



JI-MT-003-002

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

D. DOE, et al.,)
Plaintiffs,) CV-77-74-BLG
-vs-) CONSENT DECREE
DON T. HOLLADAY, et al.,)
Defendants.)

PREAMBLE

Plaintiffs filed this class action pursuant to the Civil Rights Act of 1871, 42 U.S.C. §1983, in May 1977, alleging federal jurisdiction under 28 U.S.C. §§1343(3), (4) and 1331(a). The Court certified the class, which is comprised of: (1) all male juveniles presently confined at the Pine Hills School in Miles City, Montana; (2) all male juveniles previously confined at the Pine Hills School and now under the supervision, custody, and control of the Montana Department of Institutions; and (3) all male juveniles who may in the future be incarcerated in the Pine Hills School. The Pine Hills School is a youth correctional facility for the rehabilitation of delinquent youths. §41-5-103(17), MCA.

The complaint filed by plaintiffs alleged that conditions and practices at the Pine Hills School violated plaintiffs' rights, privileges, and immunities under state law and the First, Third, Fourth, Fifth, Eighth, and Fourteenth Amendments of the United States Constitution. It focused principally on procedures for confining individual students in the school's maximum security unit (Clark Lodge) and the conditions and practices to which the students were subjected within

1 that lodge. Additionally, the complaint challenged the
2 adequacy of the rehabilitation program at Pine Hills; school
3 censorship policies; and the lack of written rules governing
4 admission, custody, transfer, and release of youths committed
5 to the Institution. In their prayer for relief, plaintiffs
6 sought declaratory, injunctive, and other equitable redress.

7 Defendants denied the allegations of the complaint but
8 acknowledged the Court's jurisdiction.

9 Since the commencement of this action in May 1977, there
10 have been significant developments which have affected the
11 course of the litigation. First, Clark Lodge was closed. Second,
12 the procedure by which students are confined in maximum security,
13 the conditions to which they are subjected while
14 in confinement, and the length of confinement have radically
15 changed. Third, the Superintendent of the Pine Hills School
16 at the time the complaint was filed, Don T. Holladay, resigned
17 in May 1978; a new Superintendent, with different philosophies,
18 has served the school since that time. Fourth, in February
19 1978, the parties agreed to a comprehensive evaluation of the
20 Pine Hills School by three independent experts in the
21 administration of juvenile institutions. The evaluation dove-
22 tailed with an existing program of the Department of Institu-
23 tions for the comprehensive evaluation of all Montana institu-
24 tions. As a part of the comprehensive evaluation, consultations
25 and negotiations between plaintiffs' and defendants' attorneys
26 were expanded to encompass many matters not expressly raised
27 by plaintiffs' complaint.

28 Numerous changes have been made at the Pine Hills School
29 since the commencement of this lawsuit and many of the issues
30 raised in the complaint may now be moot. These changes
31 resulted from the evaluation team's recommendations,
32 consultations between the parties, and new policies voluntarily

1 promulgated by the Department of Institutions and the new
2 Superintendent of the Pine Hills School.

3 This Consent Decree reflects a continuing spirit of
4 cooperation between plaintiffs and defendants in an attempt to
5 generally improve the Pine Hills School and to specifically
6 respond to plaintiffs' claims. The Decree goes beyond the
7 allegations in the complaint and reflects agreed matters
8 irrespective of whether they were raised by the complaint.

9 By participating in this Decree, plaintiffs do not waive
10 their right to litigate any claims and issues which may remain
11 unresolved and do not intend to dispose of any issue for which
12 no specific provision is made in this Decree.

13 I.

14 DEFINITIONS

- 15 1. ADMINISTRATOR -the Administrator of the
16 Corrections Division of the
17 Department of Institutions.
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- 19 2. CONTRABAND -anything youths are not
20 authorized to possess,
21 including items that are il-
22 legal or that threaten the
23 security of the Institution.
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- 25 3. CORRECTIONS DIVISION -the division of the Montana
26 Department of Institutions
27 directly responsible for
28 supervising the Pine Hills
29 School.
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- 31 4. COTTAGE LIFE STAFF -employees of Pine Hills
32 School who work directly

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with youths in the various lodges in which the youths reside.

5. DEPARTMENT

-Montana Department of Institutions.

6. DIRECTOR

-the Director of the Montana Department of Institutions.

7. EMPLOYEES

-all employees of the Pine Hills School, including staff and volunteers.

8. GENERAL POPULATION

-all youths in the Institution who are not in segregation, punitive isolation, or the internal support sections.

9. INSTITUTION

-the Pine Hills School in Miles City.

10. INTERNAL SUPPORT SECTIONS-the Institution's most

secure living units/ programs for youths who are unable to function acceptably in the general population.

- 1 11. LODGE -a residence for youths.
2
3 12. SOCIAL WORKER -staff member primarily
4 responsible for provid-
5 ing counseling, program
6 supervision, and general
7 case work.
8
9 13. STAFF -all employees of Pine
10 Hills School who exercise
11 direct supervisory res-
12 ponsibility for youths.
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14 14. SUPERINTENDENT -the Superintendent of
15 Pine Hills School or a
16 named staff member des-
17 ignated by the Superin-
18 tendent as his represen-
19 tative with respect to a
20 specific matter.
21
22 15. YOUTH -any youth committed to
23 the Pine Hills School.

24 II.

25 STATEMENT OF PRINCIPLES

- 26 1. This Consent Decree should be interpreted in a
27 manner consistent with the rehabilitation needs of the youths
28 and the reasonable requirements of public safety.
29 2. Each youth has the right to be free from harm and
30 to receive appropriate individualized treatment in the least
31 restrictive setting. These rights are guaranteed under sections
32 41-5-101 et seq., MCA, the Constitution of Montana, and the

1 Constitution of the United States.

2 3. The purpose of the Pine Hills School is to foster
3 normal growth, rehabilitation, and mature development of
4 youths. As far as practical within the institutional and
5 community setting, taking into consideration the ages of the
6 youths and their need for reasonable security, direction,
7 guidance, and treatment, the Pine Hills School shall provide
8 opportunities for each youth to:

- 9 A. enhance individuality and self-respect;
- 10 B. enjoy privacy;
- 11 C. develop intellectual and vocational abilities;
- 12 D. retain family ties and personal ties which do not
13 undermine individual treatment and development;
- 14 E. express cultural identity;
- 15 F. relate to and socialize with peers of both
16 sexes;
- 17 G. practice religious beliefs;
- 18 H. explore social and philosophical ideas;
- 19 I. enjoy a nutritious and varied diet;
- 20 J. receive adequate dental and medical care,
21 including human sexuality counseling;
- 22 K. enjoy a variety of recreational activities;
- 23 L. be free from physical abuse or attack, humiliation,
24 and psychological abuse;
- 25 M. live in an environment which is designed to
26 maximize individual security, privacy, and
27 dignity;
- 28 N. exercise freedom of choice as to personal
29 matters such as dress, hair length, and
30 choice of friends; and,
- 31 O. communicate with persons in the community.

32 4. The Institution shall be utilized for confinement

1 after adjudication in accordance with the Montana Youth Court
2 Act or as otherwise allowed by law.

3 5. Each youth shall be given progressively more freedom
4 as he exhibits appropriate behavior. A youth committed pursuant
5 to state law shall be released from the Institution as soon as
6 the Institution determines confinement is no longer necessary
7 and an appropriate post-institutional program is established.

8 6. Each youth shall be entitled to a free, appropriate
9 education.

