

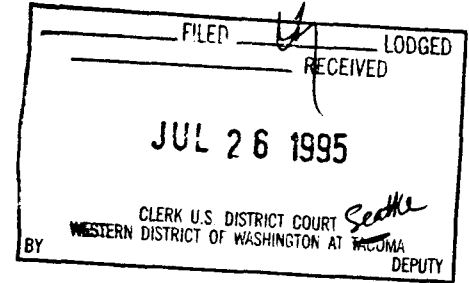
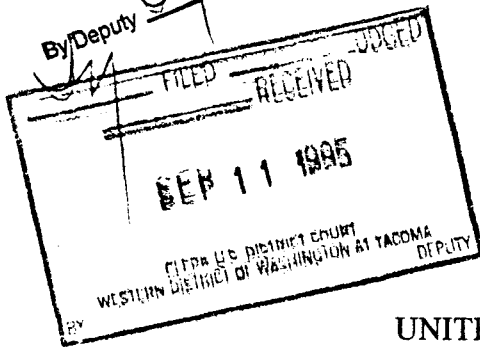


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ENTERED
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THE HONORABLE ROBERT J. BRYAN



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES HORTON, et al.,

Plaintiffs,

vs.

BOB WILLIAMS, et al.,

Defendants.

)
) CLASS ACTION
)
) No. C94-5428 RJB
)
) STIPULATION & JUDGMENT
) RESOLVING CERTAIN CLAIMS AND
) CONTINUING TRIAL ON THE
) REMAINING ONES

Noted 8/31/95 per ntc

STIPULATION

The parties, plaintiffs James Horton, James Barnhart, Jerome Payton, J.B., through his next friend, Lorane West, and K.M., through his mother Debbie Moore, through their counsel of record Patricia J. Arthur, David Lambert, Robert A. Stalker, Jr. and Katrin E. Frank, and the State defendants, Bob Williams, Jean Soliz, and Sid Sidorowicz, through their counsel, Richard McCartan and Carol Murphy, and the Chehalis School District through counsel Brian Baker, hereby agree that the following Judgment shall be entered, subject to approval of the court and notice to class members. This Stipulation and Judgment is entered to finally resolve some of plaintiffs' claims for injunctive and declaratory relief in the above-

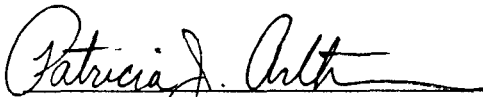
STIPULATION & JUDGMENT RESOLVING
CERTAIN CLAIMS & CONTINUING TRIAL
ON THE REMAINING ONES- Page 1

EVERGREEN LEGAL SERVICES
INSTITUTIONAL LEGAL SERVICES PROJECT
101 YESLER WAY, SUITE 301
SEATTLE, WASHINGTON 98104
(206) 464-0838

718

1 captioned lawsuit and to postpone the trial of plaintiffs' remaining claims in order to afford
2 the State defendants the opportunity to implement, under the direction of a new
3 Superintendent, new programs and policies that are likely to finally resolve plaintiffs'
4 remaining claims. This Stipulation does not involve and therefore does not preclude any
5 class member from filing a claim for damages. This Stipulation and Judgment is not an
6 admission by the defendants that their past policies and actions violated the rights of the
7 plaintiffs. The parties enter into the Stipulation for purposes of settling disputed contentions
8 and controversies arising from this equitable action.
9

10 DATED this 26th day of July, 1995.
11

12 

13 PATRICIA J. ARTHUR

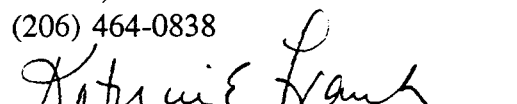
14 WSBA #13769

15 ROBERT A. STALKER, JR.

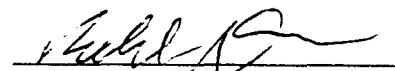
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8 JUDGMENT

9 This matter having been heard by the Honorable Robert J. Bryan, United States
10 District Court Judge, the parties having stipulated to the entry of this Judgment, notice to
11 class members having been issued, and all comments from class members considered by the
12 court, the court approves and enters the following Judgment.

