



JI-PA-005-001

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NEIDA SANTIAGO, EVELYN NICHOLSON, : CIVIL ACTION
(MICHAEL DAVIS), DENISE SHEARED, :
ALLISON MARTIN, DARLENE LATTIMORE, :
ELEUTERIO RIVERA, DENISE BETHUNE, :
TYNYA HAYMAN, TONY THOMAS, :
GREGORY ANDERSON, PHILLIP ANDERSON, :
LLOYD STOKES, (SHARON OLIVER), :
RICHARD BEALE, P.O. and M.O., on :
their own behalf and on behalf of :
the children of Philadelphia and :
the past, present, and future :
residents of the Youth Study Center : NO. 74-2589

v.

CITY OF PHILADELPHIA;
FRANK L. RIZZO AND HILLEL
LEVINSON, individually and in
their capacities as Mayor and
Managing Director of the City
of Philadelphia, respectively;

FRANK J. MONTENURO, Jr.,
individually, in his official
capacity as Administrative Judge
of the Family Court Division of
the County of Philadelphia and
in his representative capacity as
a Family Court Judge;

EMANUEL W. BELOFF, HAZEL H. BROWN
VITO F. CANUSO, NICHOLAS CIPRIANI,
WILLIAM A. DWYER, Jr., DORIS M.
HARRIS, WILLIAM A. KING, Jr., RICHARD
B. KLEIN, GREGORY C. LAGAKOS, JOHN R.
MEADE, JOSEPH T. MURPHY, JEROME A.
O'NEILL, VITO N. PISCIOTTA, SAMUEL H.
ROSENBERG, HERBERT W. SALUS, HARVEY N.
SCHMIDT, JAMES L. STERN, PAUL
TRANCHITTELLA, and CHARLES WRIGHT,
individually and in their official
capacities as judges of the Family
Court Division of the Philadelphia
Court of Common Pleas;

CLASS ACTION

SECOND AMENDED COM-
PLAINT

12/75 - [unclear]
- [unclear]
- Scott [unclear]
- [unclear]
- [unclear]
- [unclear]
- [unclear]

- [unclear]

EDWARD J. QUINN, Esq., :
DELORES E. COLEMAN, VALERIE R. :
HUTTON, JOSEPH H. PREVITY and :
LOUIS H. WILDERMAN, Esq., :
individually and in their :
official capacities as members :
of the Board of Managers of the :
Youth Study Center; :

EUGENE J. MONTONE, individually :
and in his official capacity as :
Executive Director of the Youth :
Study Center; THURMAN W. LYLES, :
HAROLD C. PALMER, GEORGE R. YOUNG, :
WALTER T. MARTIN, JESSCENIA S. :
McCLENDON, ANNIE POWELL, EMMA CLARK, :
MARGARET FOX, MARY HELEN BAYLOR, :
LEONTYNE MAPLE, MELVIN BOWMAN, :
KENNETH CULLARS, HARVEY OVERTON, :
JASPER LAWHON, DORIS FREEMAN, :
ALLEN COLEMAN, HENRY OLIVER, :
SYLVESTER SLADE, RAYMOND VICKS, :
EDGAR CARLISS, LEROY SPENCE, :
GUSSYE WILLIAMS, WAYNE MITCHEL, :
JOHN ROE and MARY DOE, individually :
and in their official capacity as :
officers and personnel of the Youth :
Study Center; :

PHILADELPHIA SCHOOL DISTRICT; :
MATTHEW COSTANZO, individually and as :
Superintendent of the Philadelphia :
School District; DAVID HOROWITZ, :
individually and as Assoc. Superin- :
tendent for Special Services of the :
Philadelphia School District; :
MARACHA-NEIL E. YOUNG, individually :
and as Assoc. Superintendent for :
Special Education of the Philadelphia :
School District; :

JOHN C. PITTENGER, individually :
and as Secretary of the Pa. State :
Dept. of Education; FERMAN MOODY, :
individually and as Director of :
the Pa. Bureau of Compensatory and :
Special Education Services; and :
WILLIAM OHRTMAN, individually and as :
Chief of the Division of Special :
Education of the Pa. Dept. of :
Education; and a Mr. PRATT, :
individually and as a Philadelphia :
School District employee :

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AMENDED COMPLAINT

I INTRODUCTION

1. This amended complaint is filed on behalf of past, present and future residents of the Philadelphia Youth Study Center. Its purpose is to eliminate a pattern and practice of racial segregation and disregard for the legal rights and prerogatives of Youth Study Center residents, many of whom have committed no delinquent acts and all of whom are entitled by law to a program which guarantees to them the respect and fair treatment necessary for their emergence as independent, responsible adults. This class action is intended to secure for these children non-discriminatory treatment and the due process protections accorded adults as a matter of course as well as the solicitous care and regenerative treatment to which they are entitled as children. The acts and omissions set forth reflect an ingrained and virtually ineradicable pattern and practice at the institution. For this reason plaintiffs seek appropriate interim relief followed ultimately by a closing of the institution in its present form.

II JURISDICTION

2. This is an action for injunctive and declaratory relief to redress deprivation of federally secured rights by individuals acting pursuant to and under color of the laws of the Commonwealth of Pennsylvania and the City of Philadelphia. The jurisdiction of this Court exists pursuant to 28 U.S.C. §§1331, 1343(3), 1343(4) 2201, and 2202. Independent of any statutory jurisdiction, this

Court has direct jurisdiction as to the matters alleged pursuant to the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution. In addition, this Court also has pendent jurisdiction over claims asserted pursuant to the statutory and common law of the Commonwealth of Pennsylvania.