10 7. Each youth shall have the right to challenge through
11 established and appropriate legal procedures the legality of
12 his confinement or placement, seek redress for illegal conditions
13 or treatment while under correctional control, pursue remedies
14 in connection with civil legal problems, and assert against
15 correctional or other governmental authority any other rights
16 protected by constitutional or statutory provisions.

17 8. Each youth shall be afforded civil rights which are
18 not precluded by law or court order and which are appropriate
19 considering his commitment to the Pine Hills School, his individual
20 treatment program, conduct, and age.

21 9. Inappropriate behavior by a youth may be evidence of
22 significant emotional or psychological dysfunction and may
23 require increased, rather than decreased, awareness and
24 interaction.

25 10. The objects of the Institution's disciplinary system
26 are:

- 27 A. To reasonably regulate the behavior of youths and
28 to impose disciplinary measures proportionate to
29 the inappropriate or prohibited behavior;
- 30 B. To promote fairness and regularity in the system;
- 31 C. To separate major infractions of institutional
32 regulations from minor infractions;

- 1 D. To promote the use of written regulations to insure
2 that each youth knows what conduct is expected of
3 him and what sanctions may be imposed for violations
4 of regulations;
5 E. To provide a procedure for the imposition of
6 disciplinary measures; and,
7 F. To prohibit cruel and unusual punishment of youths.

8 III.

9 PROVISIONS

10 Defendants, their successors, agents, employees, and all
11 those persons in active concert with them, shall comply, during
12 the operation of the Pine Hills School, with the following
13 provisions:

14 ORIENTATION

15 1. A written policy shall be established to govern the
16 reception, classification, and orientation of each newly
17 admitted youth. The policy shall provide that during the youth's
18 orientation period initial decisions shall be made classifying
19 the youth in terms of security, lodge assignment, and participa-
20 tion in institutional and community programs.

21 2. Copies of institutional policies and regulations shall
22 be provided and explained to each youth during his orientation
23 period. Material provided shall include information about:

- 24 A. Visitation;
25 B. Authorized leaves or home visits;
26 C. Mail;
27 D. Use of the telephone;
28 E. The grievance procedure;
29 F. The disciplinary system, including prohibited
30 behavior and sanctions;
31 G. Searches;
32 H. Access to legal counsel for assistance with legal

1 problems both inside and outside the Institution
2 and the names and addresses of local organizations
3 providing free legal assistance, if any; and

4 I. Access to medical and dental services.

5 3. The same orientation materials shall be provided to
6 the parents or legal guardian(s) of each youth.

7 TREATMENT

8 4. The Institution shall employ, either as an employee
9 or on a contract-for-service basis, a psychiatrist or Ph.D.
10 level psychologist who shall be responsible for providing
11 mental health services at the Institution, including the
12 screening of newly admitted youths and the development and
13 implementation of treatment programs for the internal support
14 sections.

15 5. The psychiatrist or Ph.D level psychologist shall have
16 an adequate staff to meet the mental health and treatment needs
17 of youths.

18 6. The Department and Corrections Division recognize
19 that the Institution must have an adequate staff-youth ratio
20 if youths are to receive effective treatment.

21 7. The Institution shall establish an individualized
22 treatment and rehabilitation program for each youth within
23 the least restrictive setting appropriate for the youth. The
24 program shall be written, shall include a description of
25 expected behavior and accomplishments, a projected time
26 schedule for achievement and subsequent release, and signatures
27 of both the youth and the appropriate staff member. The program
28 shall provide for a gradual decrease in supervision and a
29 corresponding increase in the youth's freedom and responsibility.
30 Once the youth's program is established, planning for his release
31 from the Institution and development of a post-institutional plan
32 shall be initiated.

1 8. In the planning and implementation of treatment and
2 rehabilitative programs for youths, the Institution shall
3 utilize professionals who collectively have expertise in the
4 fields of psychology, psychiatry, education (academic and
5 vocational), special education, vocational guidance, social
6 work, and medical care, as these disciplines relate to youths.
7 Opportunity shall be extended to each youth and his parent(s)
8 or guardian(s) to participate in a meaningful way, to the
9 extent of their respective capabilities, in the design of the
10 youth's individual treatment program.

11 9. To assist in the design and coordination of the
12 treatment program for each youth, the youth's academic records
13 and counseling records at the Institution shall be available to
14 all staff working with the youth.

15 10. A written policy shall be established to provide for
16 a major review of each youth's treatment program, including his
17 readiness for release from the Institution, no later than three
18 (3) months after admission and at least every three (3) months
19 thereafter. The review shall be by a committee, which shall
20 include the youth's social worker. The policy shall also provide
21 that a written report summarizing the review shall be prepared
22 by the social worker. The report shall:

- 23 A. Specify the date of review;
- 24 B. List the names of all staff members who participated
25 in the review;
- 26 C. Include an evaluation of the youth's present
27 treatment program;
- 28 D. Include an evaluation of the youth's behavior
29 since the last review;
- 30 E. Set forth in detail any changes to be made in the
31 youth's program and the reasons for the changes;
32 and,

1 F. Set forth clearly the criteria the youth
2 must satisfy to secure his release from the
3 Institution.

4 11. The report described in the preceding paragraph shall
5 be placed in the youth's file and a copy given to the youth. If
6 the youth's program is to be substantially changed and he objects
7 to the proposed change(s), he may file a grievance.

8 RIGHTS

9 12. A written policy shall establish procedures to ensure
10 that the due process rights of youths are protected.

11 13. The policy regarding due process rights shall provide
12 that a due process hearing before an impartial tribunal shall
13 be held if a youth is charged with an infraction of institutional
14 regulations and a finding that the youth committed the infraction
15 may result in:

- 16 i. The imposition of sanctions permitted for
17 major infractions; or,
18 ii. Placement in an internal support section.

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20 A. The hearing shall be convened by or at the direction
21 of the Superintendent;
22 B. A youth charged with an infraction shall be
23 presumed innocent until proven guilty by a
24 preponderance of substantial evidence;
25 C. The hearing shall be informal and shall be
26 conducted by an impartial tribunal who shall
27 determine the youth's guilt or innocence. The
28 tribunal may be an individual or a panel of three.
29 The size of the tribunal shall be determined by
30 the Superintendent;
31 D. Department heads at the Institution and volunteer
32 attorneys shall serve as members of the tribunal.

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The membership of the tribunal shall be determined by the Superintendent;

- E. The youth shall be given at least twenty-four (24) hours written notice of the due process hearing. If the infraction occurred on a Friday or a day preceding a holiday, the youth and his representative may waive the twenty-four (24) hour notice;
- F. The youth's notice shall contain:
 - i. Reason(s) for the hearing, including a detailed description of the alleged infraction;
 - ii. The time and place of the hearing;
 - iii. The name of the complainant and any witnesses he/she intends to call; and,
 - iv. A statement that:
 - (a) The youth shall be represented by a staff member of his choice or by an attorney retained by the youth at his own expense. In the event the youth does not choose a representative, his assigned social worker shall fill the role; if the social worker is unable to fill the role, the tribunal shall appoint an individual to act as the youth's representative;
 - (b) The following persons shall not be allowed to act as a youth's representative:
 - (1) The Superintendent;
 - (2) Any member of the tribunal; or,
 - (3) Any individual who is directly involved in the case;
 - (c) At the hearing the youth shall have the right to confront and cross-examine

1 opposing witnesses, to set forth his
2 position and to present his own
3 witnesses. The right to cross-examine
4 shall not, however, extend to a
5 confidential informer if the tribunal
6 reasonably determines that disclosure
7 of the informer's identity would
8 jeopardize his safety. If the
9 informer's identity is not disclosed,
10 the substance of his evidence shall
11 be disclosed to the youth
12 and his representative and the youth
13 may not be found guilty unless the
14 evidence of the confidential
15 informer is corroborated by other
16 substantial evidence;

17 G. Prior to the hearing, the youth may not be
18 confined in a setting more secure than his
19 residence at the time of the alleged infrac-
20 tion or subjected to other restrictions unless
21 the Superintendent first determines that
22 probable cause exists to believe that the
23 youth committed the alleged infraction and
24 then reasonably determines that confinement
25 in a more secure setting or the imposition
26 of other restrictions is necessary to
27 protect the youth, to protect others, or to
28 maintain institutional integrity.

