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T.Y. v. Shawnee Co.



JI-KS-001-009

August 9, 1995

Professor Michael J. Dale
Nova Southwest University
3305 College
Ft. Lauderdale, Florida 33314

RE: T.Y., a minor, et al. v. Board of County Commissioners, et al.
Case No. 94-4079-DES

Dear Professor Dale:

Please find enclosed your copy of the Settlement Agreement and Consent Decree recently entered in the Shawnee County Youth Center case. The Honorable Dale E. Saffels approved the Consent Decree on July 28th.

If after reading this document you have any questions or comments, I hope that you will not hesitate to contact me directly. Thank you again for your interest and support.

Sincerely,

A handwritten signature in black ink, appearing to read 'Larry R. Rute', written over a large, stylized flourish.

Larry R. Rute
Deputy Director

LRR:mjr
Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

T.Y., a minor, by her next
friend, Lynette Petty, B.A.,
a minor, by his next friend,
P.C., D.S., a minor by his
next friends, A.M. and
Lynette Petty, on behalf of
themselves and all
others similarly situated,

Plaintiffs,

v.

Board of County Commissioners
of the County of Shawnee;
DONALD J. COOPER, Chairman,
VICTOR W. MILLER, Vice-
Chairman, WINIFRED KINGMAN,
member of the Shawnee
County Commission
in their official capacities;

EARL HINDMAN, Director of
the Shawnee County Department
of Corrections, in his
official capacity;

GARY BAYENS, Administrator of
Shawnee County Youth Center,
in his official capacity,

Defendants and
Third-Party
Plaintiffs,

v.

STATE OF KANSAS, Department
of Social and Rehabilitation
Services; and DONNA L.
WHITEMAN, the Secretary of
Social and Rehabilitation
Services, in her official
capacity;

BOARD OF EDUCATION-UNIFIED
SCHOOL DISTRICT 501, Shawnee
County, Kansas,

Third-Party
Defendants.

T.Y. v. Shawnee Co.



JI-KS-001-008

Case No. 94-4079-DES



SETTLEMENT AGREEMENT AND CONSENT DECREE

This Settlement Agreement and Consent Decree is submitted to the Court for approval and entry by all of the parties to this action, by and through counsel, in resolution of all of the claims asserted by the plaintiffs in their First Amended Complaint and by the defendants in their Third-Party Complaint.

The parties to this action have reached an agreement resolving all outstanding issues in this litigation and have agreed to the incorporation of the terms of this agreement into a Consent Decree. The parties have entered into this Settlement Agreement and Consent Decree solely as a means to seek a reasonable end to all issues raised in this controversy and to avoid the expense, time and risks of litigation. Thus, the parties expressly agree that this Settlement Agreement and Consent Decree represents a reasonable approach to resolve this litigation and is not an admission of any constitutional violation. Nor do the provisions thereof establish any constitutional minimum standard with respect to claims alleged by the plaintiffs.

While neither admitting nor denying any allegations of fact or legal liability, or that the following practices and procedures are required by the United States Constitution, the parties have now agreed to the entry of the Settlement Agreement and Consent Decree. The entry of this Settlement Agreement and Consent Decree shall not affect plaintiffs' right to request such attorneys' fees and costs as this Court deems appropriate, or defendants' and



third party defendants' right to oppose such requests. Therefore, based upon the stipulation and agreement of all parties to this action, by and through their respective counsel, and based upon all matters of record in this case.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

I. OVERCROWDING

1. Defendants shall comply with the provisions of K.S.A. 65-504(a) with regard to the maximum number of juveniles who may be admitted to and confined in the current Shawnee County Youth Center facility. In particular, the following shall apply:

A. The maximum number of juveniles who will be housed at Shawnee County Youth Center shall not exceed that number which is acceptable to the Kansas Department of Health and Environment. Admissions which would cause this maximum population limit to be exceeded shall be refused by County defendants and the Shawnee County Department of Corrections unless the release of one or more juveniles from Shawnee County Youth Center is scheduled within 24 hours which would bring the population back within that number deemed acceptable by the Kansas Department of Health and Environment. In no case shall the number of juveniles at Shawnee County Youth Center exceed 25.

Defendants shall be temporarily released from the requirement to comply with the provisions of K.S.A. 65-504(a) in the event of an emergency. An emergency is triggered by an exceptional circumstance involving a single mass arrest involving five or more



juvenile offenders who otherwise could not be placed at Shawnee County Youth Center due to population limits. The five or more juvenile offenders will not be admitted to Shawnee County Youth Center until the duty juvenile judge issues an order setting out findings of fact necessary to admit the children to Shawnee County Youth Center on an emergency basis. The five or more juvenile offenders may be placed at Shawnee County Youth Center until their detention hearing. During the course of the emergency exception, no other juveniles may be admitted to Shawnee County Youth Center. In the event an emergency occurs, a copy of the judge's order will be forwarded to the attention of the plaintiffs' counsel.

B. The third-party defendant Department of Social and Rehabilitation Services of the State of Kansas (SRS) agrees that it will remove from Shawnee County Youth Center facility any juvenile offender directly committed by the Court to a state youth center pursuant to K.S.A. 38-1671 within 72 hours of said disposition and upon receipt of the "necessary documents" required under K.S.A. 38-1671. Said removal requirement excludes Saturdays, Sundays and legal holidays. It is understood that the necessary documents required under this paragraph are the certified copies of the complaint, the journal entry of the adjudicatory hearing and the dispositional order. It is further understood that the receipt of the necessary documents by SRS means delivery of the documents to the reception desk located at the SRS Topeka Area Office, 1035 South Kansas Avenue, Topeka, Kansas, or by delivery to the SRS representative in attendance at



the court hearing. An acknowledgment of receipt of these documents by SRS shall be in writing and filed with the Clerk of the District Court by the District Attorney's office. In the alternative, receipt of the certified documents by SRS may be obtained through the use of a facsimile transmission and a telephone call made to the attention of the Legal Division for the Topeka Area SRS Office.

C. The third-party defendant Department of Social and Rehabilitation Services of Kansas agrees that it will remove from the Shawnee County Youth Center facility any juvenile offender placed in its custody for appropriate placement within 48 hours after receiving written court order by the Court, unless (1) the juvenile is committed to the custody of SRS after 12:00 noon on a Friday; or (2) the juvenile has not previously been in the custody of SRS. If either of these two exceptions occurs, SRS will have an additional 24 hours to remove the juvenile from Shawnee County Youth Center, for a total of 72 hours. Said requirement excludes Saturdays, Sundays and legal holidays. It is understood that the receipt of the written Court Order by the court to SRS means delivery of the documents to the reception desk located at the SRS Topeka Area Office, 1035 Kansas Avenue, Topeka, Kansas, or by delivery to the SRS representative in attendance at the court hearing. An acknowledgment of receipt of these documents by SRS shall be in writing and filed with the Clerk of the District Court by the District Attorney's office. In the alternative, receipt of the documents by SRS may be obtained through the use of a file-



stamped copy of the order by facsimile transmission and a telephone call made to the attention of the Legal Division of the Topeka Area SRS Office. The time limits provided in this paragraph may be extended up to seven days for sexual offenders to the extent that SRS has built up credits as provided herein. SRS may accumulate credits by removal of other juveniles in SRS custody prior to the time limitations required herein. Said credits shall be acquired in twelve hour increments. Sexual offender shall be defined as a juvenile who has been adjudicated or is currently charged with a violation as defined in Article 35, Chapter 21 of K.S.A. The parties agree there will be a review of the 48 hour provision contained in Paragraph 1(c) at the end of three months from the time this agreement is entered. Any dispute with respect to the 48 hour placement will be submitted to the Judge of the United States District Court for resolution at that time.