13 **I. BACKGROUND AND DEFINITIONS**

14 A. The Complaint in this action was filed on August 11, 1994, on behalf of the named
15 plaintiffs, and all others similarly situated, against defendants Bob Williams, Superintendent
16 of Green Hill School (GHS), Jean Soliz, Secretary of the Department of Social & Health
17 Services (DSHS), and Sid Sidorowicz, Assistant Secretary of DSHS, and their officers,
18 agents, employees, and successors (the State defendants). Plaintiffs filed their First
19 Amended Complaint on August 17, 1994, adding the Chehalis School District as a defendant.

20 B. The State defendants moved to dismiss this case on September 26, 1994. On
21 November 8, 1994, District Court Judge Robert J. Bryan denied defendants' Motion to
22 Dismiss.

23 C. This case was certified as a class action by Stipulated Order filed on September 30,
24 1994. The class is defined as "All juveniles currently or in the future incarcerated at Green
25 Hill School."
26
27
28

STIPULATION & JUDGMENT RESOLVING
CERTAIN CLAIMS & CONTINUING TRIAL
ON THE REMAINING ONES- Page 3

1 D. On December 6, 1994, the court granted in part plaintiffs' Motion For A Preliminary
2 Injunction regarding defendants' use of pepper spray at GHS.

3
4 E. Effective February 1, 1995, defendant Bob Williams resigned his position as
5 Superintendent of GHS.

6 F. On June 1, 1995, Art Schmidt began his employment as the new Superintendent at
7 GHS.

8 G. This Judgment is fair, reasonable, and adequate to protect the class in accordance
9 with the standards of Fed. R. Civ. P. 23(e).

10 H. This Court has jurisdiction of the subject matter of this action and personal
11 jurisdiction over the defendants.

12 I. For purposes of this Judgment, the following definitions shall apply.

13
14 1. Documents: The term "documents" as used herein includes, without
15 limitation, correspondence, telegrams, cables, teletype messages, videotapes, mailgrams,
16 reports, records, schedules, diaries, court dockets, court files and papers found therein,
17 notes, logs, summaries, memoranda, memoranda of telephone conversations, photographs,
18 depictions, sketches, renderings, mechanical and electronic records of conversations or of
19 statements or of telephone conversations, and all other printed, typewritten, written records,
20 or taped matter of any kind of description. The term "documents" does not include materials
21 subject to the attorney/client privilege or any other privilege pursuant to federal or state laws.

22
23 2. Defendants: Defendants include the named defendants in this action and their
24 supervisors, officers, agents, successors, employees and assigns. The "State defendants" as
25 used herein refers to Jean Soliz, Sid Sidorowicz and Bob Williams. The "District" refers to
26 the Chehalis School District.
27
28

1 3. Health Care: "Health care" records and services as referred to herein include
2 medical, mental health, and dental records and services.

3 4. Crisis: The term "crisis" means a conflict between residents and/or with staff
4 which threatens the security or order of the institution.
5

6 5. Mechanical Restraints: "Mechanical Restraints" includes handcuffs, leg
7 shackles and leg braces.

8 6. Lock-up: "Lock-up" or "lock-up unit" includes the IMU now in Fir and
9 Poplar cottages and any successor unit intended to house youth with disciplinary and/or
10 behavioral problems.
11

12 II. OBLIGATIONS OF DEFENDANTS

13 A. PHYSICAL PLANT

14 1. The legislature has directed, and made appropriations for, the redevelopment
15 of GHS. The State defendants will implement said legislative appropriation, subject to any
16 future legislative determinations. Any such redevelopment of the physical plant at GHS will
17 meet at least minimum constitutional standards. The State defendants further agree to
18 quarterly brief plaintiffs' attorneys on the progress of any such redevelopment.
19

20 2. The State defendants will maintain the present facility in a safe and sanitary
21 condition, and will adequately heat, cool, and ventilate all structures. This provision shall
22 not be construed to require capital improvements in existing structures, other than as planned
23 in reconstruction, absent a condition that adversely affects the health or safety of residents.
24
25
26
27
28