29 i. The youth may not be confined for
30 more than thirty-six (36) hours,
31 excluding weekends and holidays, unless
32 the Superintendent reasonably determines

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that the hearing cannot be held within that time, in which case the youth may be confined up to forty-eight (48) hours, excluding weekends and holidays;

ii. If the youth is found guilty of the alleged infraction, the tribunal shall consider the confinement or restrictions to which he has been subjected in determining the appropriate sanction.

H. The due process hearing shall be tape-recorded and the record preserved at least ninety (90) days;

I. At the hearing, the tribunal shall inform the youth of the reason for the hearing. The tribunal shall ask the youth to admit or deny the charge. If the charge is denied, the tribunal shall call and question the complainant and the complainant's witnesses. The youth or his representative shall have the opportunity to cross-examine any witness other than a confidential informer, to inspect and challenge any documentary or physical evidence, to introduce evidence, and to call witnesses;

J. The tribunal shall render a written decision based upon evidence presented at the hearing and notify the youth and his representative of the decision within twenty-four (24) hours of the hearing. The decision shall:

- i. Summarize the evidence relied upon; and,
- ii. Find that the youth did not commit the alleged infraction, in which case all records of the charge shall be expunged

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from his files; or,

iii. Find that the youth did commit the alleged infraction, in which case the tribunal may:

(a) Impose sanctions permitted by institutional policy; and/or,

(b) Order placement of the youth in an internal support section;

K. The youth, assisted by his representative, may appeal the tribunal's decision to the Superintendent. The appeal shall be in writing and shall be made within forty-eight (48) hours of receipt of the decision, excluding weekends and holidays. The Superintendent's review shall be limited to the hearing record. He shall make a written decision within seventy-two (72) hours. He may reverse, affirm, or modify the tribunal's decision or reduce the sanctions imposed by the tribunal.

14. The policy regarding due process rights shall also provide:

A. A youth who has allegedly committed a criminal offense for which prosecution by state authorities is sought may be confined in a setting more secure than his residence at the time of the criminal offense or be subjected to other restrictions if the Superintendent first determines that there is probable cause to believe that the youth committed the offense and then reasonably determines that confinement or restrictions are necessary to protect the youth, to protect others,

1 or to maintain institutional integrity. The
2 decision of the Superintendent and the reasons
3 for the decision shall be in writing.

4 i. If state authorities decline to prosecute
5 or if a decision to prosecute has not been made
6 within two (2) days of the request to
7 prosecute, excluding weekends and holidays,
8 the youth shall be released from confinement
9 or charged with a major infraction of
10 institutional regulations. If he is charged
11 with a major infraction, a due process
12 hearing shall be held within twenty-four (24)
13 hours;

14 ii. The youth shall not be questioned about
15 the criminal offense nor subjected to a due
16 process hearing unless he is represented by
17 an attorney;

18 B. The degree of procedural formality that must
19 precede the imposition of sanctions for minor
20 infractions of institutional regulations or the
21 imposition of other restrictions on the liberty of
22 youths shall be determined by the seriousness of
23 the sanction or restriction sought to be imposed.
24 The greater the permissible sanction or restriction,
25 the greater the degree of formality that shall
26 be required.

27 15. A written policy shall establish a grievance procedure
28 by which youths and employees may complain about policies,
29 personnel, conditions, procedures, or programs at the Pine Hills
30 School. The grievance procedure shall be governed by the following
31 principles:

32 A. Grievances shall be submitted to the

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Superintendent;

- B. There shall be reasonable time limits within which a grievance may be submitted;
- C. The grievance procedure shall permit informal resolution of grievances;
- D. There shall be brief time limits for the receipt of all responses to a grievance as well as for action that is required to relieve the grievance;
- E. A complaining party shall be guaranteed fair consideration of his grievance and a written response to the grievance with stated reasons for the decision. In the absence of such a response, there shall be further recourse available to the complaining party;
- F. A youth who has difficulty presenting his grievance shall be assisted by a staff member of his choice;
- G. The Administrator shall periodically review and evaluate the grievance procedure;
- H. There shall be no reprisals against anyone for using the grievance procedure;
- I. The Administrator shall be notified of any grievance involving the Superintendent or any grievance alleging physical abuse;
- J. Any decision on a grievance involving the Superintendent or on a grievance alleging physical abuse may be appealed to the Administrator. All other decisions may be appealed to the Superintendent by any person directly affected. If the Super-

1 intendent participated in the decision on
2 appeal, he shall appoint an impartial
3 employee to hear the appeal.

4 K. The grievance procedure shall provide
5 the means for immediate consideration and
6 redress of an emergency grievance;

7 L. The grievance procedure shall include a
8 method for determining whether
9 a particular complaint falls within its
10 jurisdiction;

11 M. Youths and employees shall participate in the
12 development and operation of the grievance
13 procedure;

14 N. If a grievance challenges the procedure that
15 preceded the imposition of a sanction for a minor
16 infraction or the sanction itself, imposition of
17 the sanction shall be stayed until it has been
18 affirmed by a final decision on the grievance;

19 O. Neither the procedure that preceded the imposition
20 of a sanction after a due process hearing nor
21 the sanction itself may be the subject of a
22 grievance; and,

23 P. Each use of the grievance procedure shall be
24 reported. Reports shall be centrally filed
25 in chronological order and shall include the
26 date of the grievance, the name of the person
27 filing the grievance, a description of the
28 grievance, a summary of any investigation, and
29 a statement of the disposition and the reasons
30 for the disposition and shall be signed
31 by the person who decided the grievance.

32 16. A written policy shall be established to insure the

1 right of youths to receive visitors subject only to reasonable
2 limitations necessary to maintain the order and security of
3 the Institution. The policy shall govern all visitation except
4 visits with an attorney or an attorney's authorized representa-
5 tive or visits that are part of the Family Therapy Program. The
6 policy shall provide:

- 7 A. Visits shall be liberally permitted subject to
8 the youth's schedule;
- 9 B. Visits may be subject to visual, but not
10 auditory, monitoring;
- 11 C. There shall be no limitations on the length or
12 number of visits a youth may receive unless the
13 Superintendent reasonably determines in writing
14 that:
 - 15 i. The visits jeopardize the safety and
16 security of the Institution or the visitors;
 - 17 or,
 - 18 ii. The visits are anti-therapeutic;
- 19 D. A youth shall be informed in writing of any
20 limitation on his right to receive visitors and the
21 reason for the limitation. A copy of the
22 writing shall be placed in the youth's file;
- 23 E. Visitation may occur on any day between 9 a.m.
24 and 5 p.m. or at any other reasonable time
25 specified by the Superintendent; and,
- 26 F. Procedures for special visits.