3. The causes of action set forth in this complaint arise pursuant to 42 U.S.C. 1981, 1983, 1985(3), 1986, 1988, 1994, the United States Constitution and the statutory and common law of the Commonwealth of Pennsylvania. Additional causes of action with regard to the racially segregated nature of the Youth Study Center and the City's and Center's racially discriminatory admission and intake procedures and practices arise pursuant to 42 U.S.C. §§1981, 1983, 1985(3), 2000d and the United States Constitution.

III PARTIES AND JURISDICTIONAL FACTS

4. Plaintiff Neida Santiago is Puerto Rican, is 14 years of age, and is a resident of Pennsylvania and a citizen of the United States. Her home address is 3116 N. 9th Street, Philadelphia, and at the time of the filing of this amended complaint, has been released from involuntary incarceration at the Youth Study Center of the City of Philadelphia. She has not been alleged to be delinquent, and was confined at the institution as a runaway.

5. Plaintiff Evelyn Nicholson is black, is 15 years of age and is a resident of Pennsylvania and a citizen of the United States. At the time of the filing of the original complaint in this lawsuit, she was involuntarily incarcerated at the Youth Study Center. She presently resides at 2123 N. Marston Street, Philadelphia, Pennsylvania.

6. Plaintiff Denise Sheared is black, is 16 years of age and is a resident of Pennsylvania and a citizen of the United States. She normally resides at 4507 N. 16th Street, Philadelphia, Pa., and is currently a resident of the Youth Development Center, Waynesburg, Pa. At the time of the original filing of this lawsuit she was involuntarily incarcerated at the Youth Study Center.

7. Plaintiff Allison Martin is black, is 15 years of age and is a resident of Pennsylvania and a citizen of the United States. At the time of filing she was involuntarily incarcerated at the Youth Study Center. She currently resides at the Youth Development Center, 2nd & Luzerne, Philadelphia, Pennsylvania.

8. Plaintiff Michael Anthony Davis is black, is 17 years of age and is a resident of Pennsylvania and a citizen of the United States. He currently resides at 515 N. Vodges Street, Philadelphia, Pennsylvania. At the time of the original filing of this lawsuit, he was involuntarily confined at the Youth Study Center, Philadelphia, Pennsylvania.

9. Plaintiff Sharon Oliver is black, is 15 years of age and is a resident of Pennsylvania and a citizen of the United States and has been involuntarily committed to the Youth Study Center since October 2, 1974. She normally resides at 4401 Ridge Avenue, Philadelphia, Pennsylvania.

10. Plaintiff Eleverio Rivera is Puerto Rican, is 15 years of age and is a resident of Pennsylvania and a citizen of the United States and has been involuntarily confined to the Youth Study Center since September 20, 1974. After being beaten at the Center and receiving hospital treatment he was transferred to the

Youth Development Center, 2nd & Luzerne, Philadelphia on October 25, 1974. His residence is 623 S. 17th Street, Philadelphia, Pennsylvania.

11. Plaintiff Darlene Lattimore is black, 18 years old, and is a resident of Philadelphia, Pennsylvania and a citizen of the United States. She had been incarcerated at the Youth Study Center until August 29, 1974. She currently is not confined there and resides within the City of Philadelphia.

12. Plaintiff Denise Bethune is black, 17 years of age, and is a resident of Philadelphia, Pennsylvania, and a citizen of the United States. She had been involuntarily committed to the Youth Study Center in August, 1974, was released in October, 1974, and is residing in Philadelphia, Pennsylvania.

13. Tynya Hayman is black, 17 years old, and is a resident of Philadelphia, Pennsylvania, and is a citizen of the United States. She was committed to the Youth Study Center in September, 1974 and transferred to the Youth Development Center in Waynesboro Pa., where she currently resides.

14. Plaintiff Lloyd Stokes is black, is 16 years old and is a resident of Philadelphia residing at 5727 Hunter Street. He is a citizen of the United States. He was committed to the Center on October 17, 1974 and was released to his home on October 24, 1974.

15. Plaintiff Richard Beale is 15 years old and a resident of 705 W. Wingohocking Street, Philadelphia, Pennsylvania and a citizen of the United States. He was incarcerated at the Youth Study Center in May, 1974, and from October 15 to October 24, 1974, at which time he was released in the custody of his mother.

16. Plaintiff Tony Thomas is aged 14 and is a resident of Philadelphia, Pennsylvania and a citizen of the United States. He was involuntarily committed to the Youth Study Center around October 15, 1974 where he remains.

17. Plaintiffs Phillip and Gregory Anderson, brothers aged 12 and 15, respectively, are residents of Philadelphia, Pennsylvania, and citizens of the United States. They have been incarcerated at the Center since mid-October, 1974, where they remain.

18. At the time of the acts alleged, plaintiffs P.O. and M.O. were non-delinquent residents at the Youth Study Center, committed there as runaways on October 2, 1974. Their parents reside in the 1700 block of N. Mascher Street, Philadelphia, Pennsylvania and they are residents of Pennsylvania and citizens of the United States. At the time of the filing of this amended complaint, they are involuntarily confined at Philadelphia General Hospital pursuant to §406 of the Pennsylvania Mental Health Act. Prior to their commitment to the Youth Study Center they had been committed to the custody of the Pennsylvania Department of Public Welfare.

