

SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA

Civil Division

JERRY M., CLARENCE M., LEO J., CHARLES H.,
VAUN T., PHILLIP C., DAVID U., OMAR H.,
THURMON W., AND TYRA W., on behalf of
themselves, and all others similarly

by and through their Next Friend
DONNA WULKAN
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Plaintiffs

v.

Civil Action
No. 1519-85

DISTRICT OF COLUMBIA,

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Washington, D.C. 20002

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Laurel, Maryland 20707

RAYFORD MYERS
Superintendent
Oak Hill Youth Center
3201 Oak Hill Drive
Laurel, Maryland 20707

JULIA SCOTT
Superintendent
The Receiving Home for Children
1000 Mt. Olivet Road, N.E.
Washington, D.C. 20002

FLORETTA MCKENZIE
Superintendent of Schools
District of Columbia Public Schools
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Washington, D.C. 20004

and

DORIS WOODSON
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Defendants.

AMENDED COMPLAINT

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INTRODUCTION: NATURE OF THE ACTION 1/

This is a class action brought by plaintiffs on behalf of children who are or will be confined in juvenile detention facilities operated by the District of Columbia. The class includes (but is not limited to) children who are or will be confined at Cedar Knoll Youth Center and those who are or will be confined at Oak Hill Youth Center. These children are confined under court orders of detention (pending trial or pending disposition) pursuant to D.C. Code § 16-2313(b)(3), or under dispositional orders of commitment to the Department of Human Services pursuant to D.C. Code § 16-2320(c)(2).

Cedar Knoll Youth Center is a detention facility for children, operated by the District of Columbia, and located in Laurel, Maryland. The resident population of Cedar Knoll fluctuates from approximately 70 to 100 youths. Approximately two-fifths of the children incarcerated at Cedar Knoll are detained pending trial or disposition; the rest are committed to the Department of Human Services. Cedar Knoll is an antiquated "reform school" whose buildings have become unfit for habitation and whose programs are grossly limited and wholly inadequate. The children live in buildings that are insufficiently heated and ventilated, are infested with vermin, and have gaping holes in walls and ceilings. Without meaningful rehabilitative services, the residents are warehoused for months or years before being returned to the community.

The Oak Hill Youth Center is a maximum-security juvenile detention facility operated by the District of Columbia, and also located in Laurel, Maryland. The population of Oak Hill

1/ Because the status of the Cedar Knoll School has been and continues to be in a state of flux, the allegations contained herein are true and accurate to the best of counsels' knowledge as of the filing of this Amended Complaint.

is approximately 150 children. Approximately one-third are detained pending trial or disposition, and the other two-thirds are committed to the Department of Human Services. The buildings at Oak Hill are newer than those at Cedar Knoll and so Oak Hill may appear on the surface to be a better facility. But scrutiny of the rehabilitative services at Oak Hill -- the heart of any facility for caring for detained youth and treating delinquent youth -- reveals that the services at Oak Hill are as deplorably inadequate as those at Cedar Knoll.

The Receiving Home for Children is a maximum level detention facility for juveniles operated by the District of Columbia, and located on Mt. Olivet Road, N.E. in the District of Columbia. In addition to operating as a detention facility, it also functions as a temporary holding facility for children who are arrested after three o'clock in the afternoon and must await their court appearance the next morning. Theoretically, the population is to be limited to thirty-eight children. In practice, however, it frequently exceeds that number. Routinely the additional children are then bussed at any time during the night to Cedar Knoll. They are then awakened at six o'clock in the morning and "shipped back" to either the Receiving Home or court on the early morning bus. The Receiving Home for Children is not an adequate substitute for a child's home. The building itself has been described as "'poorly designed and functionally obsolete.'" D.C. Crime Commission Report p. 675, 1966 cited in In re Savoy, Green, J. Nov. 6, 1970 Memorandum Opinion at p. 13. The space at the Receiving Home is not sufficient for either proper education or for proper indoor recreation. It is functionally and structurally inadequate to house children properly.

The plaintiffs contend that the totality of the conditions in these juvenile detention facilities violates statutory and constitutional requirements. The plaintiffs live under conditions that are inhumane and that inflict needless suffering.

They are deprived of the educational, vocational, mental health, and other social services that they so desperately need and that defendants are obligated to provide. The totality of these conditions violates the children's statutory right to appropriate care and treatment under D.C. Code §§ 16-2313(b) and 2320 (as interpreted in SCR-Juv. Rule 2), their statutory rights to adequate educational services under D.C. Code §§ 31-401 and 31-403 and under 20 U.S.C. §§ 1401 et seq., and their rights under the Fifth and Eighth Amendments to the United States Constitution. Secure confinement in these facilities for many children also violates their right to custody care and discipline as nearly as possible equivalent to that which should have been provided by their parents, and their right to the least restrictive environment consistent with their need for care, custody and treatment, both under D.C. Code § 16-2313(b) and 2320 (as interpreted in SCR-Juv. Rule 2) and the Fifth and Eighth Amendments to the United States Constitution.

All of the named plaintiffs in this action are currently confined in these detention facilities. The named plaintiffs include children who are detained at Cedar Knoll, children committed to Cedar Knoll, children detained at Oak Hill, children committed to Oak Hill, children detained at the Receiving Home, and children who are committed at the Receiving Home.

JURISDICTION

1. This is a civil action for declaratory and injunctive relief. This Court has jurisdiction pursuant to D.C. Code §§ 11-921(a)(2) and 11-921(a)(3)(C).

2. This action seeks to redress injuries, suffered by plaintiffs and the class they represent, for deprivation of rights secured by the Fifth and Eighth Amendments to the Constitution of the United States, and the Education of the

Handicapped Act (20 U.S.C. § 1401 et seq.). These claims for relief are brought pursuant to 42 U.S.C. §1983.

3. This action furthermore seeks relief for defendants' depriving plaintiffs and the class they represent of their rights, under the laws of the District of Columbia, to appropriate care and treatment (D.C. Code §§ 16-2313(b), 16-2320; SCR-Juv. Rule 2) and educational services (D.C. Code §§ 31-401, 31-403).

PARTIES

Plaintiffs

4. Each of the plaintiffs is presently incarcerated in a juvenile detention facility operated by the District of Columbia. There are three named plaintiffs at Cedar Knoll. Plaintiffs Clarence M. and Leo J. are detained at Cedar Knoll and plaintiff Charles H. is committed to the Department of Human Services and has been placed at Cedar Knoll. Four named plaintiffs are at Oak Hill; two of them are detained there and two of them have been committed to the Department of Human Services and placed there. Plaintiff Jerry M., who when this action was originally commenced had been detained pending trial at Cedar Knoll, is now at Oak Hill after having been committed to the Department of Human Services. Also committed and placed at Oak Hill is plaintiff Vaun T., plaintiff Phillip C., and plaintiff David U., who had been detained at Cedar Knoll when the original complaint was filed. Plaintiff Omar H. is detained at Oak Hill. Plaintiff Thurmon W. is detained at the Receiving Home and plaintiff Tyra W. has been committed to the Department of Human Services and placed at the Receiving Home.

5. Plaintiff Clarence M. is a seventeen year old young man with educational handicaps. His achievement levels, especially in language skills, are well below expected grade levels. Although mental health professionals have determined that therapy and a supportive milieu would be of considerable value to him, he

has received no individual or group counseling since his detention at Cedar Knoll. He participated in drug counseling sessions at Cedar Knoll, but these sessions ceased in early October after the Cedar Knoll students were sent to Oak Hill to attend school. Moreover, Clarence's "residual depression," "suicidal ideation," and suicidal behavior are not being addressed at Cedar Knoll. Clarence lives in a unit at Cedar Knoll where the walls are coming down and the shower facilities are in a state of disrepair. Prior to his incarceration, Clarence's weight problem was being medically treated. In the time since he has been at Cedar Knoll, however, he has not received any medical attention for his weight problem.

6. Leo J. is a fourteen year old boy who is detained at Cedar Knoll. He has been deemed chronically depressed and in need of a therapeutic placement with around-the-clock supervision for the emotional problems which cause him to act in a self-destructive manner. He needs a strong therapeutic and remedial academic program, neither of which he is getting at Cedar Knoll. Although he needs special education and, prior to his incarceration, had been enrolled at the Bundy School, a special education school for emotionally disturbed children, he has not received any special education during his period of incarceration.

7. Charles H. is a seventeen year old young man who has been committed to the Department of Human Services and placed at Cedar Knoll. While in the community Charles attended school regularly and was enrolled in the Community Services Program, completing all the working hours required of him. Given that Charles is seventeen and has a two year old child who lives with his mother, he clearly needs vocational education which will enable him to support his family upon his release. He receives no such education at Cedar Knoll. Moreover, Charles' classes are overcrowded with many students and few teachers.

