall be increased to maintain no more than 10 students per teacher until the number of positions equals that number created as of September 1, 1987. Defendants shall not be required to increase the number of teacher positions in regular academic classes beyond the number of teachers employed in such classes on September 1, 1987 unless there are more than 15 students per teacher in such classes.

(c) There shall be a principal and an assistant principal for Oak Hill and Oak Hill Annex and a qualified education coordinator for the education program at the Receiving Home.

(d) A roster of substitute teachers shall be available so that full coverage will be provided at all times in the event of a regular teacher's absence, by no later than September 1, 1986. Aides shall be provided for special education classes.

3. The D.C. Competency based curriculum shall be fully utilized, with teachers fully trained in its use, by no later than January 1, 1987.

4. By no later than February 1, 1987, youth shall receive a full day of school comparable to the number of hours he would be provided by the DCPS. In no event shall a youth be afforded less than 5 hours of schooling per day.

5. An array of enrichment and academic subjects shall be provided in the school program which approximates that which would be available to the youth if he were attending school in the DCPS.

6. As of the date of the signing of this Decree by the parties, all newly hired educational personnel providing educational services to youth must obtain certification by the DCPS in their respective areas of specialization before they may function in the respective positions for which they were hired. YSA will make reasonable efforts to encourage all present (as of the signing of this decree) educational personnel to apply and become certified by DCPS as soon as possible. YSA will pay for any additional necessary costs to obtain such certification, including tuition costs.

7. By no later than October 1, 1986, teachers shall be provided adequate equipment, educational materials, resources, and supplies to conduct their classes and to meet the individualized needs of their students.

8. By no later than February 1, 1987, except for classes during the diagnostic phase and during periods of

disciplinary confinement, no classes shall be conducted on the units and all children shall have the opportunity to attend a school building at Oak Hill or Oak Hill Annex or any other appropriate school facility; in the case of the Receiving Home, the areas designated as classrooms, or any other appropriate school facility.

9. By no later than February 1, 1987, upon appropriate testing and assessment, all students shall be placed in classrooms based upon their individual abilities, strengths, and weaknesses.

10. Within 3 months of the signing of this Decree, in order to achieve full compliance with P.L. 94-142 and its implementing regulations, Martin Gerry, an expert selected and agreed upon by the parties, shall develop for the facilities a comprehensive and specific plan with goals and timetables addressing each of the requirements of P.L. 94-142 and its implementing regulations, including but not limited to: identification, and evaluation; development and implementation of individualized educational plans; provision of a full continuum of special education and related services; procedural safeguards; and agency coordination and monitoring; and staffing levels and training requirements. The plan shall be fully implemented by September 1, 1987. The expert shall work closely with DCPS and YSA and assist in the development of procedures and their implementation. If there are no objections to the plan developed by the expert within 30 days of its submission to the Court, it shall be incorporated herein by reference upon the approval of the Court. The plan shall at a minimum require compliance with the provisions in this section. Martin Gerry shall in addition serve as a consultant to the monitor, with responsibility for the monitoring of all regular and special educational programming at the facilities.

11. The Administrator for Rehabilitation Services Administration, Vernon Hawkins, shall, with the assistance of pertinent D.C. employees, develop a plan within 3 months of the signing of this Decree by the parties to ensure that sufficient

and meaningful vocational programming is provided at the institutions to meet the individualized needs of all youth, pursuant to their ISP's. The plan shall devise such a program with specific courses along with requisite staffing levels. Pursuant to the plan, all children, at a minimum, shall have the opportunity for pre-vocational or career education courses. All instructors will be appropriately certified by RSA for handicapped youth and by DCPS for non-handicapped youth. The plan shall require compliance, at the least, with the ACA Training School Standards 2-9338-9339 and 2-9343 through 2-9350 (1983 ed.). The plan shall have specific goals and time tables to ensure implementation. The plan shall be fully implemented by September 1, 1987. If there are no objections to the plan within 30 days of its submission to the Court, it shall be incorporated herein by reference upon the approval of the Court.