1 B. DISCIPLINARY PRACTICES

2 1. Aerosol Restraint

3 (a) The State defendants shall not use aerosol oleoresin capsicum (pepper
4 spray) on youth except in rare, emergency circumstances to prevent serious injury to a
5 person or to a substantial amount of valuable property. The State defendants shall only use
6 pepper spray under the following circumstances and conditions: 1) there must be a credible
7 threat of a specific serious injury; 2) the only legitimate intended result of pepper spray use
8 is the incapacitation of a dangerous person and *not* the infliction of pain; 3) the spray shall
9 not be used for punishment; 4) pepper spray shall only be used when absolutely necessary,
10 which means that it shall not be used unless there exists an imminent risk of harm to others
11 or to a substantial amount of valuable property that is equal to or greater than the pain and
12 risk of the harm that the use of the spray presents to the youth sprayed.
13

14 (b) The State defendants shall never use pepper spray as punishment or to
15 manage suicidal behavior and the State defendants shall only use pepper spray as a last resort
16 after all other intervention attempts and crisis management techniques have failed.
17

18 (c) The State defendants agree not to "pre-authorize" the use of pepper
19 spray and to evaluate on a case-by-case basis under the standards and criteria in paragraph
20 II.B.1(a) above whether the use of pepper spray in any given situation is absolutely
21 necessary.
22

23 (d) Pepper spray shall never be used on youth who are in restraints.

24 (e) The State defendants agree to make written and videotaped
25 documentation of every incident involving the use, or threatened use, of pepper spray, and to
26 provide plaintiffs' counsel copies of all documentation, including videotapes of incidents
27
28

1 involving the use and threatened use of pepper spray, during the duration of this Judgment.

2 (f) The parties agree that the attached JRA Bulletin No. 2 and GHS Policy
3 No. 4, attached as Exhibits 1 and 2 and incorporated herein by reference, comport with the
4 requirements of this Judgment and the State defendants agree to abide by the terms and
5 conditions of these policies.
6

7 2. Mechanical Restraints

8 (a) Defendants shall not use mechanical restraints unless a juvenile is
9 uncontrollable and constitutes a serious and imminent danger to himself or to others, or
10 during transportation outside the facility when necessary for public safety. The State
11 defendants shall not routinely handcuff or restrain youth during transport between cottages
12 and lock-up. When in restraints, a juvenile shall not be attached to any furniture or fixture
13 except in the case of emergency. Only those restraint devices necessary to address the
14 specific threat posed shall be used.
15

16 (b) The State defendants agree to provide plaintiffs' counsel and the
17 Monitor copies of all documentation relating to any use of physical restraint at Green Hill
18 School during the duration of this Judgment.
19

20 (c) The parties agree that the attached JRA Bulletin No. 2 and GHS Policy
21 No. 4 comport with the requirements of this Judgment and the State defendants agree to
22 abide by the terms and conditions of these policies.
23

24 3. Disciplinary Procedures

25 (a) The State defendants shall not transfer a juvenile to lock-up or deny a
26 youth a sentence reduction for misbehavior unless the youth is provided with constitutionally
27 adequate due process.
28

1 (b) The State defendants' agree by October 1, 1995, to abide by the terms
2 and conditions of the attached two policies governing: (1) placements in the Intensive
3 Management Unit or any successor lock-up unit and (2) sentence reductions for good
4 behavior. The parties agree that these policies, attached as Exhibits 3 and 4 and incorporated
5 herein by reference, provide constitutionally adequate due process to youth transferred to
6 lock-up or denied a sentence reduction for misconduct. The provision in each policy relating
7 to a youth's right to appeal to the Superintendent may be eliminated or modified at the
8 discretion of the State defendants.
9

10 C. EDUCATION, HEALTH AND REHABILITATIVE SERVICES
11

12 1. Education

13 (a) The Chehalis School District (the District defendants) agree at all times
14 in the future to comply with all applicable state and federal laws and regulations governing
15 the provision of educational services, including special education and related services, at
16 GHS.
17

18 (b) The District defendants agree to employ sufficient numbers of staff
19 including endorsed special education teachers, teachers, education assistants, psychologists,
20 clerical and other staff necessary to comply with the requirements of the law in identifying,
21 assessing, and reassessing youth at GHS for disabilities and in providing special education,
22 related, and transitional services to such disabled youth.
23

24 (c) The District defendants shall implement as written any existing
25 individualized education plan (IEP) developed outside of the institution that is current or
26 modify the IEP through the appropriate process required by law. Students who are currently
27 eligible for special education services shall not be determined ineligible for, or not in need
28