19. The Youth Study Center purports to satisfy the requirements of 11 P.S. §441, which provides as follows:

§441. House of detention for juvenile offenders

In every city of the first class there shall be provided in the way hereinafter mentioned, a house of detention for the reception of untried juvenile offenders and dependent and neglected children up to the age of eighteen years who may be in the custody of an officer appointed or elected under any law of this Commonwealth, and whose cases may be under judicial investigation under any laws of this Commonwealth, pending such investigation and final determination of such case or cases.

20. Defendants Edward J. Quinn, Esq., Dolores E. Coleman, Valerie Hutton, Joseph H. Previty, and Louis H. Wilderman, Esq.

constitute the Board of Managers of the Youth Study Center of the City of Philadelphia. They are sued in their individual and official capacities.

21. The establishing and appointment of the aforesaid Board of Managers purports to satisfy the requirements of 11 P.S. §442, which provides as follows:

§442. Board of managers; appointment; term of office; compensation; removal

A house of detention established under the provisions of this act, shall be provided and managed by a board of managers consisting of five members, two of whom shall be women, said board of managers to be appointed by the judges of the Municipal Court of Philadelphia County having jurisdiction in the said city. Such board of managers shall serve without compensation, and shall hold office for two years and until their successors are appointed, subject to removal by the judges of the Municipal Court of Philadelphia.

22. The appointment of said Board of Managers is currently made by the judges of the Family Court Division of the Court of Common Pleas of Philadelphia, the successor to the Municipal Court of Philadelphia. See 17 P.S. §§700, 705. Furthermore the judges of the Family Court Division have jurisdiction over all juvenile matters in the County of Philadelphia, and accordingly make the actual decisions as to which children shall be detained at the Youth Study Center and for how long. Pa. Const., Art. 5, §916 (c), and (g) (ii). Defendant Frank Montemuro, Jr., is the Administrative Judge of the Family Court Division and is sued in his individual capacity, official capacity as Administrative Judge and representative capacity as a Family Court Judge of the Court of Common Pleas. As Administrative Judge of the Family Court, defendant Montemuro is an active director and participant in the administrative workings of the Youth Study Center as well as the planning and approval of Center programs, activities, and personnel.

23. The duties of said Board of Managers are set forth in 11 P.S. §443 as follows:

§443. Duties of board of managers

The duties of the board of managers shall be to provide a house purchased by the city for the reception of children to be placed therein under the provisions of this act, to alter said house for such purpose, to keep the same in repair, and generally to fit and furnish said house so that the same may be suitable for the care of the children intended to be received, and especially to arrange such house so that a separate room (so far as possible) may be provided for the accommodation of each child who may be received therein, and generally to supervise and oversee the management of said house.

24. Defendant Eugene Montone is the Executive Director and chief administrative officer of the Youth Study Center. He was appointed by the aforesaid Board of Managers pursuant to the requirements of 11 P.S. §445, reports to the Board formally once a month and can request emergency meetings with the Board whenever necessary.

25. The public funds necessary for the maintenance and operations of the Youth Study Center are authorized and expended by the City of Philadelphia. These funds are supplied partially by the City, partially by the Commonwealth of Pennsylvania, and partially by the federal government and are furnished through the City as requested, pursuant to 11 P.S. §§444, 445, and 447. The Youth Study Center and its Board of Managers are responsible administratively to, and are subject to the administrative control of, defendants Frank L. Rizzo and Hillel Levinson as well as other executive officers of the City of Philadelphia.

26. Defendants Thurmond Lyles, Harold C. Palmer, George R. Young, Anna Powell, Emma Clark, Margaret Fox, Jesscenia S. McClen-
don, Walter T. Martin, Mary Helen Baylor, Melvin Bowman, Raymond Vicks, Wayne Mitchel, Kenneth Cullars, Leontyne Maple, Harvey

Overton, Jasper Lawhon, Doris Freeman, Allen Coleman, Edgar Carliss, Leroy Spence, Gussye Williams, John Roe and Mary Doe are employees of the Youth Study Center. The identities of defendants Doe and Roe are as yet unknown to plaintiff but will become known during the course of this litigation.

27. The individuals identified in Paragraph 26, supra, have engaged in a pattern and practice of activity which furnishes in part the subject matter of this complaint. At all relevant times they have acted as employees and agents of the other named defendants.

28. Defendants School District of Philadelphia, Superintendent Matthew Costanzo, Associate Superintendents David Horowitz and Marachal-Neil E. Young, a Mr. Pratt, a School District employee, and the Pennsylvania Department of Education, Secretary John C. Pittenger, Bureau Director Ferman Moody and Division Chief William Ohrtman are sued in their individual and official capacities as responsible for the educational services received by inmates of the Center.

IV CLASS ACTION ALLEGATIONS

29. The above named plaintiffs bring this action pursuant to Rule 23(a) and (b)(2) on behalf of all past, present and future residents of the Youth Study Center. All plaintiffs, except plaintiffs P.O. and M.O., are representative members of both the above mentioned class and a sub-class of non-white past, present and future residents of the institution. Plaintiffs Santiago, Sheared, P.O. and M.O. are also representative members of a sub-class of non-delinquent residents whose status is that of runaway

or other neglected and dependent child. In the absence of the relief requested, each member of the class or sub-classes has, is or will be made subject to the practices and conditions which are alleged in this complaint.