12. In order to perform their functions, the educational/ and vocational experts in ¶10 and ¶11 above may utilize personnel with expertise in the District government where they deem it appropriate. The District of Columbia shall compensate the expert referred to in ¶10 for reasonable costs and fees for the performance of his functions. The expert shall, after consultation with counsel for the parties, propose his budget. If there are no objections to the budget, or if objections are resolved within ten (10) days, the budget shall be accepted and incorporated herein. If the expert and the parties are unable to resolve a dispute concerning his budget, such dispute shall be submitted to the monitor. If the matter still remains unresolved, the issue shall be submitted to the Court.

V. DISCIPLINE

A. Institutional Care Services Division, Rule 412 (hereinafter "412") dated April 13, 1981, shall continue to govern discipline of youth, subject to revisions and conditions herein. Defendants may at anytime redraft the provisions of 412 for purposes of clarity and to improve administration of the disciplinary system so long as such changes do not reduce the substantive and procedural due process rights provided by 412 to a resident. If the defendants redraft any portions of Policy 412, copies of such proposed changes shall be submitted to both parties and to the monitor for comment. If plaintiffs do not object to the proposed changes, they shall be adopted. If plaintiffs object, those objections shall be considered a substantial dispute, and may be implemented upon approval by the court. In the event 412 is revised as part of a "behavior modification program", then defendants will consult with Michael Milan and follow the process described above concerning such proposed changes.

The provisions in Section V below will take effect no later than September 1, 1986.

1. If a resident is confined in prehearing detention, the hearing shall be held within 24 hours. Upon placement in prehearing detention, the Superintendent shall be notified immediately and must review the placement, on site, before the end of the shift. If the Superintendent is unavailable, the review shall be conducted by the O.D., and the Superintendent will review the placement on his next working day. At the time of the review by the Superintendent or the O.D., if the resident is not dangerous to himself or others, or in serious danger from others, he shall be released from prehearing detention at that time.

2. The maximum penalty for a major rule violation shall be no more than five days in room confinement, including time served in prehearing detention.

3. Residents in room confinement shall be provided all of the rights specified in Policy 412, with the following additions:

- (a) the resident shall be allowed to have reasonable communication with other residents.
- (b) the resident shall be provided regular appropriate institutional clothing;
- (c) the resident shall be provided with one hour large-muscle outdoor exercise daily, weather permitting. If weather does not permit, and if there are three or more residents in room confinement, as to Oak Hill and Oak Hill Annex such exercise shall be provided in the gym or, as to the Receiving Home, in a facility referenced in IV D. The resident shall be provided an opportunity for a shower following exercise.
- (d) education equivalent in duration and subject matter and materials to that provided to residents not in room confinement; such education shall be provided by the youth's teacher and he shall have meaningful contact with his/her teacher each day.
- (e) access to legal services including telephone calls to attorneys.
- (f) clinical staff shall talk with the resident on a daily basis and record their observations and visits in the log book and discuss those observations with staff.

4. In lieu of any panels provided in 412 for a disciplinary hearing, the hearing shall be conducted by a hearing officer, independent of the facilities, who reports directly to the Administrator of Y.S.A. The hearing officer shall receive appropriate training and supervision in the operation of the disciplinary procedure. The hearing officer shall prepare a

summary of each hearing, including the names of witnesses and their statements.

B. If a youth is physically and emotionally out of control, he may be removed to his room for a non-punitive cooling off period not to exceed one (1) hour. A cooling off period may be used only on an individual basis and not as a group measure. During that cooling off period, the youth shall be visually monitored every 15 minutes and his status and behavior noted in the log book at each 15 minute interval. The youth shall be informed of the maximum length of the cooling off period, and be given the reasons for the cooling off period, and an opportunity to explain his side of the story.