1 of, special education services at GHS unless they are formally reassessed and exited from
2 special education under appropriate procedures required by law. The District defendants
3 shall take all necessary and appropriate steps to evaluate or re-evaluate students with IEP's
4 that are out of date.
5

6 (d) The District defendants shall ensure timely, multidisciplinary
7 assessments of youth who are suspected of being in need of special education and related
8 services in accordance with applicable Washington statutes and the Individuals with
9 Disabilities Education Act (IDEA), 20 U.S.C. §§1400, et seq. This assessment shall:
10

- 11 (1) provide timely notice and meaningful involvement of parents
and surrogate parents;
- 12 (2) require that, to the extent possible, prior education records of
13 youth be obtained, particularly those relating to evaluation and
14 eligibility for special education services;
- 15 (3) be conducted by a multidisciplinary team, including persons
16 specified in regulations promulgated by the Office of the
17 Superintendent of Public Instruction, and when appropriate,
members of the students' individual treatment team;
- 18 (4) involve students in planning their educational program as
19 required by state and federal law;
- 20 (5) utilize, to the extent valid instruments are available, curriculum-
21 referenced assessments to assist in the placement of students
eligible for special education services; and
- 22 (6) include assessment of social skills and vocational interests of
referred students as required by law.

23 (e) The District defendants agree to provide appropriate placement options
24 and services for students eligible for special education and related services as necessary to
25 accommodate the individualized special education needs of all disabled youth at GHS.
26
27 Appropriate services shall include:
28

- (1) a continuum of treatment options for students enrolled in special education;
- (2) services to meet the special education needs of identified students including implementation of a curriculum in basic skills, vocational skills, and life skills;
- (3) an appropriate mix of individual and group instruction for students enrolled in special education programs, based on the students' individual needs;
- (4) coordinating students' individualized education programs with regular education programs and activities and their individual treatment plans developed by GHS staff;
- (5) conducting assessments and providing notices and consent forms in students' native languages unless it is clearly not feasible to do so;
- (6) language services to meet the educational needs of limited English proficient students;
- (7) provision for a full day of instruction in accordance with state law;
- (8) vocational services for all eligible youth;
- (9) services that enable students to achieve the goals and objectives specified in their individualized education programs.
- (10) transition planning that involves reviewing IEP goals and objectives and assisting the transition of all eligible students into the community;

(f) The District defendants shall provide on-going training to education staff to assure the proper identification of students with disabilities and the provision of special education and related services.

(g) The State and District defendants agree to ensure the availability of appropriate educational services to all youth incarcerated at GHS as required by law. The District shall not take any action to deny services for behavioral or disciplinary reasons

1 unless the same disciplinary standards, sanctions, and procedures for suspension and
2 expulsion as are generally employed within the Chehalis School District are invoked. The
3 State defendants shall provide all juveniles at GHS, including youth confined in any lock-up
4 unit or who are on room confinement, with access to appropriate educational services unless
5 the youth has been suspended or expelled under appropriate procedures or a security
6 emergency exists. Such access shall be compatible with the District defendants' service
7 delivery capability. The State defendants may withhold access to educational services to a
8 resident entering IMU for not longer than 72 hours to stabilize the resident's behavior.
9

10
11 2. Health And Rehabilitative Services

12 (a) The State defendants shall permit only qualified medical personnel to
13 administer medications to youth, as required by law.

14 (b) The State defendants agree to implement within six months following
15 entry of this Stipulation and Judgment changes in the following program areas to address the
16 health and rehabilitative needs of youth at GHS:

- 17 (1) intake and orientation procedures;
- 18 (2) individual treatment plans;
- 19 (3) use of intensive management unit;
- 20 (4) individual counseling;
- 21 (5) vocational opportunities;
- 22 (6) de-escalation skills;
- 23 (7) treatment of violent offenders;
- 24 (8) life skills programs, and
- 25 (9) health care services.
- 26
- 27
- 28

1 (c) The State defendants agree to provide plaintiffs' attorneys with all
2 documents relating to the new programs and/or policies developed in the areas listed in
3 II.C.2(b)(1)-(9) above.
4