30. The members of the class and sub-class are so numerous that joinder of all members would be impractical.

31. There are questions of fact and law common to all members of the class and sub-classes, namely the practices and policies of defendants that have constituted the wholesale deprivation of constitutional and legal rights of children at the Center.

32. The defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate declaratory and injunctive relief for the protection of all members of the class and sub-classes.

V
FACTS GIVING RISE TO CLAIMS

A. Isolation and Use of Corporal Punishment

33. The factual allegations of Paragraphs 4-28 are re-alleged and incorporated by reference herein.

34. Plaintiff Neida Santiago was committed to the Youth Study Center on Wednesday, October 2, 1974. The reason for her commitment was that she had run away from home.

35. Following breakfast on the morning of October 3, 1974, plaintiff Santiago was taken by a staff member for an internal pelvic examination by institution health personnel.

36. Plaintiff Santiago did not want to undergo a pelvic

examination, and when she refused to be examined she was locked in a room.

37. The room in which she was placed had no toilet.

38. Approximately one half hour after being placed in the room, plaintiff knocked on the door window so as to inform a staff member that she wanted to urinate. Her knock was ignored by defendant Maple, who looked at her but then turned away.

39. Plaintiff started to bang on the door, and defendant Powell came to the door and asked her what was wrong. She told defendant Powell through the door that she wanted to go to the bathroom. Defendant Powell ignored her.

40. Plaintiff then started once again to bang on the door, and defendant Powell returned and an argument ensued.

41. Without provocation, defendant Powell began repeatedly to strike plaintiff with a large keychain approximately one foot long containing approximately 10 keys. In addition to being struck with the keychain, plaintiff was also punched and had her hair pulled. In addition, during the course of the beating, plaintiff was repeatedly referred to by defendant Powell as a "bitch," "little rat," and "motherfucker." Finally, plaintiff was threatened by defendant Powell that if plaintiff remained in the institution after her court hearing later that day, defendant Powell would "get the girls to beat you up."

42. Plaintiff Denise Sheared was committed to the Youth Study Center on August 30, 1974, to be held pending her transfer to the Youth Development Center at Waynesburg, Pa. She was transferred to Waynesburg, Pa. on or about October 6, 1974, having been held at the Youth Study Center, under conditions described below, because no transportation could be arranged for her.

43. During the course of her stay at the Youth Study Center, plaintiff Sheared was locked in her room for periods whose total length exceeded ten days. This forced isolated confinement took place during extremely hot weather, and plaintiff Sheared's room had no ventilation whatsoever. Temperatures in the room exceeded 100 degrees.

44. On October 2, 1974, plaintiff Sharon Oliver was first brought to the Center and locked in a very cold room with no blanket and no water. Even after a medical exam the next day she was put into a locked room with no explanation given and no opportunity offered to question or contest confinement.

45. At the end of August, 1974, following a week and a half of hospitalization at Philadelphia General Hospital (see infra, Paragraph 48), Darlene Lattimore was forced to sleep on the floor of a locked room.

46. In addition to her own solitary confinement, plaintiff Sheared witnessed numerous beatings and corporal punishment incidents involving other residents and staff members, and lived in fear of suffering similar treatment.

47. On October 4, 1974, plaintiff Nicholson was the victim of one such beating, having been struck across the back and thighs by defendant Emma Clark for a minor infraction of institutional rules.

48. Darlene Lattimore, in August 1974, was repeatedly punched and bloodied by Center staff including defendants Baylor, Powell and McClendon, and was hit with an object resembling a blackjack causing her to lose consciousness. She was spitting

up blood on the floor of her unit with a counselor physically standing on top of her at which time she was revived with smelling salts, to be transferred to Philadelphia General Hospital. She required a week and a half of hospitalization.

49. In addition, Center staff occasionally delegate to children the job of inflicting corporal punishment on other children. Thus Lloyd Stokes, after being struck with a paddle by defendant Lawhon in late August, 1974, was struck with a sneaker by fellow children on his unit.

50. Physical and degrading punishment at the Center by Center staff continues to this day, notwithstanding

(a) This Court's order of October 4, 1974 prohibiting such practices; and,

(b) A September 12, 1974, written order from Commonwealth Welfare Secretary Helene Wohlgemuth directed to defendant Board Chairman Quinn, his Board colleagues, and Center staff to "immediately cease" the use of "corporal, degrading and vindictive punishment of children." A copy of this order is attached hereto as Appendix A.

51. For example, on Thursday, October 24, 1974, plaintiff Rivera was brutally assaulted by defendant Vicks causing bruises to his face, which required hospital attention. In addition, during the week following this Court's order, defendant Montone personally slapped plaintiff Martin in the face. Other violations of the order have been undertaken by other named defendants and will be more fully set forth in a Civil Contempt Petition to be filed with the Court.

52. Members of Center staff have actively encouraged children to fight other children. For example, in late May, 1974,

defendant Mitchell encouraged an unknown youth to fight plaintiff Beales. The same youth not only assaulted Beales -- in full view of the laughing defendant Mitchell -- but also raped Beales later that evening.

B. General Institutional Conditions

53. The foregoing factual allegations are re-alleged and incorporated by reference.

54. All residents of the Youth Study Center live subject to the following physical conditions:

(a) Room furnishings. Children live in exceedingly small, cramped rooms without closets, desks, bureaus, chairs, or individual nightstands. Room lighting is inadequate for reading. In many cases beds are not provided and children sleep on the floor. Pillows and pillowcases are not provided.