27 17. A written policy shall be established to insure the
28 right of youths to make and receive private telephone calls.
29 The policy shall govern all telephone use except telephone
30 calls to and from the youth's attorney or the attorney's author-
31 ized representative or telephone use that is part of a Family
32 Therapy Program. The policy shall provide:

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- A. Telephone calls, including in-state long distance calls, shall be liberally permitted subject to the youth's schedule and reasonable time of day, length, staff, and fiscal limitations;
- B. The persons to whom calls may be made or from whom calls may be received shall not be restricted, unless the Superintendent reasonably determines that:
 - i. The calls jeopardize the safety and security of the Institution; or,
 - ii. The calls are anti-therapeutic;
- C. Procedures for emergency telephone calls;
- D. Each youth whose parents or guardians reside outside the state of Montana shall be allowed to make at least one long distance telephone call to them of fifteen (15) minutes duration per month at state expense; and,
- E. A youth shall be informed in writing of any limitation of his right to use the telephone and the reason for the limitation. A copy of the notice shall be placed in the youth's file.

18. A written policy shall ensure the right of youths to send and receive mail, including correspondence, packages, and publications. The policy shall provide:

- A. Privileged correspondence--
 - i. Privileged correspondence is correspondence between youths and:
 - (a) Attorneys;
 - (b) Judges and Clerks of federal, state, tribal, and local courts;
 - (c) The Director of the Department of

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Institutions and his staff;

- (d) The President, Vice-President, and Attorney General of the United States;
- (e) A member of the United States Congress;
- (f) The Governor, Lieutenant Governor, and Attorney General of any state;
- (g) A member of any state legislature;
- (h) An elected leader or member of the governing body of any Indian tribe;
- (i) Federal, state, and tribal probation officers; and,
- (j) Representatives of news media (outgoing correspondence only);

ii. Outgoing privileged correspondence shall not be opened, inspected, read, or censored;

iii. Incoming privileged correspondence:

- (a) Shall be treated as privileged only if the name and official status of the sender is adequately identified on the envelope;
- (b) May be opened and inspected for cash, checks, money orders, or contraband, but only in the presence of the youth to whom it is addressed; and,
- (c) Shall not be read or censored;

B. General Correspondence--

i. General correspondence is correspondence between youths and persons other than privileged correspondents;

ii. Youths may send mail to whomever they wish, except that mail to inmates of penal or correctional institutions may be sent only

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with the Superintendent's approval, which shall not be unreasonably withheld;

iii. Outgoing general correspondence shall not be opened, inspected, read, or censored;

vi. Incoming general correspondence:

(a) May be opened and inspected for cash, checks, money orders, or contraband;

(b) Shall not be read unless there is credible evidence that the correspondence contains:

(1) Plans for sending contraband into or out of the Institution;

(2) Plans for criminal activity, including escape; or,

(3) Information which, if communicated, would create a clear and present danger to the security of the Institution;

(c) Shall be read only if the youth is present and has been first advised of the reasons for reading the correspondence. If the youth wishes to contest the decision to read the correspondence, he may appeal it through the grievance procedure. The correspondence shall not be read until a final decision on the grievance has been rendered; and,

(d) May be censored if it discusses any of the matters described in subparagraph (b);

C. Packages may be opened and inspected for cash, checks, money orders, or contraband.

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- i. The Superintendent shall provide youths with a list of items considered to be contraband. The list may include, but is not limited to:
 - (a) Weapons and explosives;
 - (b) Toxics, alcohol, and drugs;
 - (c) Jewelry and electronic equipment, unless approved by the Superintendent;
 - (d) short-wave radios;
 - (e) Aerosol deodorants, aftershave lotion, or other toiletries containing alcohol;
 - (f) Tools;
 - (g) Cigarette lighters; and,
 - (h) Drug paraphernalia;
- D. Youths shall be permitted to receive books, magazines, newspapers, and other publications unless the Superintendent reasonably determines that the publication is anti-therapeutic, obscene, or that it presents an immediate threat to the security of the Institution;
- E. Cash, checks, money orders, or contraband discovered in a youth's mail shall be removed. Cash, checks, or money orders shall be credited to the youth's account and receipts shall go to the youth and the sender. Contraband that is illegal or that presents a threat to the security of the Institution or correspondence that discusses criminal activity may be forwarded to law enforcement officials. Other contraband shall be returned to the sender;
- F. Whenever a decision is made to censor or return mail, the youth to whom the mail is addressed

1 shall be notified in writing of the decision
2 and the reasons for the decision. If the youth
3 wishes to contest the decision, he may file a
4 grievance. The mail shall not be censored or
5 returned until a final decision on the grievance
6 has been rendered;

7 G. Whenever mail has been censored or returned, the
8 sender shall be notified and given the reasons
9 for the censorship or return. He/she may appeal
10 the decision to the Superintendent. If the
11 Superintendent participated in the decision to
12 censor or return, he shall designate an impartial
13 employee to hear the appeal;

14 H. Whenever a youth's correspondence has been
15 read and/or censored, or a youth has not been
16 allowed to receive a package or publication, a
17 written report shall be filed with the Super-
18 intendent. The report shall include the date
19 the action was taken, the name of the employee
20 who took the action, the evidence supporting
21 the action, and a copy or description of the
22 material that was read, censored or returned. If
23 correspondence was read and/or censored, the
24 report shall include a copy of the correspondence.
25 If a publication was returned, the report shall
26 indicate the title and date of the publication.
27 A copy of the report shall be placed in the
28 youth's file. The reports shall be reviewed
29 monthly by the Superintendent to ensure strict
30 compliance with the Institution's mail policy;

31 I. Youths shall be allowed to receive an unlimited
32 amount of mail;

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J. Youths shall receive postage and stationery sufficient to mail at least three pieces of first-class domestic mail, weighing one ounce or less, per week. When a youth is without funds or sufficient postage, privileged correspondence or necessary correspondence in verified emergencies shall be mailed without charge to him;

K. Outgoing mail shall be collected from youths and mailed at least once every weekday. Incoming mail shall be held only so long as is necessary for inspection and/or reading, but never longer than forty-eight (48) hours, unless it is the subject of a grievance. Incoming mail shall be distributed by a designated employee directly to the youth to whom it is addressed. Mail shall never be collected or distributed by youths.

19. A written policy shall be established that specifies the religious rights of youths at the Institution. The policy shall not violate state or federal law and shall provide:

- A. Participation in the Institution's religious programs shall be voluntary;
- B. When feasible, the Institution shall allow for the religious needs of all youths; and,
- C. Appropriate religious materials shall be accessible.

20. A written policy shall be established that ensures youths access to courts and attorneys. The policy shall provide:

- A. Youths shall have access to:

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- i. Attorneys; and,
- ii. Authorized representatives of attorneys, limited to law students, paralegals, secretaries, and special investigators;
- B. If he requests, a youth shall be given assistance in contacting any of the persons referred to in Part A. The contact shall be confidential;
- C. Visits with any of the persons referred to in Part A may occur at any reasonable time. If a visit is to be conducted outside normal working hours, the visitor shall notify the staff of the proposed visit and obtain permission, which shall not be unreasonably withheld;
- D. Visits with any of the persons referred to in Part A shall be in private;
- E. Confidential telephone communication with any person referred to in Part A shall be permitted, subject to reasonable time of day limitations. A staff member shall assist with such communication; and,
- F. There shall be no limit on the number or length of visits and telephone calls between a youth and any person referred to in Part A. The State shall pay for long distance in-state telephone calls of reasonable length or allow the youth to use the State's WATS line.