1. Immediately after placing the youth in a room for a cooling off period, the officer or counselor shall notify the Team Leader (or the O.D. if the Team Leader is not available) who will make an on-site review of the situation within half an hour, talk with the youngster and the staff member, and sign and date the incident report described in section 2, below, and note his assessment of the situation, a copy of which shall be forwarded to the Superintendent.

2. After making the notification described in V (B) (1) above, the person placing the youth in a room for a cooling off period shall write an incident report describing the date and time of the incident and of placement into a room, the circumstances surrounding the incident, the use of force, any injuries that may have occurred, and medical treatment provided.

VI. RESTRAINTS

A. Instruments of restraint may only be used as a precaution against escape, during transit, for medical/mental health reasons under medical/mental health authorization, and to prevent youths from self-injury, injury to others, or property damage. They must not be used for more time than is necessary nor for punishment. Restraints shall not be used unnecessarily or as a substitute for adequate programming and adequate psychiatric services. Accordingly, personnel shall use restraints only in the manner set forth below:

B. Leg Irons

Leg irons only may be used in moving a youth from one institution to another, if (a) it is determined that the youth is an escape risk; (b) the use of leg irons is ordered by the court, or (c) the youth is residing at the Oak Hill Annex and is classified as maximum security. Leg irons shall not be used to attach a youth to another child or object.

C. Handcuffs

1. Handcuffs may be used in transit to or from a youth's facility.

2. Handcuffs may be used where a youth becomes physically violent and they are needed to transport the youth to his room, but they shall be used only if it is clear that less restrictive methods of control are not feasible. When handcuffs are used in this manner, they shall be removed as soon as the youth regains his/her control or is confined to a room unless it appears that the youth is still out-of-control and restraints are still necessary to prevent injury or property damage.

3. If restraints are used while a resident is in his room, the staff member shall immediately notify the Superintendent, or the O.D. if the Superintendent is not available. The Superintendent or O.D. shall promptly notify the physician's assistant (1) who will respond immediately but no later than half an hour, except when detained by an emergency, to personally make an on-site review of the youth and (2) who shall if he feels it appropriate notify a physician.

4. Restraints will never be used to attach a youth to any object except in extraordinary circumstances. In these circumstances, the Officer of the Day and/or the Superintendent shall be immediately notified. The OD or the Superintendent shall make the decision whether the youth shall remain so restrained. If the youth shall remain so restrained, the OD or Superintendent shall immediately notify the physician telephonically. The physician, within no more than thirty minutes, shall respond to the facility to monitor the youth's

condition, or authorize the youth's transportation to a hospital. While the physician is en route, a physician's assistant shall continuously monitor the youth. If a youth remains in restraints for 90 minutes, the physician shall order that the youth be taken to a hospital or appropriate medical facility or contact the medical director for further advice.

D. Records

1. Every use of restraints (except when used for purposes of transport from one institution to another or to court) shall be reported on a standardized form which shall include the youth's name, the date and time of the incident, the amount of time in handcuffs, a statement of the circumstances leading to the use of handcuffs, any injuries incurred, and the signature of the staff and medical persons authorizing the use of handcuffs and the counter-signature of the Team Leader, and Superintendent (or the O.D. if the Superintendent is not available) and remarks if any. A copy of this report will be kept in the youth's file, and in a restraint file retained by the Superintendent.

2. When restraints are used as set forth in VI (c) (2), (3), and/or (4), the youth shall be continuously monitored and his condition noted in the logbook. Clinical staff shall be contacted and visit with the child as soon as possible.

VII. ENVIRONMENTAL HEALTH

A. Defendants shall comply with the requirements in Section VII no later than August 1, 1988.

1. Within two weeks from the signing of this Decree by the parties, the defendants shall provide to plaintiffs a reasonable schedule with specific timetables for compliance with each of the requirements set forth in Section VII. The schedule will place first priority on matters of life safety and other issues critical to life, health or safety. If plaintiffs object to the schedule as a whole, or any portion thereof, that shall be considered a substantial dispute.