5 (d) The parties agree to stay all formal discovery related to defendants'
6 practices in the program areas listed in II.C.2(b)(1)-(9) for six months following the entry of
7 this Stipulation and Judgment in order to afford the new Superintendent at GHS the
8 opportunity to make program changes to meet the health and rehabilitative needs of youth.
9 The Monitor referred to in section II.F.2 below shall have no responsibility to monitor the
10 development of programs listed in II.C.2(b)(1)-(9) above unless otherwise agreed by the
11 parties at the end of the six month implementation period.
12

13 D. TRANSLATION SERVICES

14 1. The State defendants agree to make all reasonable efforts to provide language
15 translation services to all youth at GHS who are unable to speak or understand the English
16 language. All written policies at GHS governing youth behavior, activities and services shall
17 be translated into Spanish by no later than January 1, 1996, unless otherwise agreed by the
18 parties due to unforeseen delay.
19

20 2. The State defendants agree to employ at least one staff person who is qualified
21 to translate between Spanish and English who has met reasonable testing and qualification
22 criteria established by the Juvenile Rehabilitation Administration.
23

24 3. The State defendants agree to provide translation services to all juveniles who
25 are unable to speak or understand English during the delivery of health care services, and for
26 all disciplinary, classification, grievance, "review board" or other hearings, procedures, or
27 meetings conducted at GHS involving the youth.
28

1 E. GRIEVANCE PROCEDURES

2 1. The State defendants agree to abide by JRA Bulletin No. 13, relating to Youth
3 Complaints, a copy of which is attached as Exhibit 5 and incorporated herein by reference.
4
5 The State defendants may modify this policy only consistent with constitutional requirements.

6 F. IMPLEMENTATION, MONITORING, AND REPORT REQUIREMENTS

7 1. Subject to the limitations in II.C.2(d), during the duration of this Stipulation
8 and Judgment, plaintiffs' attorneys, plaintiffs' experts, and the Monitor shall have reasonable
9 on-site access to GHS residents and staff, and to all discoverable documents of the
10 defendants.
11

12 2. Plaintiffs' counsel and the State defendants shall select a Monitor with
13 expertise in the field of juvenile corrections to assist with the implementation of all sections
14 of this Stipulation & Judgment involving the responsibilities of the State defendants, except
15 those specified in paragraph II.C.2(b)(1)-(9) above unless later otherwise agreed. If
16 agreement cannot be reached by September 1, 1995, concerning who the Monitor will be, the
17 Court shall appoint the Monitor. The Monitor shall consult with defendants as requested and
18 may assist in mediating disputes between the plaintiffs and the State defendants.
19

20 3. The State defendants agree to submit every six months a written report to
21 Plaintiffs' attorney and the Monitor outlining the steps taken to comply with this Stipulation
22 and Judgment.
23

24 4. The Monitor shall inspect GHS at least once every six months for the duration
25 of Court jurisdiction over this matter, but may inspect more often with the agreement of the
26 defendants, which shall not be unreasonably withheld, or to assist defendants in resolving
27 problems as requested by the defendants. The Monitor need not inspect every six months if
28

1 the Monitor, plaintiffs' counsel, and the State defendants agree that such inspections are not
2 necessary.

3
4 5. The Monitor shall issue a written report within 30 days of any inspection
5 describing the State defendants' progress in achieving compliance with this Stipulation &
6 Judgment and its implementation plans, and whether the State defendants are complying with
7 this Stipulation and Judgment. The Monitor shall provide copies of its report to the Court
8 and the parties. Plaintiffs and the State defendants may respond to any report filed by the
9 Monitor.

10
11 6. The parties will attempt to resolve any dispute arising under this Stipulation
12 and Judgment informally through their attorneys. If these efforts fail, paragraphs II.F.7 and
13 II.F.8 shall be used to resolve disputes between the parties.

14 7. Both the State defendants and plaintiffs may raise questions of compliance with
15 this Stipulation & Judgment concerning the obligations of the State defendants with the
16 Monitor, except for the obligations specified in paragraph II.C.2(b)(1)-(9) above, unless
17 otherwise later agreed by the parties. The Monitor shall attempt to informally resolve any
18 questions raised. If the Monitor is unable to resolve any question informally, either party
19 may ask the Monitor to make formal findings of fact and recommendations to resolve the
20 question. Whenever requested to do so, the Monitor shall make findings of fact and
21 recommendations as requested. Either party may respond to the Monitor's findings of fact.