(b) Physical plant. The walls and ceiling contain numerous water holes and rat holes, and the premises, including the kitchen and dining areas, are infested with vermin and roaches. Rain leaks are common, with water often seeping from the fifth floor rooftop down to the second floor. Plumbing malfunctions and electrical wiring is exposed. The physical premises are in non-compliance with every applicable city, state, and federal life safety, building, health, sanitation and fire prevention code, and institution personnel have repeatedly been advised of this by appropriate city and state agencies.

(c) Ventilation. The premises are inadequately heated in winter and unventilated in summer, with summertime temperatures often reaching 110 degrees Fahrenheit. The automatic temperature

control system for the heating system is inoperative. The institution is infested with mosquitoes in the summer.

C. Institutional Restraints and Suppression of Liberties

55. All residents of the Youth Study Center live subject to the following program limitations:

(a) Movement. The institution is run like a medium-maximum security prison, with various housing units segregated from one another by locked doors and corridors. This is the case notwithstanding that the overwhelming majority of institution residents have been convicted of no delinquent acts, and many have not been alleged to have even participated in such acts.

(b) Recreation. Residents are permitted virtually no outdoor recreation, and indoor physical recreation averaging less than several hours per seven day period. There is little organized physical activity whatsoever and some residents are given no opportunity to exercise at all. There is no provision in the budget for provision of recreation equipment and supplies. Recreation often consists solely of watching TV and playing cards on living units where that is permitted or possible.

(c) Visitation. No visitors other than parents or surrogate parents are permitted. Visits from friends under age 21 or non-parents are routinely not allowed.

(d) Mail and telephone communication. Mail is routinely opened and read by institution personnel regardless of its character or content. Youths have informed close friends not to write because of the censorship. Other youths have found that mail sent out via Center staff never reached intended addressees. The restrictions and barriers to telephone use are so severe as to virtually prohibit it.

(c) Clothing and hygiene. The following conditions exist as to clothing:

(1) Changes of clothing and bedding are irregular at best;

(2) Bedding and mattresses are constantly filthy and are not changed or replaced in an adequate manner;

(3) Children continue to sleep on mats on the floor despite a recent directive by the Commonwealth Secretary of Welfare prohibiting this:

(4) Female residents are not permitted to wear sweaters and long pants notwithstanding cold winter temperatures, and many residents are permitted clothing changes only prior to court appearances;

(5) Children are not provided with a clean wash cloth and towel twice a week as required by state law;

(6) Bedroom areas in the center section of the building do not provide the minimum required sanitary facilities of one washboard toilet and one bathtub or shower for each four children.

(f) Medical and dental.

(1) The involuntary and medically improper administration of dangerous drugs, including Thorazine, is routinely used to control the behavior of children. For example, plaintiffs Martin, Hayman and Lattimore were forced to ingest Thorazine, with the drug being physically forced down the throat of plaintiff Hayman. Plaintiff Lattimore was on one occasion locked in her room for her refusal to ingest the drug. The use of Thorazine at the Center is not accompanied by the proper medical precautions, is often not properly prescribed, and is often used

for no medically desirable purpose;

(2) Youths with medical problems or injuries resulting from beatings and physical blows do not obtain proper access to medical services, or to the proper services of a doctor;

(3) Medical equipment is antiquated, examining rooms are unclean, and sterile techniques are not practiced;

(4) Youths are not afforded privacy during their examinations;

(5) Dental services of one half day per week for the entire Center, inadequate dental facilities and a total absence of preventive dental care demonstrate the failure to provide adequate dental services, particularly to a class of children with great needs for proper dental care;

(6) In addition, medical personnel are not present or accessible at the institution in such numbers and for sufficient time to provide adequate health care for the children;

(7) Pelvic examinations, routinely given to female residents, are of questionable necessity. These examinations have often included a digital examination of the vagina where the hymen is absent to ascertain past sexual experience, a technique which is of itself of questionable efficacy. Pelvic examinations on young and middle adolescents can be psychologically traumatic, yet such examinations are coerced if permission is not granted. (See Paragraph 36, supra.) No parental consent is sought for these or any other examinations, and girls are locked in rooms until they consent to these examinations.

(g) Food. The children at the institution receive three daily meals and an evening snack. The caloric and nutritional content of the meals is inadequate for growing children,

both in terms of quality of the food and quantity of the amounts served. Food is often so poorly prepared, spoiled or stale as to be inedible. The kitchen and cafeteria are infested with rodents and roaches.

D. Institutional Denial of Right to Treatment

56. In addition to the program limitations set forth above, the actual treatment of the children constitutes a total denial of their right to adequate humane and rehabilitative treatment and is characterized by the following:

(a) Discipline. There exists at the institution no written code of conduct or guidelines to advise children how they are expected to behave and what sanctions, if any, they can expect in the event they misbehave. Institutional staff make up rules and issue orders on an arbitrary and capricious basis.

(b) Corporal punishment and isolation. The social system at the Center is characterized by the following:

(1) Boys and girls at the institution are socialized by the staff into a disciplinary system in which corporal punishment and solitary confinement are the primary treatment methods. Children are routinely struck by staff with keychains, brushes, sneakers, and painted wooden paddles. The paddles are referred to colloquially by staff as "red hots," "40 pound snapper," etc., and institutional staff routinely run "soul trains" in which male residents are required to stand in line or move in a line and submit to beatings with shoes or paddles. Different staff members have preferred varying methods and weapons, and staff have used other children as their agents to mete out corporal punishment to others.