2. With regard to direct access to toilets, defendants within two weeks of the signing of this Decree by the parties shall develop policies and procedures to provide that:

(a) Staff may not penalize a youth who seeks access to the bathroom;

(b) Staff will respond promptly when a youth seeks access to the bathroom;

(c) Defendants will discipline any staff member who unreasonably interferes with a youth's access to the bathroom.

B. Oak Hill, Oak Hill Annex and the Receiving Home shall comply with the following sections of the American Public Health Association's Standards for Correctional Institutions (1986 ed.), section on Environmental Health: food (4), housekeeping (5), laundry (6), solid waste collection and handling (9), and vermin control (10). With respect to the food section, defendants may comply with appropriate federal regulations or local regulations, which may include 23 DCMR.

C. Oak Hill, Oak Hill Annex and the Receiving Home shall comply with the following sections of the American Correctional Association Standards for Juvenile Training Schools (1983 ed.): 2-9157 through 2-9160, 2-9162, 2-9164 through 2-9170, and 2-9172.

D. Plumbing

1. Water, soil, and waste drain lines and fixtures must be constructed of acceptable materials and installed in conformance with locally applicable codes. Hot and cold water supplies must

be adequate in quantity and pressure. All fixtures must be kept clean. Approved backflow prevention devices must be provided where needed. There must be no cross-connections to nonpotable lines. All plumbing, including fixtures and connections, must be maintained in good working order, and the water temperature range for showers and handwashing shall be 105-120°F.

E. Facilities

1. There shall be one juvenile per sleeping room which shall have a minimum of 70 square feet of floor space; and juveniles shall be provided opportunity for activities outside the room at least 14 hours per day, except those children who are being disciplined or who are ill. This paragraph is controlled by I (D), (F), and (G).

2. Each youth shall have, at a minimum, access to:

- (a) Toilet facilities available for use without staff assistance 24 hours a day or through an electrical system by which a child may unlock the door to his/her room by pushing a button in his/her room to allow him/herself out and thereby lock the remaining doors on the unit until the youth is safely back in his/her room;
- (b) A wash basin with hot and cold running water
- (c) Artificial light of 30 foot candles at 30 inches from the floor in each room, controlled by the youth.
- (d) In each room, a bed, desk, storage space for clothes, a chair or stool; natural light; and
- (e) Temperatures shall be kept within comfort zones, between 66-80°F in the summer and 61-73°F in the winter.
- (f) The door to each youth's room shall contain a window.

3. Ventilation shall be available in the event of a power failure.

4. There shall be documentation by a qualified source that the interior finishing material in juvenile living areas, exit areas and places of public assembly are in accordance with applicable District Fire Safety Codes.

5. If new facilities are built, they shall comply with applicable or superceding ACA Standards for Juvenile Training Schools (physical plant section).

F. Fire Safety

1. There shall be documentation by a D.C. agency independent of DHS which is qualified with the applicable fire safety codes to ensure compliance.

2. Written policy and procedure shall be implemented for a qualified representative of D.C.R.A. or of the D.C. Fire Department to routinely inspect the facilities for compliance with safety and fire prevention standards, and for a review of this policy and procedure annually; there shall be a weekly fire and safety inspection of the institution by a qualified designated staff member.

3. A D.C. Government agency independent of YSA shall verify, by utilizing a qualified inspector who is trained in the application of D.C. Fire Safety Codes, that the travel distances to all exits are in compliance with code requirements.

4. The facility shall have and shall implement a written evacuation plan for events such as fires or other major emergencies. This plan shall be approved by a D.C. Government agency independent of YSA, by utilizing an inspector trained in the application of D.C. Fire Safety Codes. The plan shall be reviewed annually, updated if necessary, and reissued. The plan shall include the following:

- a) location of building/room floor plans;
- b) use of exit signs and directional arrows for traffic flow;
- c) location of publicly posted plan;
- d) at least quarterly drills on all shifts in all institution locations; drills do not require children to be released from their respective units.