8. Plaintiff Jerry M. is an eighteen year old man with educational handicaps. He has been diagnosed as functioning "in

the low end of the borderline retarded range" and as needing a "full-time special education placement for emotionally disturbed adolescents." Prior to his incarceration at Cedar Knoll and Oak Hill, Jerry attended a special education school in the community. But during his detention at Cedar Knoll and ultimate placement at Oak Hill, he has been placed in regular education classes with the general population. Most of the school curriculum is above his level, and he finds that the teachers invariably move through the material too quickly for him to comprehend.

9. Vaun T. is a seventeen year old boy who has been committed to the Department of Human Services and placed at Oak Hill. Although Vaun has been deemed in need of individual counseling, he has not received it. Moreover, he has not received any drug counseling. He has seen a social worker only once in two and one half months. Vaun has little opportunity to participate in recreational activities and spends most of his free time involved in relatively idle activities such as watching television or playing cards. In addition, Vaun's above-average intellectual abilities have not been challenged by the school program at Oak Hill.

10. Plaintiff Phillip C. is a sixteen year old boy who has been committed to the Department of Human Services and placed at Oak Hill. Prior to his incarceration Phillip spent the summer months working at MacDonald's during the day and assisting his father in construction work during the evening hours. He had been enrolled in Anacostia Senior High School. Phillip was assaulted in his room by other residents who attacked him and broke his jaw. As a result, Phillip was in the hospital for approximately six weeks. At the time he received his injury it was two days before his jaw was even X-rayed. He received no schooling while in the Oak Hill hospital and because he was the only patient there, he was effectively in "solitary confinement."

11. Plaintiff David U. is a sixteen year old youth with substantial emotional problems. He has been diagnosed as

severely depressed, passive-dependent, and possibly suffering from brain disfunction. Mental health professionals have determined that David needs a structured program of education and vocational training, and requires individual counseling. Yet, during the months that David has been at the Children's Center he has not received any appropriate educational, vocational, or psychological services.

12. Plaintiff Omar H. is a seventeen year old youth who functions in the mildly mentally retarded range and has cognitive deficits in visual-motor performance. While in the community, Omar attended a special educational school. But while at Oak Hill -- during a previous period of incarceration and during his present period of detention -- Omar is deprived of appropriate special education services and attends class with the general population.

13. Thurmon W. is a fifteen year old boy who is detained at the Receiving Home. Due to his emotional problems, which interfere with his learning, Thurmon has been deemed in need of special education. At age fifteen he is functioning academically five to nine years below normal for his age group. Nevertheless his special education needs have gone unmet during his period of incarceration.

14. Fourteen year old Tyra W. is an emotionally disturbed teenager in need of a multitude of services which include individual therapy, special educational services, and sexual identification counseling. She has been at the Receiving Home since August 26, 1985, awaiting a residential placement, and has not received the appropriate mental health and educational services she requires. During her incarceration at the Receiving Home, there has been one counselor who has been abusive towards her in a variety of ways, and who once, while drunk, threatened Tyra with a knife.

15. Plaintiffs bring this action by and through their next friend, Donna Wulkan, Clinical Instructor in the Antioch School

of Law Juvenile Rights Clinic and Developmental Disabilities Law Clinic. Ms. Wulkan is qualified to serve as next friend for the named plaintiffs and the class which they represent, and will fully and actively advocate the interests of both the named plaintiffs and the class. In Palmer v. Barry, C.A. 84-1077 (D. D.C. 1984), the Honorable Harold Greene appointed Ms. Wulkan as guardian ad litem for the class of all former, current and future residents of St. Elizabeths Hospital Division of Child and Adolescent Services. In that capacity, Ms. Wulkan participated in negotiations with the District of Columbia and entered into a settlement on behalf of the entire class of children.

Class Action Allegations

16. This is a class action under Rules 23(a) and 23(b)(1) and (2) of the Superior Court Rules of Civil Procedure. Plaintiffs are representative of the class which is composed of all persons presently confined in District of Columbia juvenile detention facilities or who may be so confined in the future.

17. Plaintiffs are members of the class and their claims are typical of all class members.

18. The class is so numerous that joinder of all members is impracticable. There are approximately 200-250 children currently confined in the juvenile detention facilities. In addition, there is an indeterminate number of children who may be confined in these facilities in the future.

19. The questions of law and fact presented by the plaintiffs are common to the class. Plaintiffs live under common conditions of confinement, have common grievances and seek common relief. The basic legal issues presented by this action -- the defendants' violation of statutory and constitutional requirements for appropriate care and treatment of incarcerated children -- are common to the class as a whole.

20. Plaintiffs will fairly and adequately protect the interests of the class. The relief sought in this case, the

improvement of living conditions and programs in District of Columbia juvenile detention facilities, will benefit all members of the class. Plaintiffs are represented by competent counsel who will adequately protect the interests of the class.

21. The defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate injunctive and declaratory relief with respect to the classes as a whole. Since the named plaintiffs seek to reform living conditions and programs in the juvenile detention facilities, adjudication with respect to some children confined in these facilities would be dispositive of the interests of other children not parties to the action. Prosecution of separate actions by individual children would create a risk of inconsistent or varying adjudications with respect to individual members of the class, which would subject the population of the detention facilities to varying conditions or standards of confinement.

Defendants.

22. Defendant District of Columbia is a municipal corporation and is responsible for the supervision and operation of the District of Columbia Department of Human Services and the District of Columbia Public Schools. ^{2/}

23. Defendant Marion S. Barry, Jr. is Mayor of the District of Columbia and is responsible for the direction and control of the District of Columbia Department of Human Services.

24. Defendant David E. Rivers is the Director of the Department of Human Services. As such, he is responsible for overseeing the enforcement of laws in District of Columbia juvenile detention facilities, and for the overall treatment,

^{2/} In refraining from separately naming the District of Columbia's subsidiary element, the Board of Education, plaintiffs are relying on the authority of Kelly v. Morris, 400 A.2d 1045 (D.C. 1979).

care and protection of all children confined in these facilities.

25. Defendant Audrey Rowe is the Commissioner of Social Services, and is responsible for overseeing the enforcement of laws in District of Columbia juvenile detention facilities, and for the overall treatment, care and protection of all children confined in these facilities.

26. Defendant Patricia Quann is the Director of the Youth Services Administration and is responsible for overseeing the enforcement of laws in District of Columbia juvenile detention facilities, and for the overall treatment, care and protection of all children confined in these facilities.

27. Defendant Gwendolyn Trader is the Acting Superintendent of Cedar Knoll Youth Center. As such, she is responsible both for overseeing the enforcement of laws governing the operation of Cedar Knoll and for the care, treatment and protection of all residents of Cedar Knoll.

28. Defendant Rayford Myers is the Superintendent of the Oak Hill Youth Center. As such, he is responsible both for overseeing the enforcement of laws governing the operation of Oak Hill and for the care, treatment and protection of all residents of Oak Hill.

29. Defendant Julia Scott is the Superintendent of the Receiving Home for Children. As such, she is responsible both for overseeing the enforcement of laws governing the operation of the Receiving Home and for the care, treatment, and protection of all children housed there.

30. Defendant Floretta McKenzie is Superintendent of Schools for the District of Columbia. As chief officer of the District's educational agency, she is responsible for ensuring adequate educational services for all children confined in District of Columbia juvenile detention facilities. She is furthermore responsible for ensuring the District's compliance with the Education of the Handicapped Act.

31. Defendant Doris Woodson is Superintendent for Special Education in the District of Columbia. As such, she is responsible for ensuring the District's compliance with the Education of the Handicapped Act.

STATEMENT OF FACTS

I. Cedar Knoll Youth Center ^{3/}

A. Physical Structure

32. The vast majority of residential units at Cedar Knoll Youth Center -- including both buildings housing detained youth and buildings housing committed children -- are in a state of disrepair. The living conditions in these buildings are inadequate, inhumane, and hazardous to the residents' health and safety.

33. The vast majority of residential units have substantial holes in the walls and most buildings have major holes in the ceilings. Plaster has fallen in large pieces, and in some buildings, the outer brick layer is completely exposed. This is true even in units such as Carver, Jefferson, and Bunche, which were renovated in recent years but have not been properly maintained.

34. These residential units provide inadequate shelter from the cold during the winter months. Most of the buildings have windows that either have broken glass (which is not repaired for lengthy periods of time) or cannot be closed because of faulty closing mechanisms. Even the windows that are fully intact provide inadequate shelter, because they lack any form of insulation and the cold air pierces the window casings.

^{3/} As of the filing of this Amended Complaint, there are approximately seventy-eight children incarcerated at Cedar Knoll. These include both detained and committed children.