(2) Forced solitary confinement for periods

ranging from one to four days is routinely used, particularly for female residents. Confinement is often in rooms with no beds or toilets and children are thus forced to urinate and defecate without proper plumbing facilities. Children are denied access to medical services, personal clothing, bedding, toilet and personal articles. Girls often set fires in their rooms as a protest against the outrageous conditions of their forced confinement. In addition, this confinement is often imposed not only for minor breaches of decorum but also for refusal to submit to medical or other "treatment," such as ingesting tranquilizers or submitting to pelvic examinations.

(3) No hearings or other internal administrative procedures are used prior to imposition of confinement, which, during the summer months, involves being locked in unventilated rooms with temperatures in excess of 100 degrees Fahrenheit.

(c) Involuntary servitude. Females residents have been forced to work in the laundry, and are told that if they refuse to work they will not be issued clean clothing. On at least one occasion, female residents were involuntarily required to work as maids at the Riverview Home for the Aged maintained by the City of Philadelphia. Occasionally female residents who refuse to do assigned work or clean up tasks are locked in their rooms in the manner described earlier. No child is ever paid for work performed.

(d) Denial of adequate and equal education. Defendants, particularly the School District of Philadelphia and the Pennsylvania Department of Education, have a duty under §§1371 and 1372(4) of the Pennsylvania Public School Code, 24 P.S. §§13-1371, 13-1372(4), to provide children at the Center with an adequate and equal public school education, statutorily defined as "proper education and training." This right to education is being denied

in that:

(1) Pennsylvania Department of Education and School District defendants give such a low priority to instruction at the Center as to virtually ignore the quality and adequacy of instruction there;

(2) Instructional time is greatly diminished, often amounting to less than half a day;

(3) The quality of teachers and instruction is grossly inferior to that offered other public school children;

(4) The subjects are limited and are not up to the intellectual abilities and potential of children, e.g., 9th grade students have been given 4th and 5th grade reading books and were denied algebra and fractions;

(5) Reading instruction, history, geography and science are absent;

(6) Tests and homework are not given;

(7) Corporal punishment has been employed through the striking of students with a stick;

(8) Instructional supervision is totally lacking; and

(9) There is no adequate library for students.

(e) Availability of social services and counseling. Social services and counseling is grossly inadequate in that:

(1) No social service or counseling services are afforded to female residents. Upon information and belief, at the time of the filing of this amended complaint only one institution social worker is available to the boys. (During the period July 1973-June 1974 the average monthly population of the institution

was approximately 119 boys and 47 girls. Upon information and belief the population as of the date of filing the original complaint in this matter (October 3, 1974) was approximately the same.)

(2) In addition to the lack of social service personnel for these children, there are no full-time, and inadequate part-time, psychiatric and psychological counseling services offered. A psychologist and psychiatrist assigned to the Center are not involved in treatment and staff training, in violation of state welfare law. No psychiatric care is provided even when recommended by professionals and although some children are detained for extensive periods of time. Many of the children are in need of intensive and deliberate counseling and guidance, none of which is afforded them. Aberrant behavior which reflects disturbed personality growth is often treated as a routine disciplinary matter for which corporal punishment and the involuntary administration of drugs are accepted, indeed preferred, modes of treatment.

(f) Child care staff-child ratio. The ratio of staff to girls of 1:12 and to boys of 1:25 during working hours is in noncompliance with state requirements of 1:6 during working hours and 1:12 during sleeping hours.

(g) Staff attitudes and lack of training. The general atmosphere of the institution resembles that of a maximum security prison rather than that of a detention and treatment facility for wayward and disturbed youth. Non-delinquent children (e.g., runaways, neglected and dependent youth) are routinely mixed and housed with alleged delinquent or adjudicated delinquent children, in violation of state law. The majority of staff are hostile, vindictive, and punitive towards the children, attitudes which are ingrained and have existed for a long period of time. As a result

children live in fear of retaliation for such innocent acts as complaining about the conditions set forth in this amended complaint.

Staff have actively encouraged children to assault other children. They have also been grossly and recklessly negligent in supervision. For example, plaintiff Beales was raped in May, 1974, and on October 22, 1974 was assaulted in the eye, losing 80-90% of his sight when two supervisors, defendants Oliver and Slate, recklessly absented themselves from their duties. Staff training is totally lacking -- despite Commonwealth Secretary of Welfare Wohlgemuth's written directive of September 12, 1974 to defendant Quinn, the Board and staff to establish "immediately" a staff development program which would "provide staff with basic child care skills including on-the-job training and supervision in alternatives to the staff's present methods of punishment."

E. Official Acquiescence In and Toleration of the Above Conditions

57. Each and every one of the defendants in this case has been repeatedly informed by appropriate city and state officials that violations of local, state, and federal child welfare, building, housing, health, sanitation, and fire safety laws and regulations continue to exist at the institution. Additionally, all defendants have been apprised of constitutional and common law violations at the Center.

58. No action has been taken to remedy these conditions, including compliance with a Temporary Restraining Order of this Court dated October 4, 1974.

59. Each and every one of the defendants in this case has been aware, or with due diligence should have been aware, that the

complained-of living and programmatic conditions continue to exist at the institution.

60. No action has been taken to remedy these conditions.

F. Availability of Less Restrictive Alternatives

61. Involuntary incarceration at the Youth Study Center is not the least restrictive method available to the defendants for securing the appearance at court or otherwise of juveniles who have not been adjudicated delinquent and are awaiting trial or other court or administrative disposition. Upon information and belief, there presently exists in the city sufficient state and city-related treatment and foster care facilities which can be used to significantly reduce the need for forced confinement at the Youth Study Center.