D. When the defendants notify SRS that the population of Shawnee County Youth Center has reached 22 and (1) SRS has not removed juveniles from its custody as required by paragraphs 1(b) or 1(c) above, and (2) the Shawnee County Youth Center has been required to transfer one or more juveniles to some other secure detention facility to maintain the population at 22, SRS agrees to increase the per diem compensation paid to Shawnee County Youth Center from the present rate to \$140.00 per day or any contract rate Shawnee County Youth Center is able to negotiate or any contract rate SRS is able to negotiate, whichever is less, for

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each juvenile required to be transferred. The increased rate shall apply to each juvenile required to be transferred due to SRS' inability to remove juveniles as required by paragraphs 1(b) or 1(c) above. Shawnee County Youth Center will not admit juveniles who are not subject to the jurisdiction of the Shawnee County District Court. The defendants agree to keep SRS informed of the population at Shawnee County Youth Center on a daily basis in writing and addressed to either the Topeka Area Office Chief of Social Services or Legal Division. The parties agree that there will be a review of the rate at the end of three months from the time this agreement is entered. Any dispute with respect to the rate will be submitted to the Judge of the United States District Court for resolution at that time.

E. During evenings, weekends or holidays SRS shall establish a system of communications by which one or more SRS workers are designated to receive the necessary documents.

F. Juveniles classified solely as children-in-need-of-care will not be confined in the Shawnee County Youth Center facility for more than 24 hours. If a child in need of care is subsequently charged as a juvenile offender, the child will not be treated as a child-in-need-of-care for purposes of determining whether secure detention is necessary.

2. There is hereby established the Shawnee County Juvenile Facility Population Control Task Force. The members of the task force shall be the Third Judicial District (Shawnee County) Administrative Judge or his designee, who shall Chair the Task



Force, the Director of the Shawnee County Department of Corrections or his designee, the Secretary of the Kansas Department of Social and Rehabilitation Services or her designee, an educator, a mental health professional, an at-large member of the community, a juvenile judge and a juvenile advocate. The Task Force may, at its discretion, invite professionals or representatives of some other agencies to provide information or to otherwise participate in task force duties. Such professionals or agencies may include, but are not limited to, the following: the District Attorney for the Third Judicial District Shawnee County, Court Services, Clerk of the District Court, defense counsel, Shawnee County Sheriff's Department, Topeka Police Department, Plaintiffs' attorneys, members of the Community Corrections Advisory Board or representatives of certain social service agencies such as the Kansas Children's Service League.

3. The Task Force shall perform the duties prescribed below and such other duties relating to resident population control at Shawnee County Youth Center as may in the future be requested by this Court and accepted by the Task Force.

4. The Task Force shall meet on an as necessary basis at a time and place established by the Chair. The Task Force may establish its own rules and procedures, including any necessary subcommittees, consistent with the directives herein provided, including the removal or release of Shawnee County Youth Center residents as may be necessary from time to time.

5. A subcommittee of the Task Force shall monitor resident population at Shawnee County Youth Center to ensure that detention at Shawnee County Youth Center is restricted and available only to those children for whom secure detention is clearly indicated. Whenever the number of children detained at Shawnee County Youth Center reaches twenty-two, the Director of the Shawnee County Department of Corrections, or his designee, shall notify the Chair of the Task Force of that fact. The members of the subcommittee shall be a Third Judicial District judge who is not active in the juvenile court, who shall chair the committee, a representative from the Shawnee County Department of Corrections, and a representative from the Kansas Department of Social and Rehabilitation Services. The Subcommittee shall:

A. Review and screen the resident population to determine which, if any, residents may be released.

B. Prepare a list of residents whom the committee reasonably believes

i. may be released as the juvenile is not dangerous to self or others and is likely to appear for further proceedings pursuant to K.S.A. 38-1632 and 38-1640;

ii. could be placed in the custody of a parent or other suitable person or youth residential facility pursuant to K.S.A. 38-1632, or other appropriate placement; or

iii. could be placed in the custody of the Secretary of the Department of Social and Rehabilitation Services pursuant to K.S.A. 38-1632.



6. From the above mentioned list, the Subcommittee shall make recommendations to the committing Judge designating those juveniles who may be considered for release. The committing Judge shall thereafter enter an order releasing or detaining the juvenile based on the criteria set forth in sections (i) or (ii) above. Shawnee County Youth Center agrees to release said juvenile pursuant to the order of the Court.

7. Prior to the Dispositional Order, no juvenile offender shall be ordered detained and placed in SRS custody other than to provide medical or psychological services. The Court shall make findings of fact upon which the decision is made. Should the committing Judge order that the juvenile should be placed in SRS custody based on the criteria set forth in Section (iii), the responsibility of securing an alternative placement lies with SRS as provided in paragraphs 1(b) and 1(c).

8. The Task Force shall develop clear criteria for secure detention at Shawnee County Youth Center, consistent with the provisions of K.S.A. 38-1624 and 38-1640, and develop an objective Risk Assessment and Screening Instrument for use in determining need for secure detention at Shawnee County Youth Center. The screening instrument developed for this purpose is approved by all parties and attached as Attachment #1. The Task Force has the continuing responsibility for reviewing and modifying, as necessary, the Risk Assessment and Screening Instrument to ensure its adequacy to maintain Shawnee County Youth Center resident population requirements established by Paragraph 1(a) above. The



defendants will not admit a juvenile to Shawnee County Youth Center without a court order directing the juvenile to be detained there unless the juvenile has been screened to determine that the juvenile is in need of secure detention by use of the above referenced objective Risk Assessment and Screening Instrument. The screening function will be performed by trained juvenile intake service personnel presently located at the Kansas Children's Service League Emergency Shelter. In the event the Kansas Children's Service League should no longer perform the screening function for juveniles admitted to Shawnee County Youth Center, the Administrative Judge of the Third Judicial District shall designate the entity to perform this function. The Task Force will also present the admission criteria and risk assessment and screening device to the Shawnee County District Court for its consideration as criteria for its use in determining the need for secure detention of juveniles alleged to be juvenile offenders or children in need of care.

9. The Task Force shall review the existence of other, less restrictive, placement alternatives to secure detention in Shawnee County and determine the need, if any, for the creation of additional alternatives to secure detention. Such alternatives may include, but are not limited to, home detention, electronic monitoring, intensive supervised probation, day reporting, group homes and foster homes. The conclusions and recommendations of the Task Force shall be presented to the defendant Shawnee County



Board of County Commissioners and third-party defendant Secretary of Social and Rehabilitation Services for their consideration.

10. The Task Force shall consider ways to expedite the movement of juveniles through the juvenile court system and thereby reduce the length of time spent by juveniles in temporary secure detention. The conclusions and recommendations of the Task Force shall be presented to all affected parties for their consideration.

11. All parties will use their best efforts to assist the Task Force in any way possible in performing its functions and shall provide the Task Force with any requested data or information which is reasonably at their disposal. Should there be changes in either Federal or State law or other unanticipated events that affect the implementation of this Agreement, the parties may meet to seek modifications or review by the Federal Court.

12. Paragraph 1 of this section shall remain in effect until further order of this Court. Paragraphs 2-10 of this section, relating to the creation and duties of the Shawnee County Juvenile Facility Population Control Task Force, shall remain in effect until the promulgation and implementation by the judges of the Third Judicial District of the State of Kansas of a local court rule providing for the continuing performance of all of the essential functions of the Task Force as provided for in this stipulation, including the population control subcommittee.



II. SANITATION, SAFETY AND HYGIENE

1. The facility administration shall maintain compliance with all state and local health, sanitation, and fire safety standards and correct any deficiencies within a reasonable time after receiving notice of deficiencies.

2. The Shawnee County Youth Center facility shall be clean at all times and free from accumulated dirt, vermin and rodent infestation, including spiders.

3. Floors shall be swept and mopped daily. Liquids or other substances spilled on the floor should be promptly removed.

4. Toilets, lavatories, sinks, showers and other such fixtures shall be cleaned thoroughly each day.

5. Walls in the sleeping rooms shall be cleaned monthly and repainted at least once a year.

6. All toilets shall have sanitary paper available at all times.

7. The facility shall maintain all plumbing, drainage, heating, cooling, electrical and ventilator systems in proper working order at all times. Necessary repairs shall be promptly effectuated.