22
23 8. If plaintiffs' counsel and the State defendants are unable to resolve disputes
24 regarding compliance with this Stipulation and Judgment with the Monitor in the manner
25 provided in the preceding paragraph, they may seek Court review of the compliance issue.
26 A party may seek Court review, without complying with paragraph II.F.7, if compliance
27
28

1 would cause undue delay or threaten imminent harm to a party.

2 9. The State of Washington acting on behalf of the State defendants shall be
3 responsible for the reasonable expenses of the Monitor.
4

5 10. Compliance by the District defendants with the terms of this Stipulation and
6 Judgment will be monitored by experts selected by plaintiffs' counsel at no cost to the State
7 defendants.

8 11. If there is a dispute with respect to facts relating to a possible violation of this
9 Stipulation and Judgment by any party, the Federal Civil Rules of discovery shall apply.
10

11 G. DAMAGES AND ATTORNEYS' FEES.

12 1. This Stipulation and Judgment does not resolve, adjudicate or bar damages
13 claims of any plaintiffs or class members. Plaintiffs' claims for costs and attorneys' fees are
14 reserved for determination by the court at a later date.

15 H. TERMINATION OF FEDERAL COURT JURISDICTION

16 1. This Court has continuing jurisdiction to enforce the terms of this Stipulation
17 and Judgment for four years following the date of its entry by this Court. At the conclusion
18 of this period the Court's jurisdiction shall terminate, this Stipulation and Judgment shall be
19 vacated, and this case shall be dismissed.
20

21 I. MODIFICATION

22 1. The court may modify this Stipulation and Judgment only upon (1) the
23 agreement of the parties with the approval of the Court; (2) or upon a motion to modify
24 provided that the party seeking the modification demonstrates that a significant and
25 unforeseen or unforeseeable change in the law or in the facts warrants revision of this
26 Stipulation and Judgment, and that the proposed modification is suitably tailored to the
27
28

1 changed circumstances.

2 J. CONTINUANCE OF TRIAL DATE ON CLAIMS NOT FINALLY RESOLVED BY
3 THIS STIPULATION AND JUDGMENT


4 1. This Stipulation and Judgment resolves all Plaintiffs' physical plant claims,
5 claims related to the disciplinary practices of the State defendants, claims relating to the
6 educational services provided to youth, and claims regarding language interpretation services.

7
8 2. The State defendants and plaintiffs agree to a continuance of the trial of
9 plaintiffs' remaining treatment and health care claims to afford the State defendants the
10 opportunity during the next six months to implement program changes in the areas listed in
11 section II.C.2(b)(1)-(9) above. The court shall set a status conference to be held six months
12 following entry of this Stipulation and Judgment to determine the need for a new trial date on
13 these claims.

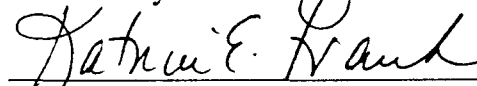
14 DATED this 11th day of Sept, 1995.


15
16 
17 THE HONORABLE ROBERT A. BRYAN
18 United States District Court Judge

19 Copy Received; Approved for Entry:


20 
21 PATRICIA J. ARTHUR
22 WSBA #13769
23 ROBERT A. STALKER, JR.
24 WSBA #13650

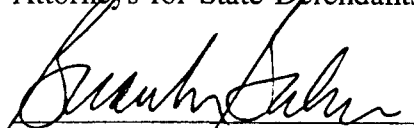
25 Of Attorneys for Plaintiffs

26 
27 KATRIN E. FRANK, WSBA #14786
28 Of Attorneys for Plaintiffs


DAVID LAMBERT, Pro Hac Vice
Of Attorneys for Plaintiffs

Approved as to form, presentation waived:

20 
21 RICHARD A. McCARTAN, WSBA #8323
22 CAROL A. MURPHY, WSBA #21244
23 Assistant Attorneys General
24 Attorneys for State Defendants

25 
26 BRIAN M. BAKER, WSBA #3442
27 Attorney for Defendant Chehalis School
28 District

STIPULATION & JUDGMENT RESOLVING
CERTAIN CLAIMS & CONTINUING TRIAL
ON THE REMAINING ONES- Page 16

ADMINISTRATIVE POLICY

JRA BULLETIN NO. 2

SUBJECT: Use of Physical Restraint Measures with
JRA Youth

**INFORMATION
CONTACT:** Pamela Shotwell
1509 California St.
Everett, WA. 98201
MS: L31-8

**AUTHORIZING
SOURCE:** RCW 13.40.010

**EFFECTIVE
DATE:**

APPROVED BY: _____
Assistant Secretary, Juvenile Rehabilitation Administration

SUNSET REVIEW DATE:

02-100 PURPOSE

This bulletin establishes policies and procedures governing the use of restraint measures, including the use of physical force.