35. The fixtures and furnishings of the buildings are totally deteriorated. The walls have large strips of peeling paint. There are sofas with the stuffings either totally removed or dangling from the sofa onto the floor, and with the springs exposed. There are beds with the metal slats so bent that the bed cannot be used comfortably. Wall sockets are totally exposed and give electric shocks when used. Many of the electrical appliances used in the residences, such as television sets and floor buffers, have stripped cords which also cause electric shocks to residents.

36. The utility services of the facility are inadequately operated and maintained. The heating and plumbing services are so old and deteriorated, that they regularly overflow, flooding areas and periodically necessitating the temporary closure of cottages. The conditions in several of the cottages violate fire safety requirements. Many of the cells are overheated while others lack any heat at all. In either situation the residents are unable to regulate the heat in their individual cells.

37. The vast majority of the cottages are infested with vermin.

38. Plaintiff Clarence M. lives in Jefferson Cottage. Despite the fact that it was renovated only several years ago, his building suffers from broken walls, peeling paint, falling plaster, ramshackle furniture, and vermin. Moreover, the walls of the showers are falling apart.

B. Educational Services

1. Introduction

39. The Department of Human Services has assumed the District of Columbia's responsibility for providing educational services to children who are detained or committed in the District's detention facilities.

40. In the nearly nine months since the original complaint was filed in this case the "educational program" at Cedar Knoll has been completely erratic and has changed several times. There is nothing to indicate that by the time this case goes to trial, the "educational program" will not have changed further.

41. In March, 1985, when this suit was commenced, the children attended school on the grounds at Cedar Knoll. The educational services consisted of essentially two types of services: (a) Academic courses paralleling the traditional school curriculum and provided to the general population of the facility [hereinafter referred to as "general educational services"]; and (b) "special educational services" for residents who were educationally handicapped as a result of learning disabilities, mental retardation, emotional disturbance, or other developmental or organic disorders.

42. The vast majority of the children in the District's detention facilities are educationally handicapped and in need of special educational services. In addition, even among the remaining general population, there are large numbers of students who require special attention (because of behavior and adjustment problems in the school setting) and remedial tutoring (to overcome gaps in their formal education caused by sporadic school attendance in prior years).

43. After the Cedar Knoll school was closed in June, 1985, the children were bussed to Oak Hill to attend summer school, which, as discussed infra at paragraphs 83 through 92 inclusive, was inadequate. Moreover, the Cedar Knoll teachers were transferred to teach at Oak Hill. At the end of the summer, due to defendants' lack of planning for the fall semester, the children at Cedar Knoll received no education whatsoever. Eventually Oak Hill teachers, working overtime, were detailed to Cedar Knoll between four o'clock and seven o'clock in the evening to teach the children at Cedar Knoll in their units. This meant

that the children never left their units. Because these Oak Hill teachers appeared only sporadically, it was decided that the Cedar Knoll children should be bussed, yet again, to attend school at Oak Hill. In essence, in a matter of several months, the Cedar Knoll children have been subjected to at least four different "academic regimens," which have ranged from no schooling at all to inadequate "educational programs" at best.

ii. General Educational Services

44. The Cedar Knoll School was grossly inadequate. The school lacked sufficient teachers, educational aides, and support services, and employed teachers who were not adequately qualified and who were not certified under the criteria of D.C. Public Schools. The facility placed children of widely ranging abilities and needs into a single class. Under these impossible teaching conditions, the teachers abandoned even the semblance of attending to all the students in their classes. The teachers generally directed their attention to only a handful of students, while allowing the remaining students to play cards or other games in class. There were frequent absences by teachers, and the lack of any substitute teachers resulted in cancellations of classes during these teacher absences. Plaintiff Jerry M. attended the Cedar Knoll School, and received an inadequate education as a result of these deficiencies in the services.

45. The defendants failed to provide any educational services whatsoever to the residents of Bunche Cottage, the auxiliary maximum security cottage. These children were not allowed to leave their cottage to attend school, and defendants did not send a teacher into the cottage to teach the children. Plaintiff David U. resided in Bunche Cottage for approximately three months, and received no educational services during that period of time.

46. Paragraph 84, infra, is hereby incorporated regarding the inadequacies of general educational services at Oak Hill.

iii. Special Educational Services

47. Under the federal Education of the Handicapped Act, all educationally handicapped children are entitled to special education and related services. (The law explicitly extends the benefits of special educational services to children in correctional institutions.) The law requires the District to identify, evaluate, and provide special educational services to those children in its correctional facilities who are educationally handicapped. Yet, with respect to the population of children who are confined at Cedar Knoll, the District failed and continues to fail on all three of these requirements of identification, evaluation, and provision of services. In the time since the original complaint was filed in this case, the Government Accounting Office's October, 1985 Report to the House of Representatives' Ranking Minority Member Committee on the District of Columbia found, at best, an inadequate provision of special educational services at Cedar Knoll, and at worst, a complete absence of any teachers there certified to teach in a special education program.

48. The District failed and continues to fail to identify the handicapping conditions of the majority of educationally handicapped children confined at Cedar Knoll, because the defendants do not properly test or evaluate these children, do not obtain their educational records from the schools that the children attended prior to their incarceration, and do not employ persons trained and qualified to identify children with specific learning and educational handicaps.

49. The District failed and continues to fail to properly evaluate educationally handicapped children at Cedar Knoll, in that the defendants rely heavily on tests that are administered by people who have not been properly trained to administer them, and their evaluations are made by persons who often lack specialized knowledge of the specific area of disability of the children.

50. The District violated and continues to violate its statutory duty to provide adequate and appropriate special educational services to all educationally handicapped children at Cedar Knoll, in all the following respects:

- a. Children who are truly educationally handicapped, but have never been identified as such by Cedar Knoll were and continue to be placed in regular classrooms with the general population, and thereby foreclosed from special educational services;
- b. Even when the defendants did and do identify a Cedar Knoll resident as educationally handicapped, the deficiencies in the evaluation process resulted in and continue to result in an Individualized Education Plan inappropriate for the child's specific disabilities and needs;
- c. Even when the defendants have prepared or obtained a proper Individualized Education Plan, the services actually provided to the child did and do not fulfill the specifications of the Plan and did and do not adequately serve the child's special

educational needs. The Cedar Knoll teachers, who were assigned and continue to be assigned the responsibility for providing special education, are untrained in the specific learning disabilities from which the children suffer, and are not provided the time, resources, and equipment necessary to provide an appropriate education to these children.

51. Furthermore, in the course of evaluating and placing children, the defendants failed and continue to fail to afford Cedar Knoll residents and their parents the procedural rights which are guaranteed by federal law. Upon admitting children who were in special education classes in the community, the facility routinely changed and continues to change the child's educational setting to a general educational classs without notifying the child's parents of the change in educational placement and their right to contest the change. When the facility itself identifies a child as handicapped and ordered or orders a preplacement evaluation to determine specific educational needs, the defendants did and do not notify the child's parents of the identification of a handicap or secure their written consent for a preplacement evaluation. The defendants also frequently failed and continue to fail to notify parents of the results of evaluations, their right to a hearing to contest the evaluation, their right to obtain an independent educational evaluation at public expense, and the nature of the tests, records, and reports relied upon to make the evaluation. Finally, in scheduling meetings for the purpose of preparing Individualized Education Plans, the defendants did and do not consistently observe statutory requirements for proper and timely notice to the children's parents.

C. Vocational Training Services

52. Defendants fail to provide any vocational training program whatsoever at Cedar Knoll. The facility offers neither shop programs nor pre-vocational counseling. Although the facility at one time had a series of shop programs, these have all been eliminated. The only remaining shop, a printing shop, has only one student in it, and is in the process of being dismantled for transfer to Oak Hill Youth Center.

53. Plaintiff Charles H. suffers from the lack of any vocational services at Cedar Knoll. At age seventeen and with a girlfriend and a two-year old child who lives with Charles' family, Charles clearly needs to prepare himself to support them upon his release. Charles, prior to his incarceration, showed interest in his child and was attentive to her. His admirable assumption of such a responsibility is only thwarted by defendants' failure to equip him to support his family when he is released.

D. Mental Health Services

54. The mental health services offered at Cedar Knoll are inadequate to meet the needs of a resident population that has a disproportionately large number of children with mental problems and emotional disturbances.

55. The psychiatric services are virtually non-existent. Cedar Knoll receives the part-time services of psychiatrist Andre Aceituno, whom it shares with Oak Hill and Forest Haven facility for mentally retarded persons. Dr. Aceituno's services to Cedar Knoll are limited to seeing residents in emergency situations (such as suicide attempts), and he does not provide psychiatric therapy on a regular basis to residents. Even when Dr. Aceituno does see a student, his limited facility with the English language impairs communications with the child.