8. The temperature throughout the facility, including all sleeping rooms, shall be maintained in a healthful and comfortable range between 68° and 78° Fahrenheit. A healthful level of fresh air shall be circulated throughout the facility at all times.



9. All lavatories, sinks and showers shall maintain hot and cold water at temperatures which are controllable and within a safe and comfortable range.

10. The facility shall ensure that showers are protected from the view of members of the opposite sex.

11. The facility shall establish a procedure which is designated to ensure the safe evacuation of all juveniles and staff at Shawnee County Youth Center in case of fire.

12. Facility administration shall require that upon admission each juvenile be provided that following toiletries: soap, deodorant, comb, toothbrush, and toothpaste. The facility shall provide juveniles with a sanitary means to shave, and shall provide an adequate period of time for residents to exercise shaving privileges. Female residents shall be provided feminine hygiene and sanitary items, as necessary or upon request.

13. The facility administrator shall ensure that all juveniles are provided a bed off of the floor and that no more than one juvenile is housed in a sleeping room.

14. A member of the Shawnee County Youth Center administrative staff shall be designated as the facility sanitation, safety & hygiene officer, who shall regularly review all policies and procedures relating to safety, health and fire prevention and shall be responsible for implementation of these policies and procedures.



15. The facility administrator shall be responsible for establishing a fire safety plan. This plan shall include, but need not be limited to, the following areas:

A. Fire prevention techniques, including:

i. Handling and storage of flammable, toxic and caustic materials in accordance with local fire and building codes, as well as regulatory requirements of the Kansas Department of Health and Environment;

ii. The use of flame resistant furnishings and other materials;

iii. Daily walk-through inspections by program staff of all areas of the facility occupied by residents to detect the existence of fire hazards and obstacles to evacuation (e.g. blocked fire exits);

iv. Weekly inspections of all other areas of the facility by appropriate administrative, supervisory and support staff to detect the existence of fire hazards; and

v. The prohibition of smoking in any area of the facility, except by staff in designated staff smoking areas.

B. Fire response procedures, including:

i. Monthly fire drills held at a minimum of once each month, with at least 25% of the drills being held during residents' sleeping periods, and including the testing of fire/smoke alarms, emergency air packs and emergency lighting;

ii. An explanation to residents of fire drill procedures during orientation by program staff;

iii. Posting of fire drill assembly locations in a conspicuous area of the resident living units; and

iv. Maintenance and update of the fire evacuation plan approved by the Fire Marshal, and implementation of any and all changes recommended by the Fire Marshal.

III. DRESS

1. The defendants agree to comply with the provisions of Kansas Administrative Regulation 28-4-355a(b)(8) concerning dress of residents at Shawnee County Youth Center.

2. Residents at Shawnee County Youth Center will be allowed to wear their own soft soled shoes. Defendants will provide soft soled shoes to residents who have none.

3. Facility administration shall require that all residents be provided clothing that fits comfortably and is in good repair. All residents shall be provided clean pajamas or nightgowns that are in good repair and fit comfortably.

4. Facility administration shall require that residents be allowed to exchange outer clothing at least every other day and more frequently if the clothing has become soiled or dirty. Each day residents shall receive clean underwear and socks that are in good repair and fit comfortably.

5. Residents' personal clothing and shoes will be made available to them for court appearances, excluding detention hearings. If residents do not wish to wear the clothing provided

by the facility to court, they may wear their own clothing for such purposes.

6. During periods of exercise or sports activities, residents will be permitted to wear gym shorts, a tee shirt and/or a sweatshirt that fit comfortably and are in good repair.

7. Denial of clothing will not be used for disciplinary purposes.

IV. ISOLATION

1. Defendants agree to comply with the regulations found at Kansas Administrative Regulation 28-4-355b(b) and (c) with respect to the use of isolation for all residents at the Shawnee County Youth Center. In particular, defendants agree to the following:

A. Behavioral isolation shall be used only when a resident is out of control, is a threat to himself/herself or others. Behavioral isolation shall be used for the shortest interval necessary for the youth to regain control and shall be reviewed by the supervisor immediately with continued placement to be determined by the supervisor.

B. Isolation may be used only when all other less restrictive methods of controlling a juvenile's dangerous behavior have been attempted with respect to the incident at issue and have failed.

C. Isolation shall not exceed one hour unless the problem behavior continues.



D. A youth care staff member shall be within visual and auditory distance of any juvenile in isolation at all times.

E. No juvenile in isolation shall be deprived of meals, clothing, medical services, individual exercise, correspondence, parental contact or legal assistance for disciplinary purposes. A juvenile in isolation shall receive all regular meals and snacks normally served and shall be allowed time for individual exercise and to perform necessary bodily functions.

F. A juvenile in isolation during normal school hours shall be provided with school work.

G. All juveniles in isolation shall be given prompt access to drinking water and to the toilet and washroom facilities.

H. A written order by a designated Shawnee County Youth Center staff member shall be required each time a juvenile is placed in or released from isolation.

I. A youth care staff member shall make direct, physical observation of a juvenile in isolation at least every 15 minutes, and shall attempt interactive intervention with the juvenile at each observation, unless the juvenile is sleeping.

J. An assessment of the need for continued isolation shall be made at each shift change. If isolation is continued, the reasons therefor shall be documented.

K. No juvenile shall remain in isolation in excess of 24 hours without the approval of the administrator or designee. Written approval of the administrator or designee shall be



required for each eight (8) hour period isolation is extended, beyond the first 24 hours.

L. If a juvenile requires more than 48 hours of consecutive isolation or more than 72 cumulative hours of isolation within any seven (7) day period, an emergency staffing shall be held to discuss the appropriateness of the juvenile's continued placement at Shawnee County Youth Center and to develop an emergency plan for the juvenile. Participants shall include those persons designated in Kansas Administrative Regulation 28-4-355b(c)(7)(A) & (B).

V. USE OF RESTRAINT

1. Defendants agree to comply with the regulations found at Kansas Administrative Regulation 28-4-355b(d) with respect to use of restraint for all juveniles at the Shawnee County Youth Center. In particular, defendants agree to the following:

A. Physical restraint shall be used only when the juvenile is acting in a manner that is assaultive, injurious and dangerous to himself/herself, peers, staff or property. It shall not be used as a form of discipline or punishment.

B. Physical restraint may be used only when all other less restrictive methods of controlling the juvenile's dangerous behavior were either attempted and failed or diagnostically eliminated.



C. Mechanical restraint equipment may be used within the secure parameters of Shawnee County Youth Center only when required to move a juvenile to locked isolation. Once a juvenile is placed in locked isolation, all restraints will be promptly removed after the juvenile ceases acting in an injurious or dangerous manner. Staff members shall remain within visual and auditory distance of the juvenile if mechanical restraints are in place and the juvenile is acting in a manner that is injurious or dangerous. Staff members shall promptly determine that the application of mechanical restraints does not result in the infliction of injury to the juvenile. The practice of securing the juvenile's hands to the feet with mechanical restraints behind the juvenile's back shall not be utilized at Shawnee County Youth Center.

D. The use of mechanical restraints shall not exceed 30 minutes in duration.

E. Any juvenile injured in an incident involving the use of physical restraint shall receive immediate medical examination and treatment.

F. If the juvenile requires the use of mechanical restraints for more than four (4) times in any 30 day period, an emergency staffing shall be held to discuss the appropriateness of the juvenile's continued placement at Shawnee County Youth Center and to develop an emergency plan for the juvenile. Participants shall include those persons designated in Kansas Administrative Regulation 28-4-355b(d)(3)(A) & (B).



VI. EXERCISE AND RECREATION

Defendants agree to comply with the regulations found at Kansas Administrative Regulation 28-4-355(d)(1) with respect to exercise and recreation at the Shawnee County Youth Center. In particular, defendants agree to the following:

1. At least one hour of large muscle exercise shall be provided to each juvenile on a daily basis unless restricted for health reasons. Such exercise shall be conducted outdoors when weather permits.

2. Opportunity for outdoor and indoor exercise and recreation shall be equally available to juveniles of both sexes.

3. Exercise and recreation shall not be restricted or denied to juveniles as punishment or discipline, except for misconduct which occurs during the recreational activity.