02-200 SCOPE

This policy applies to all JRA operated and contracted organizational units.

02-300 DEFINITIONS:

1. **Physical Restraint** - Any physical intervention or force used by staff members to control a youth.
2. **Restraint Device** - Devices used to assist in controlling youth. This includes, but is not limited to handcuffs, leg irons, leg braces, waist chains, leather cuffs, PADS (special leather locking restraints) or other hospital type

restraints, plexiglass shields, or mattresses with hand holds, and does not include aerosol.

3. **Aerosol** - An approved aerosol propellant agent containing Oleoresin Capsicum used to assist in controlling youth.

02-400

POLICY

1. **Within the scope of their job performance, staff shall take reasonable precautions to prevent physically dangerous situations. Safety of staff members, youths, and the public is of paramount importance. Staff shall use the minimum amount of force necessary.**

Physical restraint, restraint devices, and aerosol are to be used as a means of control. They shall not be used for the purpose of punishment, inflicting pain, or as a means of degradation. Only those restraint devices necessary to address the specific threat posed shall be used.

2. **Staff are authorized to use physical restraint and restraint devices which are dictated by specific guidelines.**

- A. The use of physical restraint and restraint devices are authorized when all of the following conditions apply:

1. Youth fails to follow a staff directive;
2. Youth presents an immediate danger to self, others, or to property, or to escape, or is out of control; and
3. All reasonable means of control or verbal de-escalation have been unsuccessful.

Use of physical restraint or restraint devices may persist for only the period of time necessary to ensure that the youth is no longer a danger to self, others, or to property, or to escape, or is no longer out of control.

- B. Use of restraint devices is authorized when transporting youth in the community. They may be used at staff discretion, unless specified otherwise by security classification requirements in JRA Bulletin #5, Security Standards. JRA Transportation Unit staff are authorized to

use restraint devices in compliance with the Unit's procedures.

Restraint devices may be used to transport a youth on institutional grounds only when the youth presents an immediate danger to self, others, or to property; is a risk to escape; is out of control; or if there has not been adequate time to assess the youth's risk to escape or assault due to the youth's recent arrival to the institution.

- C. With the superintendent or designee's daily approval, a youth may be placed on a program which requires the youth to wear restraint devices during specified activities and/or movement.

The superintendent or designee shall specify in writing findings to support the reasons for placing a youth on a restraint program and specify what the youth must do to be removed from the program.

Treatment staff may terminate the program at any time. The superintendent or designee and the youth shall be notified of the program's completion.

If the program continues beyond thirty (30) consecutive days, it shall be approved by the Office Chief.

This program may only be utilized for youths who:

1. Are high escape risks who have recently or continue to verbalize plans and/or give other strong indications of attempting to escape; or
 2. Have demonstrated a frequent and consistent pattern of physically assaultive and/or destructive behavior, and have not responded to other means of intervention.
3. Aerosol use is dictated by specific guidelines. It may be used only to incapacitate a dangerous youth, and may not be used for the purpose of punishing, inflicting pain, or as a means of degradation.

- A. Aerosol may only be used when:

1. All other reasonable actions to force compliance with a staff directive fail; and

2. In situations which are reasonably likely to result in physical injury to a person(s) or damage to a substantial amount of valuable property.