21. A youth dress and hair code shall be established.
The code shall provide:

- A. The Institution shall require no specific mode of dress;
- B. Rules relating to length and style of hair, facial hair, cosmetics, clothing, and the like,

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shall be based on safety, cleanliness, and health standards and not on the personal preference of those in authority;

- C. Each youth shall be required to maintain personal hygiene and to be attired appropriately for the weather conditions and the activity in which he is engaged;
- D. Protective clothing shall be worn when necessary; and,
- E. Tattoos shall not be removed or altered, except by authorized medical personnel.

22. A written policy shall be established by which a youth may be temporarily separated from the general population at his own request. The policy shall provide:

- A. The request shall be granted unless the Superintendent specifies in writing good cause for denying it;
- B. The youth shall be returned to the general population upon request, but in no event shall he be separated from the general population for more than twenty-four (24) hours;
- C. When a youth is separated from the general population, the youth's social worker or other appropriate staff member shall be informed and shall visit the youth as soon as possible;
- D. The youth's physical and mental condition shall be observed upon separation and thereafter as needed, but at least every thirty (30) minutes. Based on these observations, appropriate medical and psychological care shall be provided to insure the well-being of the youth. Each observation shall be recorded. The record shall

1 show the time, date, behavior observed, and the
2 name of the observer.

3 E. A youth separated from the general population
4 shall never be placed with youths being disci-
5 plined and, when possible, shall be placed in
6 his own room;

7 F. While separated from the general population,
8 a youth may exercise those rights and
9 privileges exercised by youths in the general
10 population that are consistent with separation;
11 and,

12 G. The staff member who receives the request for
13 separation shall file a written report with the
14 Superintendent. The report shall indicate the
15 date and length of, and reason for, the separation.
16 A copy of the report shall be placed in the
17 youth's file.

18 23. Sleeping and privacy arrangements for youths shall be
19 varied so that individual and small group arrangements are
20 available according to the needs and desires of the youths.
21 In future construction, the Institution shall not use dormitory
22 arrangements unless specifically directed to do so by the state
23 legislature.

24 24. All youths shall have the option of having a minimum
25 of one (1) hour daily of strenuous physical activity. The
26 activity may be part of a recreational program, decentralized by
27 lodge.

28 25. Youths shall not be compelled to do maintenance or other
29 work assignments as substitutes for employees. Youths shall also
30 not be required to participate in coerced work assignments unless
31 work is:

32 i. Part of an approved vocational program;

- 1 ii. Part of an individual treatment program;
- 2 iii. Reasonably related to the youth's normal
- 3 housekeeping and yardkeeping tasks; or,
- 4 iv. Reasonably related to the youth's personal
- 5 hygienic needs.

6 26. A written policy shall ensure the confidentiality of
7 all records and information pertaining to youths. The policy
8 shall provide:

- 9 A. A youth's case file shall be open for information
10 only to administrators and employees associated
11 with the youth's treatment;
- 12 B. A youth shall have access to all material
13 in his case file at any reasonable time,
14 except particular material access to which the
15 Superintendent has reasonably determined
16 would be anti-therapeutic. The reasons
17 for denying access shall be given to the
18 youth in writing and a copy of the writing
19 shall be placed in the youth's file;
- 20 C. A youth's attorney or the attorneys's
21 representative shall have access to the
22 youth's entire case file upon providing
23 a Release of Confidential Information
24 signed by the youth; and,
- 25 D. An individual not listed in subparagraph A
26 or subparagraph C or an agency may obtain
27 information from a youth's file if authorized
28 by a statute or a court order to receive it.

29 27. A written policy shall be established governing
30 searches of youths, their rooms, sleeping areas, and property.
31 The policy shall provide:

- 32 A. Searches shall never be used as punishment, in

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retaliation, or for disciplinary purposes;

- B. Searches shall be conducted only upon written authorization of the Superintendent by employees specifically trained in effective and safe search techniques;
- C. Searches shall be conducted no more frequently than is reasonably necessary to control contraband. Each search shall be conducted in a reasonable manner with no more force or intrusion than is necessary to effectuate the search. Every effort shall be made to minimize the embarrassment of any youth being searched;
- D. A youth may be subject to a search after he has received visitors or been off the grounds of the Institution. In all other cases, a youth may be searched only if the Superintendent has probable cause to believe that he is concealing contraband;
- E. Searches of youths shall be conducted in private by no more than two (2) male employees;
- F. Strip searches may include visual but never tactile examination of body cavities;
- G. Searches of a youth's room, sleeping area, or property shall be conducted if the Superintendent determines that there is probable cause to believe that a search will uncover violations of the Institution's regulations. The youth shall be given an opportunity to observe the search;
- H. All searches shall be documented. A written report of each search shall be filed with the Superintendent by the employee in charge of

1 the search. The report shall include the date
2 of the search, the location and subject of
3 the search, the names of the employees conducting
4 the search, the reason for the search, and a
5 description of any contraband discovered during
6 the search.

7 28. Each living unit shall have indoor space for leisure
8 time activities, such as television, table games, and reading,
9 which meets or exceeds the space requirement of the Commission
10 on Accreditation set forth in the MANUAL FOR JUVENILE CORRECTIONAL
11 INSTITUTIONS (1979).

12 29. Trustworthy youths shall be afforded the opportunity,
13 with the permission of the Superintendent, to be involved in
14 civic, artistic, cultural, recreational, and social activities
15 outside the Institution.

16 30. Written policy shall ensure that authority over and
17 control of youths is always exercised by employees.

18 31. When feasible, use of the Institution's gymnasium by
19 youths and community organizations shall be encouraged.

20 32. No youth shall be transferred from the Institution to
21 a mental health facility except in accordance with law.

22 33. A written policy shall be established regarding the
23 content, format, maintenance, security, retention, sealing and
24 expungement of youth case files.

25 DISCIPLINE

26 34. Youths shall not be subjected to corporal punishment.
27 This prohibition allows no exceptions.

28 A. A written report shall be filed with the
29 immediate supervisor of any employee allegedly
30 subjecting a youth to corporal punishment.
31 The report shall include the date of
32 the incident, the names of any employees involved

1 in the incident, the names of any witnesses, a
2 description of the incident, a description of
3 any injury, and the treatment provided;

4 B. The report shall be submitted to the Adminis-
5 trator and the Superintendent within forty-
6 eight hours (48) hours of the incident. A
7 copy of the report shall be placed in the
8 youth's file. The Superintendent shall inves-
9 tigate the incident. If he determines that a
10 youth was subjected to corporal punishment, the
11 employee shall be immediately suspended and
12 appropriate disciplinary proceeding instituted,
13 disposition of which shall include removing the
14 employee from direct contact with youths and
15 may include termination of employment; and,

16 C. The Superintendent shall prepare a written
17 report of his investigation, which shall include
18 his findings and a determination whether criminal
19 prosecution of the employee is warranted. The
20 report shall be submitted to the Administrator
21 within one (1) week of the incident and a copy
22 placed in the youth's file and the employee's
23 personnel file.

24 35. The use of any force for punishment or reprisal is
25 prohibited.

26 36. Youths shall not be subjected to verbal harrassment,
27 name calling, unusual punishment, humiliation, mental abuse,
28 or punitive interference with the daily functions of living.

29 37. The use of physical force by one youth against
30 another shall be prohibited by Institution policy.

31 38. Firearms or other deadly force weapons shall not be
32 used in conjunction with any institutional duties nor be per-

1 mitted on the grounds of the Institution (excluding private
2 residences) except in an emergency situation involving imminent
3 threat to life or imminent threat of grave bodily harm.