62. The failure to utilize least restrictive alternative treatment facilities results in the following:

- (a) Mixing of delinquent with non-delinquent children;
- (b) Subjecting children to a prison-like regime in the absence of any necessity for so doing;
- (c) Increasing the financial and administrative demands necessary to remedy the abuses to which institution residents, regardless of the reason for their custody, are subject.

63. The failure of defendants to utilize the least restrictive alternative consistent with the purpose of the custody results in a grossly disproportionate number of non-white children being imprisoned at the Youth Study Center, and has the effect of perpetuating the racially segregated character of the institution.

G. Racial Segregation

64. The Youth Study Center is an almost totally racially

segregated institution due to the discriminatory routing and channeling of almost exclusively black children to the Center at various stages of intake and admission procedures. See Thornberry, "Race, Socioeconomic Status and Sentencing in the Juvenile Justice System," 64 J. of Crim. Law and Crim. 90 (1973).

65. The Center has been racially segregated during its entire history and no remedial steps have been taken by any of the defendants or their agents to cease this discrimination. Because the Center is not the least restrictive alternative insofar as custody is concerned, large numbers of the non-white children who are currently sent there need not be. White children, on the other hand, are normally and as a matter of course afforded less restrictive disposition while awaiting court or other action.

66. The only feasible means of ceasing the discriminatory effect of this racially segregated facility and the racially discriminatory routing of minority children there is the effective use of these least restrictive alternatives and the consequent phasing out of the facility in its present form.

VI CAUSES OF ACTION

67. The factual allegations set forth in this amended complaint are re-alleged and incorporated herein by reference.

68. In summary, the facts as set forth concern the following:

(a) Routine use of degrading and vindictive corporal punishment and solitary confinement;

(b) Involuntary administration of drugs and grossly inadequate medical and dental care;

(c) Failure to provide for clothing, bedding, sanitary, and personal hygiene needs;

(d) Use of small, cramped, decrepit, unventilated (both unheated in winter and uncooled in summer), rat and roach infested dimly lit, leaking, fire hazardous, and filthy living facilities;

(e) Restriction of movement between locked living units

(f) Lack of outdoor exercise and inadequate indoor recreation and exercise;

(g) A general regime much like that at a medium-maximum security prison, including not only restricted movement but also restricted visitation and access to telephone, mail censorship, retaliation for complaining and generally repressive and punitive staff attitudes;

(h) Inadequate food and filthy kitchen and cafeteria facilities;

(i) Involuntary work assignments;

(j) Denial of the right to an adequate, "proper," and equal education;

(k) Non-existence or inadequacy of social service, counseling, psychiatric and psychological program and services;

(l) Routine non-compliance with virtually every city, state, and federal child welfare, housing, sanitation, health, fire safety, and treatment statute or regulation to which the institution is subject;

(m) Failure to utilize least restrictive means of custody consistent with the purpose or purposes of said custody; and

(n) Maintenance of a racially segregated institution.

69. The actions of the named defendants in directly causing and implementing the above conditions, patterns and practices, or

in failing to remedy them having knowledge of the same, violates the legally secured rights of plaintiffs and plaintiffs' class as follows:

(a) As to the sub-class of plaintiffs who have neither been alleged nor adjudicated to be delinquent, the implementation and perpetuation of the above regime constitutes cruel and unusual punishment, is a denial of due process of law and equal protection of the law in violation of the Eighth and Fourteenth Amendments, and violates the Pennsylvania Juvenile Court Act of 1972, §14(d);

(b) As to all plaintiffs and plaintiffs' class, the conditions complained of, in conjunction with the failure of defendants to provide humane, proper and rehabilitative treatment, constitute cruel and unusual punishment and are a denial of due process of law and equal protection of the law in violation of the Eighth and Fourteenth Amendments;

(c) As to all plaintiffs and plaintiffs' class, the conditions complained of, including random and arbitrary use of corporal punishment and solitary confinement, and forced drug ingestion, constitute cruel and unusual punishment and are a denial of due process of law and equal protection of the law in violation of the Eighth and Fourteenth Amendments;

(d) As to the sub-class of plaintiffs who are non-white, the maintenance and perpetuation of the Youth Study Center as a racially segregated institution is violative of the due process and equal protection clauses of the Fourteenth Amendment as well as of the provisions of the Civil Rights Acts of 1866, 1871 and 1964, 42 U.S.C. §§1981, 1983, 1985(3), and 2000d.

(e) As to all plaintiffs and plaintiffs' class, the

mail, telephone, and visitation restrictions and retaliation for complaining about conditions are violations of their First and Fourteenth Amendment rights of free speech and association, and of their First, Fourth, Ninth and Fourteenth Amendment right to privacy.

(f) As to all plaintiffs and plaintiffs' class, the involuntary servitude as to work assignments, with or without payment, is a violation of their rights under the Thirteenth and Fourteenth Amendments.

(g) As to all plaintiffs and plaintiffs' class, the random and arbitrary imposition of corporal punishment and forced solitary confinement is a violation of their right to due process and equal protection of the law as guaranteed by the Fourteenth Amendment;

(h) As to all plaintiffs and plaintiffs' class, the denial of "proper education and training" under §§1371 and 1372(4) of the Pennsylvania Public School Code, 24 P.S. §§13-1371, 13-1372(4), and the denial of the right to an education and one that is equal to that offered others, is a violation of due process and equal protection of the law guaranteed by the Fourteenth Amendment and a denial of rights under the Pennsylvania Public School Code.