4. Access to exercise and recreation shall not be denied or limited on the basis of juvenile/staff ratios.

VII. FOOD SERVICE

1. All residents at Shawnee County Youth Center shall be provided with nutritionally adequate and appetizing food, including snacks, in amounts sufficient to meet the needs of growing children.

2. Therapeutic diets shall be available upon medical or dental authorization.

3. Food, including snacks, should not be withheld, nor the standard menu varied, as a disciplinary sanction.



4. Defendants agree to have a qualified nutritionist review the current food service no later than 30 days after the signing of this agreement and shall implement the recommendations of the nutritionist as soon as practicable.

VIII. MAIL

1. Outgoing mail is not to be opened or read or otherwise restricted as punishment or discipline.

2. The administrator shall provide stationary, envelopes and postage for one letter per day for each juvenile. All residents shall be permitted to purchase additional postage as necessary to mail more than one letter per day.

3. Incoming mail for juveniles at Shawnee County Youth Center will not be read by staff. Incoming mail will not be opened by staff outside the presence of the child, and then only to inspect for contraband, when staff has reasonable cause to believe that the mail contains contraband.

4. Incoming mail will not be restricted or withheld from juveniles as punishment or discipline, however, may be kept outside a resident's room for health and security reasons.

5. Books or gifts mailed or given to a resident will remain the resident's property and will be returned to the resident upon release from the facility.

IX. CHILDREN IN NEED OF CARE

1. Children in need of care at Shawnee County Youth Center will be kept separate from juvenile offenders to the maximum extent possible.



X. VISITATION

Defendants agree to comply with the regulations found at Kansas Administrative Regulation 28-4-355(f) with respect to visitation at the Shawnee County Youth Center. In particular, defendant agrees to the following:

1. Residents at Shawnee County Youth Center may visit with family members consistent with the security of the Shawnee County Youth Center and the safety of visitors, other residents and personnel.

2. The Shawnee County Youth Center facility shall provide adequate accommodations for visitation sufficient to permit a reasonable degree of privacy during visitation.

3. Visitation shall not be restricted or withheld from children unless a determination is made that a visit will violate the security of Shawnee County Youth Center or endanger the safety of residents, visitors or staff.

XI. TELEPHONE

1. Residents are permitted to make telephone calls, without prior clearance, as soon as reasonable after being admitted to detention for the purpose of contacting family members and attorneys.

2. After the initial telephone calls, residents will be allowed to make telephone calls according to the phone schedule for group activities.



3. Telephone calls to court counselors and attorneys will not be restricted or withheld from residents as punishment or discipline.

4. Telephone calls to residents from parents or legal guardians will be permitted at reasonable times on a daily basis. Residents will be permitted to make daily telephone calls to parents or legal guardians pursuant to a schedule established by the facility administrator.

XII. ATTORNEY-CLIENT COMMUNICATION

1. Defendants agree to comply with the regulations found at Kansas Administrative Regulation 28-4-355a(b)(9) with respect to confidential communication for all residents found at Shawnee County Youth Center. In particular, the defendants agree to the following:

A. Defendants agree upon the written request of any juvenile at Shawnee County Youth Center to speak with his or her attorney of record, that an attempt to contact the attorney will be made, or a message will be left with the attorney's office before 4:30 p.m. of the day the request is made. Written request made after 4:30 p.m. of the day the request is made shall be honored by 12:00 noon of the following day.

B. Defendants agree upon the written request of any juvenile at Shawnee County Youth Center to speak with plaintiffs' counsel, an attempt to contact the juvenile's attorney of record, natural parent, or legal guardian will be made or a message will



be left with the attorney's office before 4:30 p.m. of the day the request is made. Written requests made after 4:30 p.m. of the day the request is made shall be honored by 12:00 noon of the following working day.

If no response is received within 48 hours of the initial request, defendants' counsel will send a certified letter to the juvenile's attorney of record, natural parent, or legal guardian providing notification that access to the juvenile will be granted to plaintiffs' counsel unless they respond within seven (7) days from the date of the certified letter. If consent is given or refused, defendants will promptly notify plaintiffs' counsel. If approved, subsequent requests by the juvenile to speak with plaintiffs' counsel shall not be conditioned upon obtaining renewed consent.

This procedure shall not impair the right of the juvenile to raise questions of compliance with this Consent Decree pursuant to paragraph 4 of Section XXIV of the Decree. The parties agree that there will be a review of the 7-day provision contained in paragraph (B) at the end of three months from the time this agreement is approved. Any dispute with respect to the 7-day provision will be submitted to the Judge of the United States District Court for resolution at that time.

C. The defendants shall ensure the confidentiality of all communications between juveniles at Shawnee County Youth Center and their attorneys, including telephone conversations, visits and correspondence.

XIII. ADEQUACY OF STAFF

1. The facility shall provide adequate male and female staff to directly supervise and interact with the juveniles at all times and to provide for their physical, social and emotional well being. There shall be sufficient staff on duty at all times to satisfy the minimum staff-to-resident ratio as set out in Kansas Administrative Regulation 28-4-353(e).

XIV. STRIP SEARCH

1. Defendants agree to comply with the regulations found at Kansas Administrative Regulation 28-4-357(5)(B) with respect to strip searches conducted at Shawnee County Youth Center.

XV. PSYCHOLOGICAL AND VERBAL ABUSE

1. Psychological and verbal abuse by staff is prohibited. The grievance procedure shall be followed in the investigation and resolution of all complaints of staff abuse. Reports of abuse shall be submitted to the Director and a special incident report shall be prepared.

2. Staff members who have been accused of physically abusing a juvenile shall be removed from direct contact with the juvenile pending final resolution of the investigation regarding the complaint.

XVI. MEDICAL AND HEALTH CARE SERVICES

1. Shawnee County Youth Center shall have a physician licensed to practice medicine in Kansas as a medical consultant

who shall be designated the responsible physician who will oversee and be responsible for medical and health care services at Shawnee County Youth Center. The responsible physician or his/her designee shall be on call 24 hours/day, 7 days/week for immediate access by correction or nursing staff. The facility shall enter into a written agreement with an area medical facility to provide medical services which cannot be provided within its facilities, including 24 hour emergency medical care.

2. A health history checklist shall be completed for each juvenile at the time of admission. The checklist shall be completed by the person who admits the juvenile, using forms supplied or approved by the Kansas Department of Health and Environment. The checklist shall serve as a guide to determine if a juvenile is in need of immediate medical attention or should be placed in medical isolation.

3. Shawnee County Youth Center's physician shall be contacted for any juvenile who is taking a prescribed medication at the time of admission for evaluation, so that treatment is not interrupted.

4. Shawnee County Youth Center's physician shall be contacted to evaluate and recommend treatment of any juvenile who has acute symptoms of illness, or who has a chronic illness, or who has a serious injury.

5. Juveniles shall be screened for communicable diseases at the time of admission. If there is reason to believe that a juvenile has a communicable disease, that juvenile shall be



examined and tested by qualified medical personnel before being released from medical isolation. A juvenile who has a communicable disease other than AIDS will be placed in medical isolation in his/her room until determined by qualified medical personnel to be no longer contagious. Communicable diseases shall be reported within 24 hours of diagnosis or by the next working day to the Shawnee County Health Department.

A dental screening shall be conducted upon each juvenile at admission, and follow-up emergency dental care shall be provided as needed. The juvenile's record shall include a report of a dental examination obtained within one year before or 60 days after admission.

6. Chronic care, convalescent care and preventative care shall be provided when medically indicated.

7. Within 72 hours of admission, juveniles shall have a review of the health history checklist by a physician or nurse. Based upon health indicators derived from the checklist or in the absence of documentation of a screening within the past 24 months, the physician or nurse shall determine whether a full screening and health assessment are necessary.

8. The screening and health assessment shall be completed within ten (10) days of admission and shall be based upon guidelines provided or approved by the Kansas Department of Health and Environment.