4 39. The use of force by employees shall be prohibited
5 except that the minimum force necessary to achieve the
6 following objectives may be used as a last resort:

- 7 A. Self-defense;
8 B. To prevent imminent injury to the youth or to
9 another person;
10 C. To prevent imminent and substantial property damage;
11 D. To prevent escape; and,
12 E. To compel a youth to obey an order if disobedience
13 would seriously disrupt the functioning of the
14 Institution:

15 40. The use of violent, profane, or abusive language or
16 the deliberate neglect or failure to respond to a youth's needs,
17 shall be prohibited. Violation of this prohibition shall result
18 in disciplinary proceedings.

19 41. The use of chemical agents, except chemical restraints,
20 shall be prohibited. Chemical restraints may be used only to
21 stop the commission of a felony, an assault, or a riot, subject
22 to the following conditions:

- 23 A. Chemical restraints shall be used only by
24 employees specifically trained in their use;
25 B. Chemical restraints shall be stored, under lock,
26 in the Superintendent's office, or the office of
27 the chief of security;
28 C. Chemical restraints shall be used only with
29 the approval of the Superintendent;
30 D. Chemical restraints shall not be used repeatedly
31 against a youth within a short period of time;
32 E. If a chemical restraint is used, the youth shall

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be permitted to wash the affected area as soon as possible;

F. If a chemical restraint is used, the youth shall immediately receive medical care; and,

G. Chemical restraints shall never be used for punishment, retaliation, or disciplinary purposes.

42. A written policy shall govern the use of mechanical or soft restraints. The policy shall provide:

- A. Mechanical or soft restraints shall be used only by personnel trained in their use:
 - i. To restrain a youth from engaging in behavior dangerous to himself or others;
 - ii. To prevent serious property damage; or,
 - iii. To transport a youth under necessary security precautions;
- B. Mechanical or soft restraints shall never be used:
 - i. For punishment, retaliation, or disciplinary purposes;
 - ii. About the head or neck of a youth; or,
 - iii. In a way that causes undue physical discomfort, inflicts physical pain, or restricts the blood circulation or breathing of a youth;
- C. A youth who has been restrained shall be checked every fifteen (15) minutes to make sure that the restraint is not causing undue physical discomfort or restricting the youth's blood circulation or breathing; and,
- D. A youth shall be released from mechanical or soft restraint as soon as the objective of restraint has been achieved.

43. A written policy shall require a written report

1 of all incidents involving the use of force or chemical,
2 mechanical, or soft restraints. The report shall be filed by
3 the employee using the force or restraint. It shall include the
4 date of the incident, the names of all employees involved in the
5 incident, the names of all witnesses, an account of the events
6 leading to the incident, a description of the incident, the
7 reason for the use of force or a restraint, and a description of
8 any injury and the treatment provided. The report shall be
9 submitted to the Superintendent within twenty-four (24) hours of
10 the incident and a copy placed in the youth's file. All reports,
11 except in cases involving mechanical or soft restraints used in
12 transporting a youth, shall also be submitted to the Administrator.
13 The Superintendent shall investigate all incidents, except those
14 involving mechanical or soft restraints used in transport, and
15 determine whether any institutional policy was violated. He shall
16 prepare a written report of his investigation, which shall
17 include his findings and a description of any disciplinary action
18 taken. Except in cases of mechanical or soft restraints used in
19 transport, the report of the investigation shall be submitted
20 to the Administrator within one (1) week of the incident and a
21 copy placed in the youth's file.

22 44. A security master log shall be established on a
23 twenty-four (24) hour per day basis. The log shall contain all
24 reports involving security.

25 45. A written policy shall establish a disciplinary system.
26 The system shall:

- 27 A. Classify infractions of institutional regulations
28 as major or minor;
- 29 B. Limit major infractions to offenses classified
30 as felonies and misdemeanors by state law;
- 31 C. Limit sanctions to:
- 32 i. Major infractions--up to four (4) days

1 of punitive isolation; suspension of all
2 or some institutional privileges for a
3 period not to exceed sixty (60) days; imposi-
4 tion of some or all sanctions available for
5 minor infractions.

6 ii. Minor infractions--suspension of all or
7 some institutional privileges for a period
8 not to exceed fourteen (14) days; restitution
9 reprimand and warning; imposition of other
10 sanctions no more severe than the sanctions
11 expressly provided for minor infractions;

12 D. Designate the privileges that may be revoked
13 for an infraction of institutional regulations.
14 The privileges shall include, but not be
15 limited to: access to movies; radio or
16 television; participation in recreational or
17 athletic activities; and, participation in off-
18 campus activities;

19 D. Prohibit as sanctions: corporal punishment or any
20 other punishment designed to cause physical pain,
21 contempt, or ridicule, including the wearing
22 of special clothing or insignia; restriction of
23 diet; alteration of regular sleeping patterns;
24 imposition of arduous physical labor; imposition
25 of a rule of silence;

26 F. Provide that a sanction shall be proportional to
27 the infraction for which it is imposed;

28 G. Provide that a youth who is believed to have
29 committed an offense that would be a felony under
30 Montana law if committed by an adult may be
31 prosecuted in the same manner as a youth who is
32 not in the Institution and also provide that if

1 there is no prosecution, the matter may be
2 treated within the Institution as a major
3 infraction; and,

4 H. Provide that youths shall not be subjected to
5 disciplinary action for any of the following
6 behavior:

- 7 i. Sexual behavior that is not forbidden by
8 law;
- 9 ii. Refusal to attend religious services;
- 10 iii. Refusal to conform in matters of personal
11 appearance or dress to any institutional
12 regulation that is not related to health
13 or safety;
- 14 iv. Refusal to permit a search of the person or
15 of personal effects that is not authorized
16 by institutional regulations;
- 17 v. Except for vulgar or obscene language or
18 actions, refusal to address employees in
19 any particular manner or displaying what
20 is viewed as a negative, hostile, or
21 undesirable attitude;
- 22 vi. Possession of any printed or otherwise
23 recorded material unless such possession is
24 specifically forbidden by institutional
25 regulations;
- 26 vii. Refusal to eat a particular food;
- 27 viii. Refusal to behave in violation of the
28 youth's religious beliefs;
- 29 ix. Refusal to participate in any study,
30 research, or experiment; and,
- 31 x. Refusal to take drugs designated to
32 modify behavior or to submit to non-

1 emergency surgery without consent.

2 46. A written policy shall be established that requires
3 that each youth placed in punitive isolation or in an internal
4 support section shall:

- 5 A. Be provided with a clean mattress;
- 6 B. Be provided with clean bedding appropriate to the
7 season (sheets, pillow cases, pillows, and
8 blankets);
- 9 C. Be regularly provided with soap, towels, washcloth,
10 toothbrush, toothpaste, and toilet paper;
- 11 D. Be permitted use of private toilets at all
12 times and private showers daily;
- 13 E. Subject to reasonable security needs, as
14 determined in writing by the Superintendent,
15 receive visitors in accordance with institu-
16 tional policy for youths in the general popu-
17 lation;
- 18 F. Subject to reasonable security needs, as
19 determined in writing by the Superintendent,
20 have access to telephone in accordance with
21 institutional policy for youths in the general
22 population;
- 23 G. Be allowed to wear appropriate clothing and
24 be provided daily changes of undergarments;
- 25 H. Be provided the same meals and beverages as
26 youths in the general population and be
27 allowed to eat meals outside the confinement
28 area whenever practical;
- 29 I. Subject to reasonable security needs, as
30 determined in writing by the Superintendent,
31 be provided the option of having a minimum of
32 one (1) hour daily of large muscle exercise