5. An automobile or similar motor vehicle shall be available for use in emergencies.

6. The adequacy of fire exits at the facilities will be subject to an inspection by D.C. Fire Department officials, the findings of which will be provided to the monitor. If there is a dispute with regard to the adequacy of fire exits, the provisions of VII (A) (1) above will apply to this paragraph. As to the issue of the adequacy of fire exits, the parties may assert whatever standards they believe are appropriate.

7. The use of polyurethane mattresses, and polyurethane upholstered furniture is prohibited; furniture and mattresses must be constructed of fire retardant treated cotton, neoprene foam, or equivalent, and properly encased.

G. Defendants shall, within three years from the date of the signing of this decree by the parties, implement their Receiving Home plan involving redesigning of the facilities there. This deadline is subject to extension upon notification to plaintiffs if there is an unavoidable delay.

H. Defendants shall develop and implement a detailed maintenance plan and a detailed housekeeping plan, including the titles of people who, on a daily basis, are to perform each function.

VIII. MEDICAL SERVICES

A. As of March 1, 1987, defendants shall comply with the American Public Health Association's Standards for Correctional Institutions (1986 ed.), except for those pertaining to environmental health, and except that consent from parents, guardians and/or the court, will be sought if required by law.

B. In addition:

1. There shall be 24 hour medical coverage by either a physician or a physician's assistant at each facility.

2. As of January 1, 1987, there shall be one full-time medical officer for all three facilities, and that person shall be a fully qualified, and licensed physician who shall be in charge of coordinating all medical, and psychiatric services at each of the three YSA facilities.

3. As of January 1, 1987, there shall be one full-time medical records clerk for all three facilities whose responsibility it will be to keep all charts and medical records in adequate order and easily accessible.

4. Physician's Assistants or physicians will perform medical screenings, except that other appropriate medical personnel may perform screenings under the direction of a physician.

5. Sick Call

Sign-up Sheets: In all three facilities, either a physician's assistant will make daily sick call rounds on the units and/or sick call lists will be posted openly so that all residents have free access to them. If sick call lists are used, they will be collected each day by the medical personnel on duty. If a child is not brought to the medical office for sick call, the medical staff will initiate a follow-up procedure to determine the reason for the child's absence.

6. Residents will not be shackled together while awaiting their medical appointments in the waiting room, nor will any patients be examined or treated while shackled to anyone

else. Privacy and confidentiality of the medical encounter will be respected.

7. As of September 1, 1986, work-up, assessment, management, and follow-up plans for patients who are treated at sick call shall be regularly reviewed by a physician at all three institutions.

8. As of November 1, 1986, laboratory equipment useful for making diagnoses will be provided, including, but not limited to, microscopes with stains, centrifuges for hematocrit, and centrifuges for urine.

9. Injuries and Accidents: Any resident who may be injured (e.g. a child involved in a fight or a fall), regardless of whether the child claims injury or the staff believe the child to be injured, shall be examined by a member of the medical staff. This includes, but is not limited to, every child who is in a fight, however minor, and every child against whom force is used, regardless of the amount of force used.

10. As of November 1, 1986, adequate supplies shall be available at all times.

11. As of November 1, 1986, the three institutions shall have coordinated pharmacy services and no resident shall be permitted to bring with him/her or use any medications brought from outside the institutions. Rather, based on a medical assessment, diagnosis, and treatment plan performed by appropriate institutional medical personnel, appropriate medications shall be used.