9. Each juvenile shall receive a tuberculin skin test, and appropriate treatment or prophylaxis shall be provided to all



positive tuberculin reactors.

10. Maternity care shall be provided to pregnant residents in accordance with the provisions of Kansas Administrative Regulation 28-4-279.

11. At the time of admission to the facility, juveniles shall be informed in writing of the procedures for gaining access to medical services.

12. Juveniles' medical complaints shall be monitored and responded to daily. Appropriate treatment by qualified personnel shall follow.

13. Screening and referral for appropriate care shall be provided to mentally ill or retarded juveniles.

14. A written medical treatment plan for each juvenile requiring close medical supervision shall be developed by a health nurse in consultation with a physician, which includes directions to medical and nonmedical personnel regarding their roles in the care and supervision of these patients.

15. Detoxification from alcohol, opiates, barbiturates and similar drugs shall be performed only under medical supervision.

16. Prescription medication shall be administered by a nurse or a designated qualified staff member, from a pharmacy container labeled with the juvenile's name, the name of the medication, the dosage, the dosage intervals, name of physician, and date prescription was filled.

17. Any changes of prescription or directions for administering a prescription medication shall be authorized in



writing by a physician, with documentation in the juvenile's file.

18. All medication, including non-prescription medication, shall be given only in accordance with label directions unless ordered differently by a licensed physician. A record shall be kept in the juvenile's file documenting the name of the person who gave the medication, the dosage and the date and time it was given.

19. The type of medication prescribed for juveniles and the reason for its use is confidential and its confidentiality shall be preserved by Shawnee County Youth Center staff at all times.

20. A current health record shall be kept for each juvenile which includes the juvenile's current immunization record; health history checklist; documentation of the review of the health history checklist and the decision regarding the need for further screening and health assessment; tuberculin skin test report; medical contacts, including all examinations, diagnoses, prescriptions and administration of all medications, and entries regarding the juvenile's health care plan.

21. Shawnee County Youth Center shall obtain a written consent from each juvenile's parent or legal guardian for necessary medical and dental care.

22. Each parent or legal guardian shall be immediately notified when serious injury to, death or hospitalization of a juvenile occurs.

23. Each staff member who will have contact with juveniles at Shawnee County Youth Center shall receive a health examination

within one year before employment, which shall include a tuberculin skin test. If there is a positive reaction, proof of proper treatment or prophylaxis, according to current Kansas Department of Health and Environment guidelines, shall be required.

24. Each staff member caring for juveniles at Shawnee County Youth Center shall be free from communicable disease, free from physical, mental or emotional handicaps which would impair his or her ability to perform the responsibilities of the job, and free from impaired ability due to the use of alcohol or other drugs.

25. All staff at Shawnee County Youth Center shall have current training in basic first aid, including rescue breathing.

26. Adequate space, equipment, supplies and materials, as determined by the responsible physician, shall be provided for the performance of primary health care delivery in the facility.

27. First aid supplies shall be available in all facilities.

28. Smoking shall not be permitted in the Shawnee County Youth Center facility.

29. Professional consultant services, including those of physicians, dentists, nurses, psychologists and psychiatrists shall be available as required to meet the needs of juveniles at Shawnee County Youth Center.

XVII. DISCIPLINE AND SANCTIONS

1. The facility administrator shall be responsible for establishing a system of behavior management. The system shall be



designed to provide incentives for positive behaviors and for proportional measures of accountability for negative behaviors. The system shall provide written guidelines for parameters that are readily identifiable and easily understood by residents and staff. A verbal and written explanation of the behavior management system shall be provided to all residents as part of a formal orientation conducted by program staff. The behavior management system shall include, but need not be limited to, the following:

A. A design that incorporates the principles of child and adolescent growth and development;

B. Identification of positive behaviors that residents are encouraged to exhibit which may include:

- i. Cooperation;
- ii. Relationships with peers;
- iii. Relationships with authority;
- iv. Management of conflict;
- v. Demonstration of accepted social values;
- vi. Personal hygiene habits;
- vii. Nutritional habits;
- viii. Care of property; and
- ix. Use of time and resources.

C. Proportional incentives and rewards for residents who exhibit the identified positive behaviors (e.g., including enhanced privileges such as special visits, long distance telephone calls, music, movies, treats, events);



D. Procedures to routinely evaluate, as well as provide feedback to, residents regarding their progress in the behavior management system; and

E. A system of disciplinary measures to hold residents proportionately accountable for negative behaviors, with prohibitions against:

i. Permitting a resident to administer discipline to another resident;

ii. Denying visitation with parents or the juvenile's attorney;

iii. Withholding or altering meals or snacks;

iv. Use of drugs;

v. Use of corporal, abusive or degrading disciplinary measures.

XVIII. GRIEVANCE PROCEDURE

1. The facility administrator shall establish a grievance and appeals procedure for residents through which they may resolve issues and concerns relating to their care and treatment. An age and language-appropriate written and verbal explanation of the procedures to be followed for grievances or appeals shall be provided to all residents as part of a formal orientation conducted by program staff. The grievance and appeals procedure shall have the following requirements:

A. A written summary of the circumstances relating to the grievance and/or appeal provided by the resident;



i. For residents that have limited communication skills, a non-involved staff person shall be provided to assist in the preparation of the grievance and/or appeal;

B. Written responses to all grievances and appeals, including the reason for the decision;

C. A response, which includes an explanation to the resident as to what will occur, within 24 hours with special provisions for responding to emergencies;

D. Supervisory review of grievances and appeals within 72 hours;

E. Participation by staff and residents in the procedures design and operation;

F. Access by all juveniles to the grievance procedure, with guarantees against reprisals;

G. The ability of residents to grieve any behavior or disciplinary action of Shawnee County Youth Center staff or other juveniles.

XIX. EDUCATION

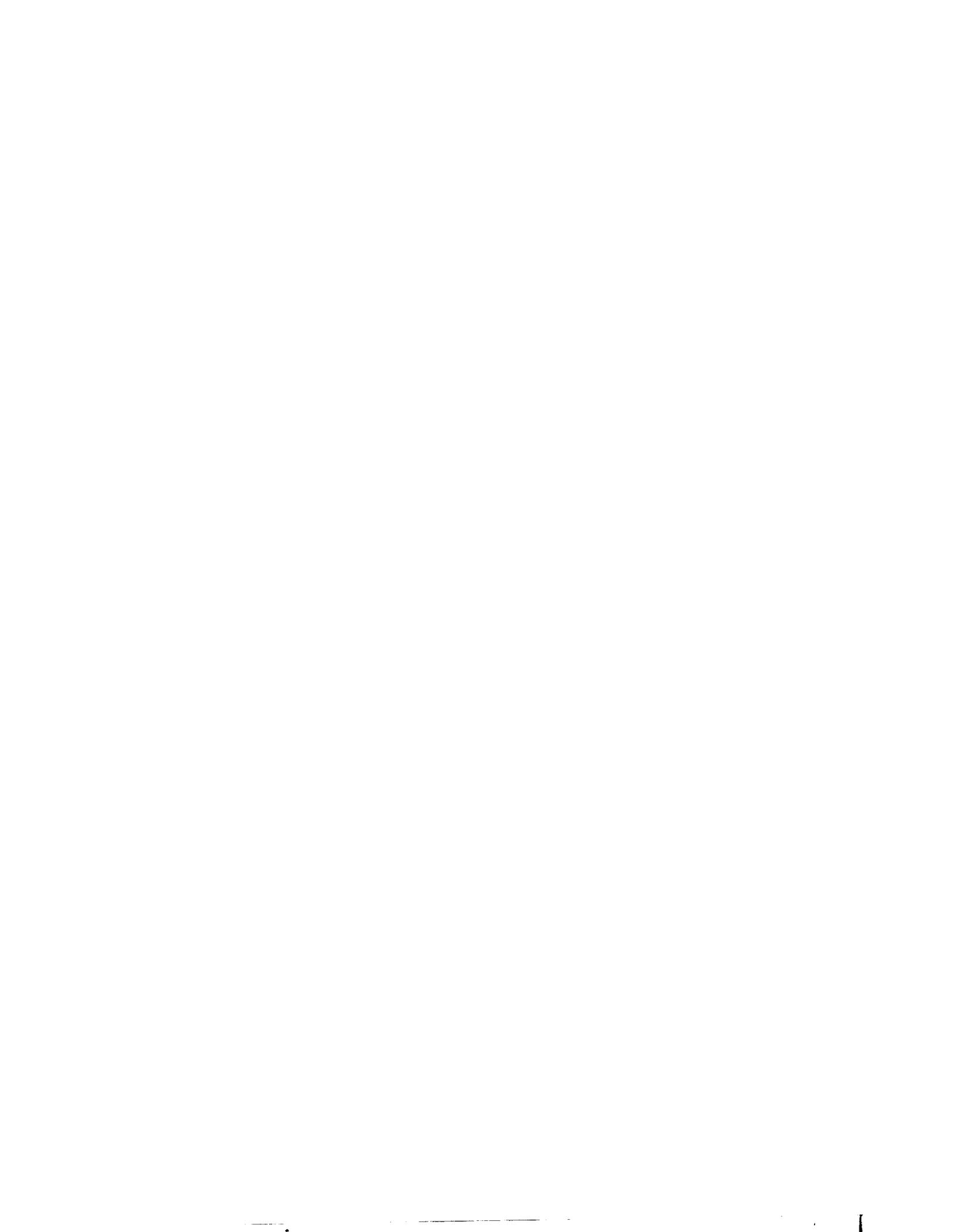
1. A regular schedule of instruction and related educational services appropriate to the needs of each juvenile shall be offered to each juvenile at Shawnee County Youth Center.