56. Although Cedar Knoll previously had the regular services of psychologists J. Leonard Scheinker and Darwin Raymore, these psychologists were obligated to divide their time between diagnostic testing of newly committed residents and therapy. As a result, the psychological services which they offered were impaired in all the following respects:

- a. The testing was often insufficiently comprehensive to detect and identify the precise mental health needs of the residents;
- b. The inadequate time for therapy forced the psychologists to adopt a "triage" policy of providing therapy only to the most needy and as a result, many residents' mental health needs went unattended;
- c. The facility followed a policy of denying therapy services to the entire detained population, with the exception of those children who had been court-ordered to receive therapy while detained;
- d. Even when the psychology department did provide therapy to residents, it was almost exclusively group therapy, and residents' needs for individual therapy were frequently unmet.

57. Presently Dr. Scheinker is assigned full-time to the Receiving Home and Mr. Raymore, who had been detailed to Cedar Knoll for half of the work day during the summer, is assigned to Oak Hill and is never at Cedar Knoll unless he is specifically called to go there.

58. Plaintiff Clarence M. has significant mental problems. He has been identified as having "some residual depression related to [his] family" especially concerning an incident in which he was stabbed in the back by a household member. Moreover, during his incarceration he has exhibited suicidal ideation and has engaged in suicidal gestures. Although therapy has been recommended, Clarence has not received either psychiatric or psychological therapy services.

E. Medical Services

59. The defendants have failed to secure sufficient personnel and facilities at Cedar Knoll to provide adequate medical care to the residents. There is not a physician or even a registered nurse on duty twenty-four hours a day. The counselors and other direct care staff are not adequately trained in first aid or in how to deal with medical emergencies. Moreover, when medical emergencies do occur, there are not adequate facilities and staff for quickly transporting residents to medical care.

60. Plaintiff Clarence M. has a severe weight problem which was being medically treated prior to his incarceration. Since his incarceration, there has been a complete lack of any medical attention to this problem.

F. Counseling Services, Social Services,
and Direct Care

61. In every cottage of Cedar Knoll, the juvenile residents of the cottage are supervised by adult counselors. These counselors have the primary responsibility for direct care and supervision of the residents. The facility then provides "social service representatives," who have the responsibility for providing social services to groups of residents that have been assigned to them.

62. The majority of the "social service representatives" do not have the requisite training or certification to provide social work services. As a result, these workers do not do an

adequate job of assessing the residents' needs, counseling the residents, and arranging for appropriate services. The "social service representatives" are not properly supervised and do not receive a consistent program of in-service training.

63. Although a large proportion of the population of Cedar Knoll suffers from drug abuse and drug dependency problems, the facility does not provide a drug counseling program for its residents.

64. Cedar Knoll does not have a sufficient number of counselors to provide direct care and supervision to all of its residents. The facility attempts to redress this deficiency by permitting counselors to work overtime for higher pay. As a result, a large proportion of the Cedar Knoll staff works long overtime hours, often working as many as sixty or eighty hours a week. The effect upon the counselors' performance is profound: counselors fail to provide adequate supervision and care for the residents, and display irritability and short tempers in dealing with the residents.

65. Defendants fail to arrange adequate supervision of counselors' work, and fail to provide adequate and consistent training of counselors.

G. Climate of Violence

66. As a result of the following actions, omissions, and policies, the defendants have created a "climate of violence" at Cedar Knoll that pervades the daily lives of the residents:

- a. The inadequate training and supervision of the counselors has resulted in a situation in which counselors periodically commit physical assaults upon the youthful residents; and
- b. The staff's inadequate supervision of residents (due to the insufficiency of staff and the inadequate training of staff) has resulted in a situation in

which residents are able to physically assault other residents.

These conditions not only result in physical harm to the residents who have been assaulted (by counselors or other residents), but also result in psychological harm to the remaining residents who witness these assaults and live in constant fear of being injured.

67. In addition to the incidents reported in the original complaint, page 24, paragraphs 62 and 63, hereby incorporated by reference, Plaintiff Clarence M. is aware of incidents involving counselor abuse of students and lives in fear that he will fall victim to such violence and abuse.

H. Procedures for Disciplining Residents

68. In an Order issued on November 3, 1976, the Family Division in In re Savoy, J-4808-70, established detailed procedures for disciplining children who are confined in District of Columbia juvenile detention facilities. The defendants subsequently incorporated these procedures into Institutional Care Services Division Rule 4.12.

69. The defendants, however, have failed to take the steps necessary to ensure that these procedures are followed on a daily basis by the direct care staff or Cedar Knoll.

70. In contravention of the standards established in In re Savoy and Rule 4.12, the counselors at Cedar Knoll have violated the standards in a variety of ways, including, imposing punishments without an adjudicatory hearing.

I. Recreational Services

71. At the time the original complaint was filed, the recreational program at Cedar Knoll consisted of periodic basketball games and non-physical activities such as television,

movies and card games. The Cedar Knoll staff did not ensure that all the residents had an adequate amount of daily major muscle activities. Presently, plaintiffs are afforded almost no physical or recreational activity and spend most of their time locked in their units watching television or playing cards.

72. The defendants have failed to establish an adequate, structured physical education program at Cedar Knoll. Defendants furthermore have failed to establish a program to teach leisure time recreational activities such as music and crafts.

J. Procedures for Attorney-Client Communications

73. In both their visitation policies and telephone policies, defendants improperly interfere with attorneys' access to their clients.

74. If an attorney wishes to meet with a detained client, defendants will transport the child to the Receiving Home. But defendants have failed to establish sufficient interview rooms at the Receiving Home. As a result, attorneys frequently are unable to meet with their clients because all of the rooms are already filled by other attorneys, probation officers, or mental health professionals.

75. Defendants have, moreover, adopted a policy of precluding transportation of committed residents to the Receiving Home for the purpose of attorney-client meetings. As a result, an attorney representing a child in a post-commitment proceeding must travel to Laurel, Maryland to meet with his client.

76. The defendants have adopted a policy of closing Cedar Knoll's telephone switchboard in the evenings, and thereby precluding any calls to residents during the evening hours. The defendants have in this manner severely impaired attorney-client communications since attorneys who are in court all day often must use the evening hours to call clients.

K. Procedures for Family Visitation

77. For the children at Cedar Knoll, like all children, the emotional bonds to their parents are a crucial stabilizing and shaping influence on the child's development. Because children confined at Cedar Knoll are physically separated from their parents, many for the first time in their lives, it is vital that the children be permitted frequent contact with their parents.

78. The defendants have adopted policies that have the effect of limiting committed children's family visits to one day a month. Defendants technically permit visits every weekend. However, most of the children's parents are impoverished and do not own automobiles that they can drive to Laurel, Maryland. The defendants do operate a bus that will transport detained children's parents from the Receiving Home to Cedar Knoll for visits with their children, but defendants limit the use of this bus by committed children's parents to one day a month.

II. Oak Hill Youth Center

A. Physical Structure

79. Although the physical structure of Oak Hill is not as decrepit as Cedar Knoll's, Oak Hill suffers from several structural flaws and defects. In many of the cottages, there are holes in ceilings and walls, broken windows, and broken lights. Appliances such as refrigerators, telephones and air vents, constantly malfunction. Several of the cottages are infested with vermin.

80. Many of the cottages fail to comply with fire safety requirements. There are fire extinguishers which are empty and need to be re-charged. The keys to fire boxes and extinguishers frequently are not kept on the unit, and therefore these protective devices are inaccessible in an emergency.

81. The cottages at Oak Hill are not designed to protect residents from extreme weather conditions. In the winter months the lack of adequate insulation allows the cold air to pierce the walls and window frames. During the intense heat of the summer months, the lack of air conditioning in the cottages renders the children's rooms almost unbearable.

82. Plaintiff Jerry M. lives in a cottage in which conditions exist violative of fire safety requirements. During the summer months, because no air-conditioning exists in the cottage, living conditions become unbearable.

B. Educational Services

The Department of Human Services has assumed the District's obligation for providing educational services to children who are detained at or committed to Oak Hill. As at Cedar Knoll, the vast majority of the Oak Hill residents are educationally handicapped and in need of special educational services. In addition, even the remaining students, who are capable of attending general educational classes, often require special attention (because of behavior and adjustment problems in the school setting) and remedial tutoring. Moreover, the inadequacy of the educational program has been exacerbated by the transfer of Cedar Knoll children to Oak Hill for education. As a result of this transfer, all detained Oak Hill residents housed in Unit Seven now receive their schooling in the unit and not in the school building which is used for the Cedar Knoll children. Because of the lack of space in the school building at Oak Hill, the Unit Seven residents remain in their unit virtually all day every day.

i. General Educational Services

84. The defendants have organized Oak Hill School in a manner that totally frustrates any hope of providing a meaningful education to the residents. Rather than placing students in classes according to their educational abilities, the defendants have organized classes by cottage grouping: a cottage of 20 residents will attend class together. But residents' cottage placements are randomly selected, and the educational abilities within each cottage vary widely. Thus, a single teacher will be confronted with a cottage group whose abilities range from third grade to college level. Given these teaching conditions and the lack of sufficient educational aides and supportive services, the Oak Hill teachers generally tailor their curricula to the low median level of the group and ignore the academic needs of students above and below that level.