12. As of November 1, 1986, there shall be an institutional formulary.

IX. VISITING, PHONE CALLS ATTORNEY ACCESS, AND HOME VISITS

A. As meaningful contact with one's family is an integral component of any process of rehabilitation, transportation shall be provided to and from Oak Hill for visitors. Transportation for visitors of committed youth shall begin on March 1, 1987. Visitors of committed youth at Oak Hill and Oak Hill Annex shall pay a nominal fee for this

transportation. Visits for each youth at Oak Hill and Oak Hill Annex shall be allowed at Oak Hill for two hours each day on Saturdays and Sundays, no later than September 1, 1986.

B. Recognizing the special needs of children confined at the Receiving Home as presently used, they shall be permitted visits of two hours per visit on each of three weekday nights and on Saturdays and Sunday afternoons, no later than September 1, 1986.

C. As of March 1, 1987, children are entitled to two telephone calls per week of ten minutes each. In the event of a major or minor rule infraction under the disciplinary rules, one of those two calls may be withheld. Telephones will be located on each living unit, except at the Receiving Home where there will be two phones. Telephone calls beyond the metropolitan D.C. area shall be collect calls. Phone calls may be placed by staff.

D. A youth may receive visits from and make telephone calls to his/her parents, guardians, primary caretakers, siblings, children, co-parents of offspring, and, as approved by the child's ISP team, others. The effective dates of this paragraph are governed by ¶A-C, above.

E. Every resident shall have routine access to his or her attorney during waking hours (7:00 a.m. to 9:00 p.m.) seven days per week. This includes both visits and effective March 1, 1987, phone calls between attorney and youth. If an emergency arises, there shall be no restriction on an attorney's visitation to a youth or on telephone communication between attorney and youth.

F. Subject to applicable court orders home visits shall be allowed after 45 days of confinement, or sooner if specified by the youth's ISP.

X. STUDENT HANDBOOKS: RIGHTS OF STUDENTS, RULES OF CONDUCT, SANCTIONS

As of November 1, 1986, a student handbook or handbooks shall be prepared advising students of their rights and of the rules of conduct applicable to YSA facilities. To the maximum practicable extent a uniform set of rules applicable to all YSA

facilities, will be prepared within four months of the signing of this Decree. Upon intake each student will receive his or her own personal copy of the handbook setting forth the institution's policies and procedures, the rights of students, the rules of conduct, and the sanctions for misbehavior. The rules will include a ranking of behaviors and sanctions for misbehavior so that all persons within the facility understand what behavior is prohibited and what penalties may be applied to violations. In addition to each child's personal copy, extra copies of these handbooks shall be kept readily available for students and staff within each building at each facility.

XI. DEFINITIONS

The following definitions shall apply throughout this consent decree, unless otherwise specified:

A. "Plaintiffs" refers to all committed and detained youth in the class certified in this case. The class consists of all children who are or come to be confined in the three juvenile facilities, Oak Hill, Oak Hill Annex, and the Receiving Home for Children, operated by the District of Columbia, for so long as they are in YSA custody.

B. "Detained youth" refers to youth subject to the jurisdiction of the D.C. Superior Court Family Division who have had restrictions placed on their liberty and who are accused of delinquent conduct following arrest and prior to disposition.

C. "Committed youth" refers to youth who have been adjudicated delinquent by the court and who have been committed by the court to the legal custody of DHS.

D. "Defendants" refer to the District of Columbia Government and the District of Columbia Public Schools. It also refers to the following individuals and their successors in office but solely in their official capacities: the Mayor, Marion S. Barry, Jr.; David E. Rivers, Director of Department of Human Services; Audrey Rowe, Commissioner of Social Services; Robert Malson, Acting Administrator Youth Services Administration; Sharon Harrell, Acting Deputy Superintendent, Oak Hill Annex; Neal Ollivierra, Acting Superintendent, Oak Hill;

Julia Scott, Superintendent, Receiving Home for Children; Floretta McKenzie, Superintendent, D.C. Public Schools; and Doris Woodson, Superintendent of Special Education, and D.C. Public Schools. To the extent defendants are required to provide services, defendants are only obligated to do so with respect to plaintiffs described in ¶A within the facilities described in G.