2. During the local school year, each juvenile at Shawnee County Youth Center shall receive a minimum of six (6) hours of instruction per day, excluding weekends and holidays, unless a special education student's IEP specifically indicates otherwise.



For purposes of this provision, one hour of instruction is deemed to be the equivalent of one regular school period, unless otherwise defined by state statute or regulation.

3. The third-party defendant U.S.D. 501 will provide educational services to every juvenile who is subject to the compulsory attendance requirements of the state of Kansas, as set forth in K.S.A. 72-1111 and K.S.A. 72-977 and amendments thereto, including each juvenile who has been determined to be an exceptional child and for whom special education services have been determined to be necessary. U.S.D. 501 is not required to provide educational services to juveniles during a period when such juveniles are expelled or suspended for an extended term from their most recent educational placement. However, U.S.D. 501 will provide educational services to all juveniles at Shawnee County Youth Center not specifically described above, including juveniles who are currently expelled or suspended, who desire to receive such services and who elect to participate in the educational program offered by U.S.D. 501. Provision of educational services for both mandatory and voluntary participants in the U.S.D. 501 program shall be conditioned upon adherence to reasonable rules of behavior established by U.S.D. 501. Instructional services for juveniles at Shawnee County Youth Center who are not subject to state compulsory attendance requirements and who elect not to participate in the program offered by U.S.D. 501 shall be provided by the defendants. U.S.D. 501 will assist and cooperate with the defendants in developing an educational program for the



defendants' use in providing instruction to those residents who do not participate in the program offered by U.S.D. 501. However, U.S.D. 501 will have no responsibility for the implementation of this program.

4. Beginning with the fall semester of school year 1995/1996, U.S.D. 501 shall furnish two (2) full-time certified teachers for the provision of classroom instruction and other educational services of residents of Shawnee County Youth Center.

5. Between the time of admission to Shawnee County Youth Center and the detention hearing, every juvenile admitted to Shawnee County Youth Center who is not required to participate in the education program offered by U.S.D. 501 shall be given the opportunity to elect to participate in this program. The juvenile shall be given a description of both the educational program offered by U.S.D. 501 and the alternative program provided by Shawnee County Youth Center staff to assist the juvenile in making this election. A juvenile who initially chooses not to participate in the program offered by U.S.D. 501, and who subsequently wishes to participate in that program may be permitted to do so, in the discretion of and pursuant to reasonable conditions established by U.S.D. 501.

6. Basic information concerning a juvenile's education and background shall be obtained from the juvenile, either as a part of the procedure for admission of the juvenile to Shawnee County Youth Center, or at some time prior to the juvenile's detention hearing. This information shall be collected for the purpose of



enabling the educational personnel at Shawnee County Youth Center to promptly contact the juvenile's home district for additional information and appropriate educational records if the juvenile is ordered detained at Shawnee County Youth Center and will participate in the educational program offered by U.S.D. 501, and to assist educational planning for the juvenile until the additional information and appropriate records are obtained. It should include, but need not be limited to:

A. The juvenile's current educational placement, including the school district, school, grade level and courses enrolled in;

B. Whether the juvenile has a current IEP;

C. The juvenile's most recent educational placement, if not currently enrolled, including the school district, school, grade level and courses enrolled in, the date of last attendance, and the reason for discontinuing attendance; and

D. Whether the juvenile has obtained a GED.

7. On the next scheduled school day after a detention hearing at which a juvenile is ordered detained at Shawnee County Youth Center, a functional assessment shall be administered by qualified educational personnel to each juvenile who will participate in the U.S.D. 501 educational program to assess general academic functioning and to assist in placing the juvenile in appropriate grade levels in various subject areas.

8. No later than the next scheduled school day after a detention hearing at which a juvenile is ordered detained at

Shawnee County Youth Center, an oral or written request for educational information concerning each juvenile who will participate in the U.S.D. 501 education program shall be made to the juvenile's home school district and/or prior residential placement. This request shall include, but need not be limited to:

A. The juvenile's most recent educational placement, including grade level, courses enrolled in, and current assignments;

B. Any exceptionality;

C. Any current Individual Educational Plan (IEP); and

D. Grade, progress, attendance and behavioral reports.

The third-party defendant U.S.D. 501 shall instruct all schools within U.S.D. 501 to respond to such requests within two (2) working days. All information and records shall be maintained in the resident's file at Shawnee County Youth Center, consistent with state and federal laws.

9. A plan to meet the educational needs of each juvenile participating in the U.S.D. 501 education program shall be developed, using the information obtained pursuant to paragraphs 6-8 above, which shall provide for a regular schedule of instruction and related educational services appropriate to the needs of the juvenile. This plan shall be developed within 24 hours, excluding weekends and holidays, of the completion of the functional assessment and receipt of the juvenile's educational information and shall include, but need not be limited to, the

subjects in which instruction will be provided, the texts and/or other materials to be used, and the means by which the juvenile's progress will be evaluated.

10. Each juvenile ordered detained at Shawnee County Youth Center shall begin participation in the education program no later than the next scheduled school day after the detention hearing. For those juveniles who are participating in the U.S.D. 501 education program, a temporary plan based upon the functional assessment, information obtained from the juvenile, and any other pertinent information available to educational personnel at Shawnee County Youth Center shall be utilized until the planning described in paragraph 9 above has been developed.

11. For each participant in the U.S.D. 501 educational program who is currently enrolled in a Kansas public school, contact shall be made with the juvenile's home school district to maintain the continuity of each juvenile's education. Unless inappropriate, a request shall be made to obtain assignments from the juvenile's home school district on a regular and periodic basis during the juvenile's stay at Shawnee County Youth Center. Grade and progress reports shall be provided on a regular basis to the home school district so that the child may receive credit for the work completed.

12. A core curriculum of instruction in the areas of language arts, calculations, non-laboratory science and social studies shall be provided to participants in the education program offered by U.S.D. 501. Instruction and/or assistance in other



areas shall be offered whenever feasible as part of a plan to maintain the continuity of a juvenile's education in his or her home school. A minimum of four (4) regular periods per school day shall be devoted to instruction in core subjects, unless educationally inappropriate for a particular student. It is not necessary to provide instruction in four separate core subjects in order to satisfy this requirement. In addition to the core curriculum, instruction by or under the direction or supervision of certified teachers may also be offered in areas such as a computer skills, social and life skills, physical education and other topics. Assistance in preparing for the GED examination shall be offered to participants in the U.S.D. 501 program who are not currently enrolled in a home school and who wish to obtain a GED.