85. Plaintiff Vaun T. functions intellectually well above average. In addition, he has a high intellectual potential and has been identified as possibly being a gifted child. Although it had been recommended that he be provided individualized tutorial instruction which would allow him to proceed at an accelerated pace, this has not been done during Vaun's incarceration at Oak Hill.

ii. Special Educational Services

86. As at Cedar Knoll (see paragraphs 47-51), the defendants fail to fulfill their federal statutory duties to identify, evaluate, and provide appropriate special education and related services to educationally handicapped children who are confined at Oak Hill Youth Center. In the time since the original complaint was filed these allegations have been confirmed by a study of the General Accounting Office which found a complete lack of any special educational services whatsoever

at Oak Hill. See, Report to the House of Representatives' Ranking Minority Member Committee on the District of Columbia (October 17, 1985).

87. The defendants fail to identify the handicapping conditions of these children because the defendants do not properly test or evaluate the children, do not obtain their educational records from their prior community-based schools, and do not employ persons trained and qualified to identify children with specific learning and educational handicaps.

88. The evaluation procedures employed at Oak Hill are deficient, in that defendants rely heavily on tests administered by people who have not been properly trained to administer them, and the evaluations are conducted by persons lacking specialized knowledge in the specific areas of disability.

89. The defendants violate their duty to provide appropriate special educational services to all handicapped Oak Hill residents, in that: (a) Children who are truly handicapped, but have never been identified as such by Oak Hill, are placed in regular classrooms and foreclosed from special educational services; (b) Defendants fail to prepare Individualized Education Plans appropriate to the specific needs of the handicapped children, even when the facility does identify their handicaps; and (c) Even when defendants do prepare or obtain a proper Individualized Education Plan, the services actually provided to the child do not fulfill the specifications of the Plan and do not adequately serve the child's special educational needs.

90. In the course of evaluating and placing children, the defendants furthermore fail to afford Oak Hill residents and their parents their procedural due process rights. Defendants fail to properly notify residents' parents of changes in their children's educational settings, identification of handicaps, and scheduling of meetings to prepare Individualized Education

Plans, fail to obtain these parents' written consent for preplacement evaluations, and fail to properly advise these parents of their procedural rights to contest the facility's evaluation.

91. The defendants have failed to identify the educational handicaps of Jerry M., who attends regular educational classes at Oak Hill School. When he was educationally evaluated by Cedar Knoll staff, the staff did not identify any specific handicapping conditions or need for special educational services. The Cedar Knoll educational assessment recommended nothing more than "[t]utoring in mathematics." Yet, prior to his incarceration, Jerry was evaluated by the Superior Court Child Guidance Clinic and D.C. Public Schools as "functioning . . . in the low end of the borderline retarded range" and as requiring "[a] full-time special education placement for emotionally disturbed adolescents." Consistent with his evaluation, Jerry had been placed by D.C. Public Schools in a full-time special education school and provided with an Individualized Education Plan. When defendants transferred him to a regular educational setting and refused to implement his Individualized Education Plan, defendants violated the substantive and procedural requirements specified in the federal statute.

92. The defendants have similarly failed to adequately evaluate the educational needs of plaintiff Omar H. While in the community, Omar was found to be educationally handicapped and was placed in a special education school. A Child Guidance Clinic evaluation determined that Omar functions in the mildly mentally retarded range and suffers from cognitive deficits in visual-motor performance. But Oak Hill has chosen to place Omar in a regular education setting with nothing more than Chapter I supplementary services. In changing Omar's special educational status, defendants failed to comply with the substantive and procedural criteria of the federal statute.

C. Vocational Training Services

93. Vocational training should be a vital component of the Oak Hill rehabilitative program. The residents of Oak Hill tend to be older than those at Cedar Knoll; most of the Oak Hill residents are between the ages of 16 and 19. Because of their academically deprived backgrounds, most of these youths have little prospects for or interest in pursuing higher education and professional careers. They intend to enter the job market as quickly as possible, but their lack of any vocational skills renders them virtually unemployable. If Oak Hill is to fulfill its function of rehabilitating these youths and preparing them for a productive future, then adequate vocational training is crucial.

94. In spite of these compelling considerations, the defendants fail to provide meaningful vocational training at Oak Hill. The only true vocational training class taught by a qualified instructor is a class in barbering. The class serves only a handful of students. Moreover, the class is of marginal value since it teaches only traditional barbering, rather than the more competitive skill of hair-styling.

95. Plaintiff Omar H. has been deemed in need of vocational training "in a field such as painting, building maintenance or the culinary arts." While incarcerated at Oak Hill he has received no vocational training whatsoever.

96. Similarly, Plaintiff David U., has received no vocational training at Oak Hill despite the fact that it was recommended by defendants' own contractor that he be placed in a program to meet his vocational needs. This is a particularly egregious situation because he had demonstrated great industry in the past by working on an ice-cream truck where he handled his job responsibly.

D. Mental Health Services

97. The psychiatric services at Oak Hill are provided on a part-time contractual basis by Dr. Andre Aceituno, who provides 20 hours of services per week, and Dr. William Goldstein, who provides 10 hours per week. As earlier described (see paragraph 55, supra), Dr. Aceituno has difficulties in communicating with residents because of his limited facility with the English language. In continuing to retain his services, and indeed relying on him for the bulk of psychiatric services at Oak Hill, defendants have violated their duty to provide children at Oak Hill with adequate psychiatric assistance.

98. Defendants employ psychologists Robert Diener, Samuel Stayton, and Darwin Raymore to provide therapy services for all of Oak Hill and also to prepare psychological assessments of all newly committed children. As a result, defendants have curtailed therapy services in the following manner:

- a. The defendants deny therapy services to
the entire population of detained children,
with the exception of those children for
whom therapy has been court-ordered;
- b. Among the committed population, defendants
reserve therapy for the most disturbed
residents and thereby deny services to
children who, although only mildly
disturbed, are in need of therapy."

99. Plaintiff Vaun T., has been identified by defendants as needing family counseling, individual counseling, and adolescent group counseling. Notwithstanding the defendants' own recommendations, he has not received any such services while incarcerated at Oak Hill.

100. Plaintiff David U. suffers from educational and emotional handicaps stemming from his childhood. Defendants' own contractor deemed him in need of considerable remedial and intensive individualized assistance. Despite this recommendation he does not receive therapy of any sort.

E. Medical Services

101. At Oak Hill, as at Cedar Knoll, the defendants fail to provide twenty-four hour a day medical services by a physician or even a registered nurse. The counselors and other direct care staff at Oak Hill are not trained in first aid or how to deal with medical emergencies. If a resident sustains a serious injury during the evening or weekend hours when the nurse is off duty, the counselors frequently defer any action (or medical attention) until the nurse's return. Moreover, even when the counselors perceive the need to transport the resident to the hospital at Forest Haven or to D.C. General Hospital, there are inadequate procedures, staff and facilities for rapidly transporting the resident.

102. Plaintiff Phillip C. was severely injured on October 5, 1985 when his jaw was broken by another resident. An X-ray of Phillip's jaw did not occur until October 7, 1985. Moreover, during the time that Phillip remained in the Oak Hill hospital, he had not received any schooling and because there were no other patients there, Phillip was effectively in "solitary confinement."

F. Counseling Services, Social Services,
and Direct Care

103. As at Cedar Knoll, defendants deal with staff shortages at Oak Hill by allowing counselors to work overtime for higher pay. Many of the counselors at Oak Hill work as many as sixty

to eighty hours in a single week. As a result, they are irritable and short-tempered with the residents and fail to provide adequate supervision and care.

104. Defendants fail to arrange adequate supervision of counselors' work, and fail to provide adequate and consistent training of counselors.

105. The caseworkers (or "social service representatives") at Oak Hill, like those at Cedar Knoll, lack the requisite training and certification to provide social work services. As a result, these workers fail to adequately assess residents' needs, counsel the residents, and arrange for appropriate services. The caseworkers are not properly supervised and do not receive a consistent program of in-service training.

106. Although a large proportion of the population at Oak Hill suffers from drug abuse and drug dependency problems, defendants fail to provide any drug counseling to these children. At the time the original complaint was filed, even in cases in which the court had specifically ordered drug counseling for a particular child, defendants frequently failed to provide or arrange for such counseling. Only recently has the facility provided drug counseling for those children for whom the court specifically orders it.

107. Although during the intake interview at Oak Hill Plaintiff Vaun T. acknowledged that his phencyclidine usage was frequent, defendants have not provided him with any drug counseling during his incarceration. Ironically, however, defendants have expressed the intention of arranging for community drug counseling when Vaun he is released.