E. "D.C. Government" or "District of Columbia Government" refers to a municipal corporation headed by the Mayor, and composed of all executive agencies thereunder. Unless specific references are made, nothing in this Decree, including any definitions herein, is applicable to the Office of the Corporation Counsel. Moreover, nothing in this Decree shall be read to impinge on the prosecutorial functions, including its prosecutorial discretion, of the Office of the Corporation Counsel, Juvenile Branch.

F. "D.C.P.S." refers to the District of Columbia Public Schools.

G. "Facilities" and "institutions" is used to refer to Oak Hill, Oak Hill Annex, the Receiving Home for Children, and their successors and any non-community based secure placements.

H. "Cedar Knoll" and "Oak Hill Annex" is used interchangeably to refer to the same secure juvenile facility located in Laurel, Maryland.

I. "YSA" refers to the Youth Services Administration of the Commission on Social Services in the Department of Human Services of the District of Columbia Government.

J. "DHS" refers to the Department of Human Services of the District of Columbia Government.

K. "CSS" refers to the Commission on Social Services of the Department of Human Services of the District of Columbia Government.

L. "Youth", "children", "child" or "resident" are used interchangeably to refer to the Plaintiffs in this case.

M. "Staff" means the D.C. employees of any YSA facility and their agents.

N. "Plaintiffs' Counsel" refers to the Public Defender Service, the A.C.L.U. National Prison Project, and its successors.

O. "Defendants' Counsel" refers to Office of the Corporation Counsel, District of Columbia, and its successors.

P. "Secure beds", "secure slots", "secure confinement", "secure facility", or "secure juvenile facility" refers to a facility as defined in "G" and does not include placements such as foster homes, group homes, halfway houses, and residential programs, characterized by a small number of residents who have the freedom to enter or leave the premises under staff supervision or permission.

Q. "ACA" or "American Correctional Association Standards for Training Schools" refers to the Standards for Juvenile Training Schools of the American Correctional Association's Commission on Accreditation for Corrections (2nd ed. 1983).

R. "APHA Standards" refers to the Standards for Health Services in Correctional Institutions of the American Public Health Association (2nd ed. 1986).

S. "Full-time" refers to forty hours per week.

T. "Day" is defined according to D.C. Superior Court Civil Rule 6(a).

U. "Decree" refers to this Consent Decree.

V. "O.D." refers to officer of the day at any YSA facility.

W. "He" is considered to be interchangeable with "she" and "his" is considered to be interchangeable with "her".

X. "Parties" refers to the Plaintiffs and Defendants described above.

XII. By entering into this decree, the National Prison Project does not waive its claim for reasonable attorneys' fees and costs incurred by it in this case.

Agreed to this 10th day of July, 1986.

Donna Wulkan/SS
Donna Wulkan
Next Friend

Attorneys for Plaintiffs:

Cheryl M. Long
Cheryl M. Long, Director

Randolph N. Stone/SS
Randolph N. Stone
Deputy Director

Santha Sonenberg
Santha Sonenberg
PUBLIC DEFENDER SERVICE
451 Indiana Avenue, N.W.
Washington, D.C. 20001

Steven Ney
Steven Ney
Chief Staff Counsel

Mary E. McClymont
Mary E. McClymont
ACLU NATIONAL PRISON
PROJECT
1616 P Street, N.W., #340
Washington, D.C. 20036

Attorneys for Defendants:

Martin L. Grossman (n)
Martin L. Grossman
Deputy Corporation Counsel, D.C.

Robert L. Gross
Robert L. Gross
Chief, General
Litigation Section I
Nancy R. Dorsch
Colin C. Carriere
Assistant Corporation
Counsel, D.C.

Approved and so Ordered this 24 day of July, 1986.

Ricardo M. Urbina
Hon. Ricardo M. Urbina