13. If a juvenile at Shawnee County Youth Center has been identified as exceptional and has a current IEP, the IEP, including related services, will be obtained and implemented at Shawnee County Youth Center except in those instances where implementation of IEP, or a portion thereof, is not reasonably calculated to confer educational benefit upon the juvenile. Instruction for exceptional children with IEPs shall be provided by teachers certified in special education, unless instruction of such children by teachers without special education certification is appropriate and consistent with the child's IEP. If the provisions of this paragraph are inconsistent with the



requirements of paragraph 12 above, the provisions of this paragraph shall take precedence.

14. If modifications to a juvenile's IEP are desirable or necessary, all provisions set out in federal and state laws and regulations for revision of IEPs shall be observed.

15. U.S.D. 501 shall afford all exceptional children at Shawnee County Youth Center, who are participating in its educational program and their parents, the due process rights set out in federal and state statutes and regulations with respect to special education actions taken or proposed by U.S.D. 501 while the juvenile is at Shawnee County Youth Center. U.S.D. 501 shall not be required to assume responsibility for due process proceedings pending in another school district at the time of the juvenile's admission to Shawnee County Youth Center, or to afford due process rights with respect to special education taken or proposed by another school district. If a juvenile's release from Shawnee County Youth Center is scheduled to take place within ten (10) school days from the date a request for a due process hearing is received, U.S.D. 501 is not required to provide the hearing.

16. Appropriate steps shall be taken by U.S.D. 501 to screen and perform a comprehensive evaluation for juveniles participating in its education program at Shawnee County Youth Center who have not been identified as exceptional and who do not have an IEP, but who may appear to be in need of special education services, unless a juvenile's predicted length of stay at Shawnee County Youth Center would not permit such steps to be meaningfully initiated.



If indicated, a multidisciplinary comprehensive diagnostic evaluation shall be conducted. In making such determinations, due consideration shall be given to the emotional distress and anxiety which often accompany secure detention and the impact of these emotions upon a juvenile's ability to learn or function normally in an educational environment, as well as the unique features of the educational environment at Shawnee County Youth Center. All assessments shall be done in the juvenile's primary language.

17. Educational programming and services shall be offered at Shawnee County Youth Center throughout the regular school year. Depending upon the availability of funding, a supplemental summer program will be offered by U.S.D. 501.

18. All reasonable efforts shall be made to obtain substitute teachers when regular teachers in the U.S.D. 501 program are unable to be present.

19. The educational program shall be integrated into the facility's behavior management and security systems. Educational staff shall participate in resident staffings and briefings, when appropriate, in order to ensure that appropriate behaviors are generalized, transferred and maintained in settings other than the classroom.

20. Educational staff shall be entitled to participate in all general staff meetings of the facility and shall be consulted on administrative decisions that may affect educational programming for residents at Shawnee County Youth Center.



21. The U.S.D. 501 education program shall receive supervision and evaluation on a regular and thorough basis by administrative personnel from U.S.D. 501, with Shawnee County Youth Center staff assistance provided as needed. The program supervisor will make at least quarterly site visits to Shawnee County Youth Center to provide supervision to U.S.D. 501 educational personnel, to coordinate and consult with Shawnee County Youth Center staff concerning the provision of educational services to all Shawnee County Youth Center residents, and to verify information provided to the program supervisor by U.S.D. 501 educational personnel.

22. The following information will be furnished by U.S.D. 501 education personnel at Shawnee County Youth Center to the U.S.D. 501 program supervisor at least quarterly:

- A. A brief description of the schedule and course offerings;
- B. Descriptive statistics to include:
 - 1. Number of students participating;
 - 2. Age, grade, district and school of attendance of participating students;
 - 3. Number of special education students;
 - 4. Average daily attendance and average number of days attended;
 - 5. Range of daily attendance and number of days attended;
 - 6. Other information as determined by management needed.



C. Samples of plans developed to meet the educational needs of residents participating in the program;

D. Samples of progress reports on those students with over five consecutive days of school attendance; and

E. Number of requests for related services and comprehensive evaluations, and the responses made to these requests.

This information and material will be assembled and furnished by the U.S.D. 501 program supervisor to counsel for the plaintiffs on a quarterly basis. In addition, the program supervisor shall furnish to counsel for the plaintiffs a copy of the initial annual U.S.D. 501 budget for its education program at Shawnee County Youth Center, a copy of any initial application for a grant of state moneys submitted to the Kansas Board of Education pursuant to K.S.A. 72-8187, and a copy of any initial request for and allocation of Chapter 1 funds for the provision of educational services at Shawnee County Youth Center. These documents shall be furnished to plaintiffs' counsel within thirty days of finalization or receipt, as applicable.

23. Adequate and appropriate space and furnishings for the required classroom instruction and related educational services shall be made available by the defendants.

24. Materials and equipment appropriate to meet the educational needs of juveniles at Shawnee County Youth Center shall be provided, including, but not limited to, an adequate



number of computers and appropriate software, curricular materials, text books, and resource books.

25. A safe and secure educational environment for juveniles and educational staff will be provided by the defendants.

26. The third-party defendant U.S.D. 501 shall use its best efforts, to obtain an adequate amount of federal and state funding for use in providing educational and related services to residents at Shawnee County Youth Center, and shall ensure that all funds so obtained are utilized for their intended purposes. The insufficiency of federal and state funds to fully fund the provisions of this section shall not relieve the third-party defendant U.S.D. 501 of its obligations under this section. However, a substantial reduction in the funds currently available to U.S.D. 501 for the provision of educational services to students in juvenile detention centers shall constitute a sufficient basis for U.S.D. 501 to petition the court for appropriate relief.

XX. FACILITY STAFFING AND TRAINING

1. Defendants agree to comply with the regulations found at Kansas Administrative Regulation 28-4-353a(h) with respect to staff professional development and training for all staff at the Shawnee County Youth Center.

2. The facility staff development and training program will be planned, coordinated and supervised by a qualified supervisory employee.



3. The facility's staff development and training program will be evaluated and updated based on an annual assessment that identifies current job-related training needs.

XXI. CLASSIFICATION

1. The facility shall maintain a system of classifying residents upon admission which will ensure that each resident is protected from the threat of harm, violence and suicide.

2. Classification procedure shall provide for identification of the least restrictive placement, consistent with the individual needs of the juvenile and the security needs of the facility and other residents.

3. The facility shall screen all residents upon admission utilizing a standardized, objective classification or risk assessment instrument to determine the risk of suicide, serious emotional disturbance and danger to others at the facility, as well as to determine the appropriate level of restrictiveness. Residents determined to be at risk of suicide or severe emotional disturbance shall receive mental health assessment and treatment.

4. To the maximum extent possible, the facility shall control and/or separate the following residents:

- A. Dangerous residents from those who are not;
- B. Male and female residents;
- C. Emotionally disturbed and/or suicidal residents from those who are not;
- D. Children in need of care from juvenile offenders;



E. Young residents from older residents.

5. The facility shall provide each resident with a copy of a resident handbook. The purpose of this handbook is to advise residents of their rights and inform them about the institutional program, applicable rules of conduct, and potential sanctions for violations of rules. The facility shall make the handbook available in Spanish.

6. The facility shall also provide an orientation for each newly admitted resident. The orientation shall include information on the rights of residents in the institutional program, responsibilities of residents in secure confinement, rules of conduct, and potential sanctions.

XXII. FACILITY PROGRAMS

1. The facility shall maintain a written plan and daily routine for all juveniles which shall include meals, rest and sleep, personal hygiene, physical exercise, recreation, counseling, education and social services. All volunteers utilized by Shawnee County Youth Center shall be screened and provided with appropriate training and supervision.

XXIII. TERM OF CONSENT DECREE

1. All parties will be in compliance with this Consent Decree within thirty (30) days following the entry of the Court's Order. The Consent Decree will remain in full force and effect until such time as all residents are fully removed from the

current Shawnee County Youth Center facility and placed in the new facility.