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- activity outside of the confinement area;
- J. Receive mail in accordance with institutional policy for youths in the general population;
- K. Subject to reasonable security needs, as determined in writing by the Superintendent, be provided with writing material in accordance with institutional policy for youths in the general population;
- L. Be permitted contact in person or by telephone with his attorney, authorized representatives of his attorney, or special investigators in accordance with institutional policy for youths in the general population;
- M. Subject to reasonable security needs, as determined in writing by the Superintendent, be provided with non-academic reading materials;
- N. Subject to reasonable security needs, as determined in writing by the Superintendent, be permitted daily access to recreational materials, such as television, radio, table games, and cards;
- O. If confined more than three (3) school days, have the opportunity to visit daily with a representative of the academic school program, who shall provide the youth with whatever materials are practical in assisting the youth to maintain his current school status. This service shall be made available to the youth, but shall not be mandated as a condition for release from confinement;
- P. Have at least one (1) staff member within

1 calling distance at all times of the day and
2 night;

3 Q. Be visited by appropriate staff responsible
4 for the youth's treatment program on a daily
5 basis; and,

6 R. Have his parents or legal guardians
7 notified when he is to be placed in isolation
8 or in an internal support section for more than
9 twenty-four (24) hours, unless it is reasonably
10 determined in writing by the Superintendent that
11 notification should not be given.

12 47. A manual containing all of the procedures for
13 institutional security and control and detailed instructions for
14 implementing these procedures shall be developed. Each security
15 employee shall be provided with a personal copy of the manual.
16 A copy shall also be kept in the Institution's security and
17 control center and be available to all employees.

18 48. A segregation procedure for youths who are upset and out
19 of control shall be established. The procedure shall provide:

- 20 A. A youth may be segregated if he is upset
21 and out of control, but only if he has not
22 responded to verbal attempts to calm him;
- 23 B. The youth shall be returned to the general
24 population as soon as he is calm;
- 25 C. Only the Superintendent shall have the
26 authority to place a youth in segregation and
27 to determine when he should be released;
- 28 D. If the youth is still upset and out of control
29 after twenty-four (24) hours of segregation,
30 he may be transferred to another setting;
- 31 E. Only the minimum amount of force necessary
32 to control the youth shall be used;

- 1 F. After a youth is placed in segregation, his
2 social worker or other appropriate staff
3 member shall be informed and shall visit
4 him as soon as possible;
- 5 G. The youth's physical and mental condition
6 shall be observed upon reception and thereafter
7 as needed, but at least every thirty (30)
8 minutes. Based on these observations, appropri-
9 ate medical and psychological care shall be
10 provided to insure the well-being of the
11 youth. Each observation shall be recorded.
12 The record shall show the time, date, behavior
13 observed, and the name of the observer;
- 14 H. Furnishings may be removed from the segrega-
15 tion room if necessary to protect the youth;
- 16 I. While segregated, a youth shall have the same
17 rights as a youth in punitive isolation or
18 an internal support section; and,
- 19 J. Whenever a youth is segregated, the fact and
20 reason for segregation shall be recorded.
21 The record shall be filed with the Superintendent
22 and a copy placed in the youth's file.

23 EDUCATION

24 49. The budget for educational program supplies at the
25 Institution shall meet accreditation standards for the State
26 of Montana.

27 50. The vocational education program at the Institution
28 shall be a full-time accredited program.

29 51. To the extent feasible, a Vocational Trade Advisory
30 Council shall be established. The Council shall be composed
31 of interested people who have practical experience with the
32 skills taught at the Institution. It shall meet as often as

1 necessary at the Institution. Professional staff and secretarial
2 support shall be provided by the Institution. The Council,
3 which is advisory only, shall assist in the development of
4 the overall vocational education program, review and approve
5 the teaching syllabus for each course, establish standards,
6 and assist in making the program relevant to job opportunities
7 in various communities in Montana. When appropriate and
8 with the approval of the Superintendent, the Council or
9 council members may take youths on trips to offices, factories,
10 and other sites where the skills being taught in the vocational
11 education programs are utilized.

12 52. In addition to the school library, a wide range of
13 reading materials suitable for education and recreation
14 shall be available in each lodge.

15 MEDICAL SERVICES

16 53. The Institution shall obtain, either as an employee
17 or on a contract-for-service basis, a physician licensed to
18 practice in Montana who shall be responsible for providing
19 medical services at the Institution.

20 54. Each youth shall receive free reasonable and
21 necessary dental and medical care.

22 55. A written policy shall be established to govern
23 all medical services at the Institution. The standard
24 procedure governing the provision of medical care shall be
25 approved and signed by the responsible physician. Treatment
26 by medical personnel other than a physician shall be performed
27 in accordance with written standing or direct orders from a
28 physician. In lieu of standing orders, physician assistants
29 and nurse practitioners licensed by the state may practice
30 within the limits permitted by state law.

31 56. State licensing and/or certification requirements
32 and restrictions shall apply to health care personnel and

1 all licenses and/or certifications shall be verified by the
2 Department.

3 57. One of the nurses on the Institution's staff shall
4 be designated as a Supervisory Nurse and her/his supervisory
5 role, responsibilities, and authority shall be established
6 in writing.

7 58. A medical examination shall be conducted by a
8 licensed physician of each youth upon admission to the
9 Institution. If the Institution is unable to provide a full
10 medical examination of each youth upon admission, it shall
11 ensure that a full examination is performed by local authorities
12 immediately prior to the youth's admission to the Institution
13 and that a complete record of the examination accompanies
14 the youth to the Institution.

15 59. Youths' medical complaints shall be monitored and
16 responded to daily by medically trained personnel. Appropriate
17 review of complaints and additional treatment, if indicated,
18 by medical personnel shall follow.

19 60. Sick call, conducted by the physician responsible
20 for the Institution's medical services or other qualified
21 medical personnel, shall be available at least three (3)
22 times per week.

23 61. The physician responsible for the Institution's
24 medical services shall be available at least once per week
25 to respond to youth complaints regarding services received
26 or not received from other medical personnel.

27 62. No prescription drug may be administered to a
28 youth unless prescribed by a licensed physician following a
29 physical examination by the physician. Drugs requiring
30 intramuscular administration shall be administered by a
31 licensed physician or registered nurse.

32 63. Under no circumstances shall a stimulant, tranquilizing,

1 or psychotropic drug be administered for purposes of program
2 management, discipline, experimentation, or research.

3 64. Whenever a stimulant, tranquilizing, or psychotropic
4 drug is administered to a youth, a record shall be made and
5 a copy placed in the youth's medical file. The record shall
6 disclose:

- 7 A. Identification of the drug;
- 8 B. Quantity of the drug;
- 9 C. Who administered the drug and the time it was
10 administered;
- 11 D. Who prescribed the drug and the reason for
12 the prescription;
- 13 E. The short and long term effects of the drug
14 on the youth, including the observations
15 of the physician and/or nurse; and,
- 16 F. Any necessary consent.

17 65. No youth shall ever be subjected to highly intrusive
18 techniques such as psychosurgery or electrical stimulation
19 of the brain.

20 66. A written policy shall be established that requires
21 all pharmaceuticals to be managed in accordance with the
22 regulations established by the State Board of Pharmacy.
23 Storage of pharmaceuticals shall be in compliance with
24 applicable state and federal laws.

25 67. Under no circumstances shall an unsupervised youth
26 be left in the Institution's infirmary.

27 68. The Institution shall provide medically related
28 in-service training, such as first aid and cardiopulmonary
29 resuscitation (CPR), to staff on an ongoing basis.