G. Climate of Violence

108. Like at Cedar Knoll (see paragraphs 66-67, supra), the defendants have created a climate of violence at Oak Hill.

Inadequately trained and supervised counselors, short-tempered from long overtime hours, periodically assault the children who are in their care.

109. As a result of the counselors' inadequate supervision of the residents, there are frequent assaults of residents by other residents. The defendants, moreover, have failed to establish classification procedures that would place children in cottages on the basis of their age and physical stature; children are randomly assigned to cottages, and children of varying ages and sizes all live in the same cottage.

110. As a result of these actions and omissions of the defendants, many of the children residing at Oak Hill suffer physical harm. The remaining residents suffer psychological harm from living in an atmosphere of constant fear and violence.

111. In October of 1985, during a period of inadequate counselor supervision of the residents, another resident assaulted plaintiff Phillip C., fracturing his jaw.

H. Procedures for Disciplining Residents

112. In an Order issued on November 3, 1976, the Family Division in In re Savoy, J-4808-70, established detailed procedures for disciplining children who are confined in District of Columbia juvenile detention facilities. The defendants subsequently incorporated these procedures into Institutional Care Services Division Rule 4.12.

113. The defendants, however, have failed to take the steps necessary to ensure that these procedures are followed on a daily basis by the direct care staff of Oak Hill.

114. In contravention of the standards established in In re Savoy and Rule 4.12, the Oak Hill counselors frequently impose punishments without an adjudicatory hearing, impose periods of seclusion exceeding seven days for a single incident of misbehavior, and impose "group punishment" of an entire unit for the transgressions of a single resident of that unit.

115. All named plaintiffs were recently locked in their units because some students had made noise in the school building earlier in the day.

I. Recreational Services

116. The recreation program at Oak Hill consists of basketball in the gymnasium, billiards in the cottage, and non-physical activities such as television, movies and card games. The Oak Hill staff do not ensure that all the residents have an adequate amount of daily major muscle activities.

117. The defendants have failed to establish an adequate, structured physical education program at Oak Hill. Defendants furthermore have failed to establish a program to teach leisure time recreational activities such as music and crafts.

118. Plaintiffs Vaun T. and Jerry M. spend their free time playing cards or watching television. The only major physical activity in which they engage is an occasional basketball game in the gymnasium.

J. Procedures for Attorney-Client Communications

119. In both their visitation policies and telephone policies, defendants improperly interfere with residents' access to their attorneys.

120. If an attorney wishes to meet with a detained client, defendants will transport the child to the Receiving Home. But defendants have failed to establish sufficient interview rooms at the Receiving Home. As a result, attorneys frequently are unable to meet with their clients because all of the rooms are already filled by other attorneys, probation officers, or mental health professionals.

121. Defendants have, moreover, adopted a policy of

precluding transportation of committed residents to the Receiving Home for the purpose of attorney-client meetings. Consequently, an attorney representing a child in a post-commitment proceeding must travel to Laurel, Maryland, in order to meet with his or her client.

122. The defendants have adopted a policy of closing Oak Hill's telephone switchboard in the evenings, and thereby precluding any calls to residents during these hours. The defendants' policy severely impairs attorney-client communications since attorneys who are in court all day must use the evening hours to call clients.

K. Procedures for Family Visitation

123. Like at Cedar Knoll (see paragraphs 77-78, supra), the defendants limit their provision of free transportation for committed children's parents to one day a month. Since many of the children's parents are impoverished and do not own cars, they cannot travel to Laurel to visit their children on more than this single occasion each month.

III. Receiving Home

A. Physical Structure

124. The Receiving Home is a two-story, red brick building located at 1000 Mt. Olivet Road, N.E. in the District of Columbia. The doors to the facility are always locked and all the windows have bars on them. There is a small outdoor blacktop playfield on the roof of the building which is surrounded by a high wire fence.

125. The Receiving Home for Children is not an adequate substitute for a child's home. The Receiving Home is "'poorly designed and functionally obsolete.'" D.C. Crime Commission Report p. 675, 1966 cited in In re Savoy, Green, J. Nov. 6, 1970 Memorandum Opinion at p. 13.

126. The space at the Receiving Home is not sufficient for either proper education nor for proper indoor recreation. Functionally it is poorly designed.

127. The kitchen equipment cannot be properly cleaned thereby causing problems of infestation of insects and other vermin.

128. The rooms and dining areas are uncomfortably cold and do not provide adequate shelter from the cold during the winter.

129. There are not enough bathrooms or showers for all the residents at the Receiving Home when it is operating to capacity, as it has been for some time.

130. Most of the children are housed in cells which measure approximately ten by seven feet in area. Since these rooms do not have a commode or wash basin in them and remain inadvisably padlocked at all times, children needing to use the bathroom during sleeping hours are forced to gain the attention of one of the Receiving Home staff in order to be let out to use the bathroom. Often children have had to wait to extended periods

of time before being allowed out to use the bathroom. Moreover, there is not enough privacy for the youngsters when they are able to get to the bathroom.

131. Locked doors separate each of the units from each other and additional locked doors separate the recreation areas from the cells. As a result, the area within which a detained or committed child is able to move freely is very limited.

132. Children at the Receiving Home are not afforded adequate time to take their showers. In addition, in the boys' unit, the showers do not have curtains. All the children at the Receiving Home are forced to rush through their showers in one hour. There need to be three shower facilities for each living unit.

133. The fixtures and furnishings at the Receiving Home are deteriorated. The beds are made of metal slats which run perpendicular to one another. The mattresses are very thin, thereby providing little protection from the hard metal of the bed frame.

134. The utility services of the facility are not adequately maintained or operated. The heating and plumbing services are old and regularly overflow causing floodings. The wire fixtures covering many of the lights in the facility are not tamper-resistant. The conditions in some areas at the facility are in violation of fire safety requirements. Moreover, monthly fire drills are not held, nor do the staff have access to keys which would allow them to evacuate the building in an emergency. Such an emergency occurred when a fire broke out during the spring months of 1985 and, due to the absence of keys, the Receiving Home was not evacuated prior to the arrival of the Fire Department. The Washington, D.C. Fire Department does not review all the fire prevention and safety equipment.

135. Plaintiff Tyra W. has been housed at the Receiving Home since August, 1985. Her room is often cold and she is unable to

regulate the heat in her cell. She has often had to wait for long periods of time to be let out of her cell to use the bathroom during sleeping hours.

B. Educational Services

136. As stated in paragraphs 39 and 83, supra, the Department of Human Services has assumed the District of Columbia's responsibility for providing educational services to children who are detained or committed in the District's detention facilities, including the Receiving Home.

137. The educational system at the Receiving Home is completely inadequate. It lacks sufficient or qualified teachers, educational aides, and support services. Not all of those employed in an educational capacity have the qualifications required by the D.C. Public Schools. Often students of widely disparate abilities are together in a single class which, together with the other poor educational conditions, has caused many of the teachers to abandon efforts to meet the students' needs.

138. Theoretically, there are classes at the Receiving Home in both the morning and the afternoon. However, the afternoon classes often begin late or are completely cancelled. Teaching vacancies are not promptly filled. Classes are often taught by consultants or part-time staff who are not accountable to the Receiving Home and whose sporadic and intermittent appearance provide no continuity for the children. Thus, children housed at the Receiving Home do not receive the five hours of daily instruction required by law.

139. Although at least eleven girls can be housed at the Receiving Home, there are not sufficient physical education activities for them. Moreover, since there is only one unit to house all the girls, regardless of age, the unit can house girls of diverse ages and, hence, abilities. This situation presents needs, as yet unmet, in the educational programming for girls.

140. The children at the Receiving Home do not receive an educational program which takes into consideration the unique nature of their situation and the extreme stress which they experience. The absence of individualized instruction and of sufficiently small learning modules fails to instill any self-esteem or sense of accomplishment in the children. The evaluation system is not one which can be transferred to another educational setting. It therefore hinders any continuity in the children's educational growth and development after they leave the Receiving Home.

141. As stated at paragraphs 42 and 83, supra, most of the children in the District's detention facilities, including the Receiving Home, are educationally handicapped and need special education services. Moreover, even among those children who do not have such problems, there are many who require special attention based on their behaviorial and adjustment problems in a school setting.

142. The Federal Education of the Handicapped Act entitles all educationally handicapped children to special education and related services. This entitlement applies explicitly to children incarcerated in correctional facilities. The law mandates that the District identify, evaluate, and provide special educational services to those children in its correctional facilities who are educationally handicapped. The District is not meeting its obligations in any of these three requirements.

143. The District fails to identify the handicapping conditions of the majority of educationally handicapped children at the Receiving Home, because the defendants do not properly test or evaluate these children, do not obtain their educational records from the schools that the children attended prior to their incarceration, and do not employ persons trained or qualified to identify children with specific learning and educational handicaps.