XXIV. ENFORCEMENT AND MONITORING

1. Bruce Linhos is hereby designated to monitor and oversee the implementation of the terms of this Consent Decree and/or the plan or plans established to implement the terms of the Consent Decree. The Board of County Commissioners of Shawnee County shall bear the responsibility for payment of all reasonable and necessary costs of the monitoring, pursuant to a schedule or agreement to be approved by the Court. If the Monitor subsequently becomes unable or unwilling to perform his duties, the parties will designate a replacement Monitor, who shall be subject to approval by the Court. If the parties are unable to agree upon a replacement Monitor within thirty (30) days after learning of the current Monitor's inability or unwillingness to continue to serve in that capacity, the Court shall appoint a replacement Monitor.

Section XIX, Education, shall govern the monitoring of the educational program conducted at the Shawnee County Youth Center by third party defendant U.S.D. 501. All persons asserting any claim or demand concerning or involving the educational program conducted at the Shawnee County Youth Center by third party defendant U.S.D. 501 must first fully exhaust all administrative remedies available to such persons before any claim or demand may be asserted against third party defendant U.S.D. 501 under this



Settlement Agreement and Consent Decree. In the event no administrative remedy is applicable to such claim or demand, or all available administrative remedies have been exhausted, the same must first be presented to the monitor for consideration as otherwise provided in this Section XXIV, Enforcement and Monitoring. The provisions of this subsection shall also apply to any claims or demands made under this Settlement Agreement and Consent Decree by the defendants against third party defendant U.S.D. 501.

2. The Monitor shall inspect the Shawnee County Youth Center facility within ninety (90) days of the entry of the Consent Decree and once every six (6) months thereafter. The Monitor may inspect more often to observe facility action in response to identified problems. The facility shall cooperate fully with the Monitor's inspections and make available to the Monitor necessary documentation, facility staff and residents for interviews as necessary. The Monitor need not inspect every six (6) months after one year following the signing of the Consent Decree if the Monitor determines that such inspections are not necessary.

3. The Monitor shall meet with all the parties together to discuss the findings contained in the Monitor's 90-day report. Thereafter, the Monitor shall issue a written report within thirty (30) days of any inspection describing the facility's progress in achieving compliance with this Consent Decree and its



implementation plans. The Monitor shall provide copies of the report to the Court and the parties. Any party may respond to any report filed by the Monitor within ten (10) days after receipt of the report, requesting that the Monitor revise any findings or conclusions contained in the report. The Monitor shall respond to such requests within ten (10) days after receipt. The report of the Monitor shall be final and binding unless any party files objections with the Court within thirty (30) days after receipt of the report, or of any modification thereto. The Court shall hear the matters de novo, and the burden of persuasion shall be on the party filing the objections. The parties will take prompt action to remedy any areas of noncompliance with the Consent Decree cited in the Monitor's report, or any modification thereof, except for any provisions of the report to which they file objections with the Court.

4. Any party may raise questions of compliance with this Consent Decree and its implementation plans. Any party's questions of compliance and all individual complaints regarding compliance with this Consent Decree must first be presented to the Monitor. If the Monitor is unable to resolve the questions informally, any party may request that the Monitor make findings of fact within ten (10) days after the failure of the Monitor's efforts at informal resolution. The Monitor shall make such findings of fact within ten (10) days after receipt of a request therefor. The findings of fact shall be final and binding unless



any party files objections with the Court within thirty (30) days. The Court shall hear the matter de novo and the burden of persuasion shall be on the party filing the objections.

5. This Consent Decree resolves all matters of issue between the parties with the exception of plaintiffs' claims for attorneys' fees and costs. Counsel for plaintiffs further agree to forthwith dismiss the pending administrative complaint filed with the Kansas State Board of Education on or about August 1, 1994. Plaintiffs and their counsel agree that they will not claim prevailing party status in this litigation by virtue of the parties' agreement to stipulate to class certification and monitoring. Plaintiffs and their counsel agree that the time period for which attorneys' fees and costs are sought terminates upon approval of this Consent Decree by the Court. Plaintiffs and their counsel agree that they will not claim attorneys' fees and costs for prosecution of the issue of attorneys' fees in the District Court unless there is a finding of bad faith on the part of the defendants. The parties agree in the event of an appeal by defendants of an adverse ruling by the District Court on the issue of plaintiffs' attorneys' fees and costs, plaintiffs are entitled to seek attorneys' fees and costs for the time spent in preparation on appeal. All parties further agree that defendants or third party defendants shall not be liable to pay any or all of plaintiffs' attorneys' fees or costs to monitor and enforce this Consent Decree after it is signed unless the Court finds defendants or third party defendants to be in contempt.



6. Counsel for defendant Board of County Commissioners shall provide to plaintiffs' counsel a daily population count and list of known offenses on the 1st and 15th day of each month for ninety (90) days following the signing of this Consent Decree.

XXV. CLASS CERTIFICATION

This action is certified as a class action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure and is binding on all current and future class members. Plaintiffs T.Y., D.S. and B.A. are certified as class representatives for a class consisting of all juveniles who are or will be confined at the Shawnee County Youth Center during the term of this Consent Decree. The class is represented by attorneys Larry Rute of Kansas Legal Services, Inc. and Claudia J. York of Shughart, Thomson and Kilroy, P.C.

IT IS SO ORDERED.

Entered this _____ day of _____, 1995.

Dale E. Saffels
United States District Judge

APPROVED:

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DETENTION ASSESSMENT
(Revised 5-9-95)

I. PRELIMINARY ASSESSMENT

- A.** Detain on all district court judicial warrants. If SCYC population exceeds 20 or more, contact the court or call the Judge. Yes ___ No ___
- B.** Arrest report for Felony involving violence to persons. Yes ___ No ___
- C.** Arrest for battery of a residential provider Yes ___ No ___
- D.** Alleged violation of burglary, weapon involved, or sale of drug Yes ___ No ___

AND in addition:

- Y ___ N ___ Prior failure to appear; or
 Y ___ N ___ Presently awaiting adjudication or disposition; or
 Y ___ N ___ Prior arrests for crimes of violence

(Release if No - Complete II if any are Yes)

II. DETENTION ASSESSMENT (Circle one in each category)

- A. Most Serious Current Offense**
- | | | | |
|----|---|----|-------|
| 1. | Any Felony Involving Violence to Persons or Any Felony Involving Weapons or Sale of Drugs | 12 | |
| 2. | Other Felony | 9 | |
| 3. | Any Felony Warrant Outside Jurisdiction | 12 | |
| 4. | Any DUI, Reckless or Eluding | 6 | _____ |
- B. Other Cases**
- | | | | |
|----|---|-------|-------|
| 1. | Each Felony Arrest or Pending Case Involving a Weapon | 3 | |
| 2. | Each Misdemeanor Arrest or Pending Case | _____ | 1 |
| 3. | Each Felony Within Past Week | _____ | 6 |
| 4. | Arrest for Battery of a residential provider | _____ | _____ |
- C. Prior Adjudications**
- | | | | |
|----|---|---|-------|
| 1. | Each Felony Adjudication in Last 12 Months | 6 | |
| 2. | Each Misdemeanor Adjudication in Last 12 Months | 3 | _____ |
- D. Legal Status**
- | | | | |
|----|---|----|-------|
| 1. | Presently Committed to Any State Youth Center | 12 | |
| 2. | Presently Placed Out of Home and Last Adjudication Within 90 Days | 6 | |
| 3. | Presently Placed Out of Home and Last Adjudication Over 90 Days | 3 | _____ |
- E. Aggravating or Mitigating Factors**
- | | | | |
|----|---|--|-------|
| 1. | District Judge Contacted & Finds Aggravation (May Add 1-2 Points W/Reason(s) Documented) | | |
| 2. | District Judge Contacted & Finds Conduct Mitigated (May Subtract 1-2 Points W/Reason(s) Documented) | | _____ |

TOTAL SCORE (Add A thru E)

0-6=Considered Placement 7-11=Shelter Screen 12+=Secure Detention