30 69. All staff shall be trained in basic first aid and
31 emergency care procedures. The training shall include,
32 among other things, the identification of current and potential

1 emergencies, first aid and resuscitation skills, information
2 about the need for and access to emergency assistance, and
3 procedures for transfer to appropriate medical care.

4 70. At least one staff member per shift must have
5 training in basic medical screening, basic life support,
6 cardiopulmonary resuscitation (CPR), and the recognition of
7 symptoms of illnesses most common to youths.

8 71. Youths shall have access to twenty-four (24) hour
9 emergency medical and dental care.

10 72. Dental care shall be provided to each youth by or
11 under the direction and supervision of a licensed dentist.
12 The care shall include:

- 13 A. Dental screening upon admission to the
14 Institution;
- 15 B. Dental hygiene services, if indicated;
- 16 C. Dental examinations, if indicated; and,
- 17 D. Dental treatment, including extractions
18 and dental prostheses when the mental or
19 physical health of the youth would otherwise
20 be adversely affected.

21 73. The Institution shall provide for the screening
22 and care or referral for care of mentally ill or developmentally
23 disabled youths.

24 74. Youths shall have access to mental health counseling
25 and crisis intervention services in accordance with their
26 needs.

27 75. The Institution shall provide programs and training
28 for youths to enable them to develop sound habits and practices
29 regarding personal hygiene, including dental hygiene, sexual
30 hygiene, bathing, change of clothing, eating habits, exercise,
31 rest, smoking, alcohol use, and drug use.
32

- 1 C. The applicant shall be evaluated on the basis
- 2 of education and experience;
- 3 D. References shall be contacted and questioned
- 4 regarding the applicant's qualifications;
- 5 E. The applicant's immediate supervisor at both
- 6 his/her most recent job and the last job at
- 7 which he/she was employed continuously for
- 8 over a year, if any, shall be contacted and
- 9 questioned regarding the applicant's qualifications;
- 10 and,
- 11 F. Relevant or required transcripts, degrees,
- 12 and licenses shall be verified by the Department.

13 79. A written job description and the procedure by
14 which the job is to be performed shall be established for
15 each employee position. The job description shall accurately
16 reflect the treatment responsibilities, if any, and other
17 duties of the position. Each employee prior to assuming
18 his/her first shift in a new position shall read, initial,
19 and date the appropriate job description and procedures.
20 Thereafter, each employee shall be required to read, initial,
21 and date any modification of the job description and/or
22 procedures.

23 80. Each new employee shall be given a written notice
24 of employment. The notice shall include:

- 25 A. The job title;
- 26 B. A detailed job description;
- 27 C. The orientation and training requirements;
- 28 D. The probation period and the name of the
- 29 person evaluating the employee's job performance;
- 30 E. A list of any prerequisites to employment the
- 31 employee still needs to meet;
- 32 F. A statement that the employee is subject to

1 the standards of conduct set forth in the
2 Institution's employee handbook; and,

3 G. A copy of the employee handbook.

4 81. The Department shall develop a disciplinary policy
5 for employees. A copy of the policy shall be included in
6 the employee handbook.

7 82. Where feasible and appropriate, the Institution
8 shall actively involve volunteers in institutional programs.
9 Volunteers shall not replace regular employees, but shall be
10 used to enrich and supplement on-going programs. Volunteers
11 shall be provided with pre-service orientation and training
12 and be supervised by experienced employees.

13 83. The Institution shall employ a full-time, qualified
14 recreational director to design and supervise the Institution's
15 recreational program.

16 84. The Department shall employ a qualified Training
17 Officer to coordinate and supervise the Institution's training
18 programs.

19 85. The minimum educational standards for newly hired
20 entry level social workers at the Institution shall be forty
21 (40) quarter hours or twenty-seven (27) semester hours of
22 college level work in behavioral sciences, with no equivalence
23 allowed.

24 IN SERVICE TRAINING

25 86. There shall be a written training and employee
26 development plan for all employees.

27 87. All staff and full-time volunteers who function as
28 staff shall receive forty (40) hours of orientation and/or
29 supervised on-the-job training prior to job assignment. The
30 orientation and/or training shall be relevant to the needs
31 of the Institution, the needs of the youths, and the necessary
32 job skills.

1 88. Within budgetary limits, all staff and full-time
2 volunteers who function as staff shall receive a minimum of
3 forty (40) hours of in-service training each year. This
4 training shall improve professional competence, teach new
5 job skills, and address personnel problems.

6 HEALTH AND SAFETY

7 89. The Institution shall comply with all applicable
8 federal, state, and local health and safety codes.

9 90. The Institution shall be inspected annually by
10 appropriate public health and safety officials to insure
11 compliance with applicable health and safety codes. Reports
12 regarding these inspections shall be submitted to the
13 Superintendent and the Administrator.

14 91. Any staff member on duty alone in a lodge shall be
15 provided with a portable communication system, such as a
16 pocket signal generator or a two-way radio. The system
17 shall enable the staff member to communicate with the Institution's
18 security control center in the event that emergency assistance is
19 needed. Communication shall not depend on the telephone or the
20 primary electric power system.

21 MONITORING OF CONSENT DECREE

22 92. The Corrections Division/Pine Hills School shall
23 obtain the MANUAL FOR JUVENILE CORRECTIONAL INSTITUTIONS,
24 published by the Commission on Accreditation and consider the
25 appropriateness of obtaining formal accreditation. For at least
26 three (3) years from the date this Consent Decree is signed by
27 the Court, copies of all reports written by the Institution or
28 the Commission on Accreditation regarding efforts to achieve
29 accreditation or any periodic evaluations shall be sent to the
30 Director of Montana Legal Services Association.

31 93. Until March 1985, plaintiffs' attorney shall be
32 provided with copies of all institutional regulations, policies,

1 procedures, and modifications. They shall be sent to the
2 Director of Montana Legal Services Association.

3 94. The Director of the Department of Institutions
4 shall visit the Pine Hills School at least twice annually
5 and conduct a comprehensive review of its operation. For at
6 least three (3) years from the date this Consent Decree is
7 signed by the Court, the review shall include a determination
8 of whether the Institution is complying with the terms of
9 the Decree. The Director shall make a written report of his
10 determination to the Director of Montana Legal Services
11 Association. The Director of the Department of Institutions
12 may delegate the responsibility to review the operation of
13 the Pine Hills School to any person or persons not employed
14 at the Institution but the report to Montana Legal Services
15 Association shall be signed by the Director and shall indicate
16 who conducted the review.

17 95. Representatives of Montana Legal Services Association,
18 together with any experts they may retain, shall have the
19 right to periodically visit and inspect the Institution.
20 The visitors and/or inspectors shall have the right to speak
21 privately with any youth or any employee, to inspect all
22 reports required by the provisions of this Consent Decree
23 and to have access to a youth's file if a Release of Confidential
24 Information signed by the youth is obtained.

25 96. Unless otherwise provided in this Consent Decree,
26 the provisions of the Decree shall be implemented within
27 thirty (30) days from the date the Decree is signed by the
28 Court.

29 97. The Court shall retain jurisdiction over this law-
30 suit. All modifications of this Consent Decree must be
31 approved by the Court. The Decree may be modified on the
32 motion of either party, or on the parties' stipulation.

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98. Copies of this Consent Decree and any modifications of the Decree shall be made available by the Superintendent to all youths and employees within thirty (30) days from the date the document is signed by the Court.

Dated: April 1st, 1982.

JAMES F. BATTIN

UNITED STATES DISTRICT JUDGE

BY CONSENT:

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