144. The District violates its statutory duty to provide adequate and appropriate special educational services to all educationally handicapped children at the Receiving Home in that:

- a. Children who are truly educationally handicapped, but have never been identified as such by the Receiving Home are foreclosed from special educational services by being placed in classes with children who are not educationally handicapped.
- b. Even when the Receiving Home does identify a resident as educationally handicapped, the deficiencies in the education program prohibit the implementation of an Individualized Educational Plan that is appropriate for the child's specific disabilities and needs.
- c. Defendants do not prepare a proper Individualized Education Plan for any child. Moreover, even when defendants obtain such a plan, the services actually provided to the child do not fulfill the specifications of the plan and do not adequately serve the child's special educational needs. There are no Receiving Home teachers who are assigned the responsibility for providing special education.

145. In the course of evaluating and placing children, the defendants fail to afford Receiving Home residents and

their parents the procedural rights which are guaranteed by federal law. Upon admitting children who were in special education classes in the community, the facility routinely changes the child's educational setting to a general educational class without notifying the child's parents of the change in educational placement and their right to contest the change. Since defendants fail to provide any special education whatsoever at the Receiving Home, they are in direct violation of the substantive and procedural requirements of the Federal Education to the Handicapped Act.

146. Plaintiff Thurmon W. has been deemed in need of special education due to his emotional problems which interfere with his learning. Since his incarceration, however, he has received no special education services at all.

147. Plaintiff Tyra's W.'s proven educational disability and emotional disturbances render her in need of special education. She has received no appropriate educational services during her period of incarceration at the Receiving Home.

C. Vocational Training Services

148. There is no vocational training at the Receiving Home at all. The residents there range in age up to 19 years old and some stay at the Receiving Home for periods of time far exceeding sixty days. For those who had been receiving vocational training in the community, the absence of any vocational opportunities at the Receiving Home breaks the continuity of their education, thwarts the progress they were making, and hinders their readjustment to the community.

149. Most of the detained and committed youths have few prospects for higher education, due to their educationally deprived backgrounds. They plan to enter the job market as quickly as possible and the complete dearth of vocational opportunities at the Receiving Home fails to fulfill any rehabilitative function of incarceration, leaving the young people who re-enter the community from the Receiving Home without opportunities for a productive future.

D. Mental Health Services

150. The mental health personnel at the Receiving Home are primarily the psychiatric nurse, a part-time psychiatrist, and a mental health specialist, who works only ten hours each week. The facility needs an additional mental health specialist or psychiatric social worker. Two nights of every week there are no mental health personnel to handle screenings of youngsters and this work is left to a social worker. Although three persons from the Youth Services Administration who had been at Cedar Knoll are now assigned to the Receiving Home, thus leaving Cedar Knoll without mental health personnel, the only psychiatric social worker available for individual counseling spends just three hours a week providing individual counseling. This means that she is only available to three children each week and since she continues to see those children until they are no longer at the Receiving Home, the number of individuals who have the benefit of her services is very limited.

151. Plaintiff Thurmon W. receives no counseling at all and plaintiff Tyra W. receives the counseling she does only because it is required by court order.

E. Medical Services

152. Defendants do not provide adequate medical care to the children at the Receiving Home. There is no full-time physician or registered nurse at the Receiving Home twenty-four hours a day. The counselors and other staff are not properly trained in first aid or how to deal with medical emergencies. In addition, when a medical emergency arises, there are no adequate facilities or staff to quickly transport residents to proper medical care.

F. Counseling Services, Social Services
and Direct Care

153. The group leaders on each of the four units at the Receiving Home have the primary responsibility for direct care and supervision of the children on each unit. Many of the staff at the Receiving Home work long and extended hours. The result is an often exhausted staff who deal with problems in what they perceive to be the easiest way possible. This is not always the most productive manner of handling difficult situations. Relatedly, defendants physically restrain children at the Receiving Home by tying them to beds and other physical objects without the authorization of a medical doctor or the superintendent. Moreover, there is no limit on the length of time for which children are physically restrained and there is no procedure requiring approval of physical restraints before they are utilized.

154. Akin to defendants' use of physical restraints, is their practice of isolating children in their cells for extended periods of time up to seven days for relatively minor infractions. Moreover, defendants do not maintain consistent documentation of the use of physical restraints and isolation, nor do they check those children who are restrained or in isolation with any reasonable degree of frequency.

155. The social workers are frequently absent and the group leaders are not properly trained or certified to provide social work services. Thus, residents' needs are often inadequately assessed and arrangements for appropriate services are frequently not made. The staff are not properly supervised nor do they receive a consistent program of in-service training.

156. While many of the young people housed at the Receiving Home suffer from problems of drug abuse and drug dependency, the limited counseling program available is inadequate to meet the needs of those residents who need drug counseling and especially those in need of individual drug counseling.

157. Plaintiff Tyra W. lives in a unit from which the assigned social worker is frequently absent. Thus, many of her needs and problems go unaddressed. Moreover, because that worker has no formal training or degree in social work or counseling, and is not professionally equipped to deal with Tyra's severe emotional problems, even when he is present, Tyra is not receiving the appropriate services or counseling she needs.

G. Climate of Violence

158. There is a "climate of violence" which pervades the daily lives of the young people incarcerated at the Receiving Home. This atmosphere is due to

- a. The inadequate training and supervision of the staff resulting in a situation in which staff periodically commit physical assaults upon the children at the Receiving Home; and
- b. The staff's inadequate supervision of the children at the Receiving Home which allows for an environment in which tensions build and residents assault each other.

159. Separate and apart from the physical injuries caused by the foregoing acts, omissions, and policies of defendant, residents at the Receiving Home also suffer psychological injury to all the youngsters who witness these assaults and live in constant fear of being injured. As of the filing of this amended complaint there were allegations of three separate incidents in which different staff members allegedly raped female residents during the autumn of 1985.

160. Plaintiff Tyra W. was the victim of physical and verbal abuse by a staff member at the Receiving Home in September, 1985. According to a report written by another staff member, the assaultive behavior came from someone who had been using vulgar, inflammatory, and derogatory language towards Tyra. Moreover, Tyra was threatened with a knife and all the pictures in her cell were torn off the walls by the staff person.

H. Recreational Services

161. There are not sufficient full-time recreation staff for the youngsters at the Receiving Home. The recreational program at the Receiving Home consists of a limited number of activities available in the units and in the recreation room. In addition, there is a limited amount of outdoor activity available on small blacktop surfaces. These limitations are due, in part, to the design and structural inadequacy of the facility itself. The blacktop surfaces are not enclosed and thus are useless during cold and/or inclement weather. This means that the children remain indoors continuously for months at a time. There are no major muscle activities or organized intramural games or activities for the children. Thus, idleness is a great problem, particularly because the limited activities available to the children are sedentary. Moreover, the defendants have not established a program to teach leisure time recreational activities such as music and crafts.

162. Plaintiff Tyra W. spends much of her time watching television or playing cards, or board games.

I. Procedures for Attorney-Client Communications

163. In both their telephone and their visitation policies, defendants improperly interfere with attorneys' access to their clients.

164. Since the Receiving Home is used for attorney-client visits with children incarcerated at Oak Hill and Cedar Knoll (see paragraphs 74 and 120, supra) as well as for interviews by probation officers and others, attorneys are often unable to meet with their clients because all the rooms are already filled. Furthermore, since the space at the Receiving Home is so limited, defendants frequently curtail the number and length of attorney visits.

165. Moreover, defendants' telephone policy precludes easy access to residents during the evening hours. This policy severely hinders the attorney-client relationship since attorneys who are in court all day must call their clients in the evening.

166. Plaintiff Tyra W.'s attorney had difficulty visiting her when she and her attorney were forced to share an interview room with others because the only other interview room was being used to detain a child for whom there was no other space.

J. Procedures for Disciplining Residents

167. In an Order issued on November 3, 1976, the Family Division in In re Savoy, J-4808-70, established detailed procedures for disciplining children who are confined in District of Columbia juvenile detention facilities. The defendants subsequently incorporated these procedures into Institutional Care Services Division Rule 4.12.

168. The defendants, however, have failed to take the steps necessary to ensure that these procedures are followed on a daily basis by the direct care staff of the Receiving Home.

169. In contravention of the standards established in In re Savoy and Rule 4.12, the children incarcerated at the Receiving Home are often subject to arbitrary and severe punishment far beyond any justifiable response to a given infraction. Children are locked in their cells for lengthy periods of time and punishments are imposed without an adjudicatory hearing being held. Moreover, "group punishments" have been imposed on an entire unit when only a single child misbehaves.