70. The conditions complained of give rise to the following statutory and constitutional causes of action:

(a) Each and every one of the acts, practices and conditions set forth in the amended complaint has been imposed under color of state law in violation of 42 U.S.C. §1983;

(b) The toleration of and perpetuation of the racially segregated character of the institution is actionable pursuant to

the Civil Rights Act of 1964, 42 U.S.C. §2000d, the institution being in receipt of federal as well as state and city funds, and is further actionable under the Civil Rights Acts of 1866 and 1871 42 U.S.C. §§1981, 1983 and 1985(3);

(c) Acts and practices with regard to involuntary servitude are in violation of 42 U.S.C. §§1981 and 1994;

(d) Defendant members of the Center Board of Managers, Director Montone and his staff, and Judge Montemuro, as evidenced by their knowledge of virtually every pattern or practice alleged in this complaint, have agreed amongst themselves, either expressly or impliedly, to impose, perpetuate or fail to remedy each and every one of the acts and omissions set forth in this complaint in violation of 42 U.S.C. §1985(3);

(e) All of the named defendants, including defendants Rizzo and Levinson, knew that the wrongs conspired to be done were in fact being done and had the power and opportunity to prevent or aid in the prevention of such wrongs and neglected or refused to do so, in violation of 42 U.S.C. §1986;

(f) Independent of the above statutory causes of action each and every one of the acts or omissions complained of is actionable pursuant to 28 U.S.C. §1331, the amount in controversy being in excess of \$10,000.00, exclusive of interests and costs;

(g) Independent of any statutory causes of action, the acts and omissions complained of are actionable directly under the violation provisions of the First, Fourth, Eighth, Ninth and Fourteenth Amendments to the United States Constitution;

(h) Independent of, yet pendent to the above constitutional and federal statutory violations, defendants' actions and

omissions violate the Pennsylvania Public School Code, the Juvenile Court Act of 1972, the Public Welfare Code, the Department of Public Welfare regulations pursuant thereto found in the Children and Youth manual §6400 et seq. and the common law of Pennsylvania.

VII
PRAYER FOR RELIEF

WHEREFORE, plaintiffs request that this Court grant preliminary and final declaratory and injunctive relief as follows:

1. Grant a declaratory judgment that the acts, practices and conditions set forth above constitute wholesale violations of the federally secured and other secured legal rights of plaintiffs and plaintiffs' class and sub-classes in the manner set forth in section V supra.

2. Preliminarily and permanently enjoin the continuation of said acts, practices and conditions of confinement; and, in conjunction therewith,

3. Enjoin admissions to the Youth Study Center and order its closing over a phased transition period, and

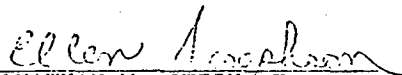
4. Affirmatively order for the interim period before total closing the preparation, and implementation, of a plan suitable for the elimination of the acts, practices and conditions which are the subject matter of this lawsuit, said plan to take proper account of the testimony to be offered at trial;

5. Award named plaintiffs sums of compensatory and punitive damages commensurate with the injuries suffered by them, but not to be less than \$10,000.00 per child;

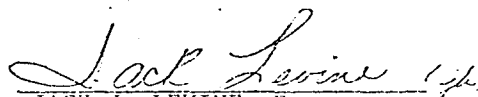
6. Allow recovery of reasonable attorneys' fees and costs;

and,

7. Grant such further relief as is necessary and appropriate.


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Attorneys for Plaintiffs

Dated:

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
HARRISBURG

HELENE WOHLGEMUTH
SECRETARY

September 12, 1974.

TELEPHONE NUMBER
787-2555, 787-8855
AREA CODE 717

Edward J. Quinn, Esquire
111 Walnut Street, Room 1204
Philadelphia, Pennsylvania 19102

Dear Mr. Quinn:

We appreciate your concern and that of the other members of the Board of Managers of the Youth Study Center for the issues raised at our meeting on August 30, 1974. We believe the meeting was constructive and represents a shared effort on the part of both of our agencies to realize major programs and physical plant improvements. You and your Board are to be commended for your cooperative attitudes you displayed towards the seeking of viable solutions to problems at the Center.

This letter is a summary of the items we discussed and represents the minimal requirements of the Department of Public Welfare for the continued operation of the Youth Study Center.

The Directions that follow are made pursuant to Sections 911(c) and 916 of the Public Welfare Code.

1. Corporal, degrading and vindictive punishment of children is prohibited and must cease immediately.
2. A program of staff development must be conducted immediately to provide staff with basic child care skills including on-the-job training and supervision in alternatives to the staff's present methods of handling children regarding the prohibitions set forth in Item 1 preceding. Our Department is willing to provide consultation in the development and implementation of such a program at the Board's request.
3. The policy of accepting deprived and allegedly deprived children (runaways, truants and protective custody non-delinquent admissions) in the Youth Study Center is to be discontinued immediately. The Center staff, police, court staff and other persons involved should be formally notified of your Board's policy re acceptance of non-delinquent children.
4. The practice of children sleeping on the floor, on gym mats or otherwise, must be discontinued immediately. All children admitted to the Center must be provided beds and all other services provided for in Title 6400 Regulations, pertaining to the operation of detention centers. Children are not to be admitted if beds are not available.

APPENDIX "A"