K. Procedures for Family Visitation

170. The space available at the Receiving Home for family visits is antithetical to fostering positive, growing, and nurturing relationships between the children incarcerated and their families. The space is inadequate and precludes frequent visits from as many families as possible. Frequent and productive visits are vital to encouraging positive development in the relationship between an incarcerated child and his or her family, clearly a critical component to any rehabilitative process for young people.

171. Moreover, there are no consistent provisions made for youngsters who do not have family to visit them. Families must call to arrange for visits with their children and are often unable to see them at times convenient to them because of the limited space at the Receiving Home.

IV. Systemic Allegations

172. Many detained and committed youngsters at all three facilities, Oak Hill, Cedar Knoll, and the Receiving Home, are placed inappropriately and are subjected to environments

unnecessarily secure for their needs which inherently impair their statutory right to be in as homelike a setting as possible. The secure detention in which many of the children are placed is not necessary for the protection of the public and is inconsistent with their rehabilitative and custodial needs.

173. According to recent statistics, the District of Columbia has the highest rate of incarceration of juveniles in training schools of any jurisdiction in the nation. Even so, many children confined in these three secure facilities pose no threat to the public and are incarcerated for non-violent offenses. Professional staff and experts alike agree that such secure detention is not appropriate or necessary for many of these youngsters.

174. There are lengthy waiting lists of children who have been deemed eligible for and in need of less secure and restrictive settings such as youth shelter houses, youth group homes, home detention, and residential placements. However, defendant officials provide insufficient facilities, staff and resources in order to place many of the children in these more appropriate and less restrictive settings in a timely fashion or at all.

175. District officials fail to evaluate the needs of the individual children in terms of their placement in these institutions initially when the decision is in their discretion and fail to provide adequate follow-up and periodic reviews to ensure that children are not being placed in overly secure settings which may be inconsistent with their custody and treatment needs and with the protection of the public.

CAUSES OF ACTION

176. With respect to each of the following Counts, plaintiffs re-allege and incorporate by reference all of the allegations contained in paragraphs 1 through 175.

COUNT I

177. The totality of the conditions in the District of Columbia juvenile detention facilities, including the physical structures, programs, practices and policies, violates detained and committed children's rights, under the laws of the District of Columbia, to appropriate care and treatment. The totality of conditions also violates these children's statutory rights to an appropriate education under the laws of the District of Columbia and the laws of the United States, their right to rehabilitative treatment under the due process clause of the Fifth Amendment, and their Fifth and Eighth Amendment rights to be free from harm, unnecessary restraint, and cruel and unusual punishment.

COUNT II

178. Defendants have failed to provide detained and committed children confined in District of Columbia detention facilities with suitable and adequate educational services, in violation of these children's statutory rights to appropriate care and treatment under D.C. Code §§ 16-2313(b) and 16-2320 (as interpreted in SCR-Juv. Rule 2), their statutory right to education under D.C. Code § 31-401, and their rights under the Fifth and Eighth Amendments. In failing to provide adequate and appropriate special education and related services, defendants have furthermore violated the substantive and procedural requirements of the Education of the Handicapped Act (20 U.S.C. § 1401 et seq.), D.C. Code §§ 31-401, and 403, and the Fifth and Eighth Amendments.

179. By failing to provide adequate medical services and adequate mental health services to the detained and committed residents of juvenile detention facilities, defendants have violated these children's statutory rights to appropriate care and treatment under D.C. Code §§ 16-2313(b) and 16-2320 (as interpreted in SCR-Juv. Rule 2), their right to "related services" under the Education of the Handicapped Act (20 U.S. § 1401 et seq.), their Fifth and Eighth Amendment rights to be free from harm and cruel and unusual punishment, and their Fifth Amendment right to rehabilitative treatment.

COUNT IV

180. By failing to provide humane and safe living conditions in the juvenile detention facilities, defendants have violated detained and committed children's rights to appropriate care and treatment under D.C. Code §§ 16-2313(b) and 16-2320 (as interpreted in SCR-Juv. Rule 2), their Fifth and Eighth Amendment rights to be free from harm and cruel and unusual punishment, and their Fifth Amendment right to rehabilitative treatment.

COUNT V

181. The defendants' failure to provide adequate vocational training services, counseling and social services, and recreational services, and their failure to provide adequate means for parental visitation violates detained and committed children's rights to appropriate care and treatment under D.C. Code §§ 16-2313(b) and 16-2320 (as interpreted in SCR-Juv. Rule 2), their right to "related services" under the Education of the Handicapped Act (20 U.S.C. § 1401 et seq.), their Fifth and Eighth Amendment rights to be free from harm and cruel and unusual treatment, and their Fifth Amendment due process right to rehabilitative treatment.

COUNT VI

182. The defendants' failure to provide adequate facilities for attorneys' communications with and visits with children confined in District of Columbia juvenile detention facilities violates these children's Fifth Amendment due process right to access to the courts and legal assistance.

COUNT VII

183. The climate of violence prevailing in District of Columbia juvenile detention facilities (including direct counselor abuse of residents and counselors' failure to protect residents from other residents) and the excessive and improper use of seclusion and other disciplinary sanctions violates detained and committed children's rights to appropriate care and treatment under D.C. Code §§ 16-2313(b) and 16-2320 (as interpreted in SCR-Juv. Rule 2), their Fifth Amendment due process rights to receive adequate treatment and to be safeguarded from summary punishment, and their Eighth Amendment right to be free from cruel and unusual punishment.

COUNT VIII

184. The defendants' failure to evaluate, determine, and review plaintiffs adequately in order to place them in appropriate facilities consistent with plaintiffs' treatment needs and defendants' failure to afford confinement in the least restrictive settings consistent with the childrens' treatment and rehabilitative needs violates plaintiffs' Fifth Amendment due process rights under the U.S. Constitution and their statutory right to custody care and discipline in settings as nearly as possible like that which should have been provided by their parents under D.C. Code § 16-2313(b) and 16-2320 (as interpreted in SCR-Juv. Rule 2.)

RELIEF REQUESTED

WHEREFORE, plaintiffs pray for the following relief:

1. That this Court determine, pursuant to Rules 23 and 23-I of the Superior Court Rules of Civil Procedure, that this action is a proper class action and that plaintiffs are proper class representatives;

2. That the Court enert a declaratory judgment, pursuant to Rule 57 of the Superior Court Rules of Civil Procedure, declaring that th totality of the circumstances of confinement - the facilities, conditions, programs, practices and policies - at the District of Columbia juvenile detention facilities violates plaintiffs' rights to adequate care and appropriate treatment under the laws of the District of Columbia and the laws of the United Staes, and their rights to due process of law and to be free from cruel and unusual punishment as guaranteed by the Fifth and Eighth Amendments to the Constitution of the United States;

3. That the Court grant injunctive relief, pursuant to Rule 65 of the Superior Court Rules of Civil Procedure, enjoining defendants, their agents, employees and those acting in concert with them from interfering with plaintiffs' rights under the laws of the District of Columbia, the laws of the United States, and the Constitution of the United States, and specifically enjoining defendants from failing to:

- a. Provide appropriate, humane, and safe living conditions in the residential units;
- b. Provide adequate and appropriate educational services (for both the general population and for educationally handicapped children) and comply with all substantive and procedure requirements of the

- Education of the Handicapped Act;
- c. Provide sufficient and adequate vocational training services;
 - d. Provide sufficient and adequate mental health services, including both psychiatric and psychological services, and including assessments and individual and group therapy;
 - e. Provide sufficient and adequate medical services;
 - f. Provide adequate and appropriate counseling services (including drug counseling), social services, and direct care and arrange the staff training programs necessary to guarantee these services;
 - g. Provide the staff training and supervision, and take such other steps as are necessary, to preclude counselor assaults upon residents and resident assaults upon other residents, and end the "climate of violence" that currently prevails in the juvenile detention facilities;
 - h. Ensure the promulgation of and staff compliance with procedures for disciplining students that are in accordance with prior decrees in In re Savoy and that fully protect the rights of residents;
 - i. Provide adequate recreational services;

- j. Adopt all procedures necessary for ensuring that all children have adequate access to their legal counsel, both by telephone and in meetings in person;
- k. Adopt all procedures and take all steps necessary to ensure that all detained and committed children have sufficient opportunity for visits at least every week by their parents and other close relatives.
- l. Provide appropriate placement and confinement in the least restrictive settings consistent with the treatment needs of the children and the protection of the public based on individualized evaluations, determinations and reviews, and provide sufficient community-based alternatives and facilities to serve the children's needs adequately.

Respectfully submitted,

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COUNSEL FOR PLAINTIFFS

DATED: January 15th, 1986

April _____, 1986

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Amended Complaint was served, by hand, to Roberta Gross, Nancy Dorsch, and Colin Carriere, Assistant Corporation Counsel for the District of Columbia, Office of the Corporation Counsel, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004, this ____ day of April, 1986.

CHERYL LONG