In determining whether there is a credible threat of injury, staff may consider whether:

- a. The youth has a history of assaultive behavior or attempting to assault others;
 - b. The youth is seriously threatening verbally to cause injury; or
 - c. The demeanor of the youth indicates he/she is willing and capable of inflicting injury.
- B. Use of aerosol by staff requires the authorization of the regional administrator, superintendent or designee.
 - C. Staff who have received authorization shall inform the youth that failure to comply will result in exposure to aerosol. After this warning, the youth shall be given at least two (2) minutes to comply with the staff directive unless immediate action is required and the above conditions are met (02-400 3A).
 - D. Staff shall continually evaluate whether the conditions leading to consideration of use of aerosol still exist. Staff shall not use aerosol if these conditions no longer exist or the youth complies with the directive.
 - E. If the conditions no longer exist after a warning, but there is a re-escalation of behavior that is an extension of the same incident, an additional two (2) minute warning need not be given so long as the previously mentioned conditions still exist and at least two (2) minutes have expired since the original warning.
 - F. Aerosol shall be used only for the period of time necessary to ensure the youth is no longer likely to cause physical injury to a person or damage to a substantial amount of valuable property.
 - G. Only staff trained in aerosol use are authorized to apply the substance to a youth(s). A listing of staff trained and authorized will be

maintained by the regional administrator, superintendent or designee.

H. A youth shall not be exposed to aerosol if JRA medical staff determine the youth should not be exposed for medical reasons.

4. **Medical staff shall examine youth who have been exposed to aerosol as soon as possible.**

If medical staff are not on shift when the use of aerosol occurs, the youth will be examined when medical staff return on shift. If there is a medical need, a medical examination will be arranged immediately.

5. **Certain physical restraint measures are prohibited.**

Choke holds, sleeper holds, hog tying or other dangerous holds out of compliance with JRA guidelines shall not be used during physical restraint situations. All restraint methods must be applied so that the application is not intended to cause serious harm or injury. When in restraints, a youth shall not be attached to any furniture or fixture unless there is an emergency requiring such use of restraint.

6. **Written documentation is required of all physical restraints, uses of aerosol, and use of all restraint devices excluding routine transportation.**

Written documentation, including Incident Reports, shall be completed by the involved staff member(s) immediately following the incident if possible. If the documentation isn't done immediately, it shall be completed before the staff leave shift. Such documentation shall be kept in an administrative file.

7. **Training programs are required.**

A. Each residential facility, contracted program, and regional office shall provide a training program consistent with the recommendations of the JRA Training Committee and local needs. Training shall be documented in staff records.

B. Staff trained in the use of aerosol will be required to attend annual training in the following areas:

1. Crisis intervention and verbal de-escalation skills;
2. Interpretation of JRA and local policies pertaining to the use

of physical restraint, restraint devices, and aerosol;

3. Proper techniques for application of aerosol;
4. Video-taping techniques;
5. Proper de-contamination techniques;
6. Effects of aerosol.

8. **Regional Administrators and Superintendents are responsible for establishing local policy and procedure for the use of physical restraint, restraint devices, and aerosol.**

Local policies and procedures around the use of aerosol shall include:

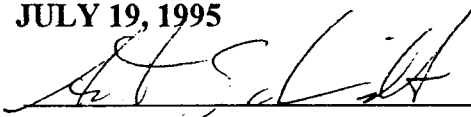
- A. Persons authorized to carry and administer the aerosol;
- B. Training required prior to authorization to carry and administer the aerosol;
- C. Authorization procedure required prior to use of aerosol;
- D. An administrative review following each use of aerosol;
- E. A formal written record of each use of the aerosol, which includes documentation of injury, provision of medical assistance to the youth, documentation of other less intrusive methods of intervention attempted, and a detailed description of events leading up to and following the use of the aerosol; and
- F. A requirement for videotaped recording of uses of aerosol beginning at the time authorization is requested, whenever possible.

GREEN HILL SCHOOL POLICY #4

SUBJECT: USE OF PHYSICAL RESTRAINT MEASURES WITH
GHS RESIDENTS

AUTHORIZING SOURCE: RCW 13.40.010, JRA Bulletin #2

EFFECTIVE DATE: JULY 19, 1995

APPROVED BY: 
Superintendent, Green Hill School

SUNSET REVIEW DATE: JULY 19, 1997

04-100 PURPOSE

To establish local policy and procedures to comply with the guidelines instituted by Juvenile Rehabilitation Administration Bulletin #2, "Use of Physical Restraint Measures with JRA Youth".

04-200 SCOPE

This policy applies to all areas under the jurisdiction of Green Hill School.

04-300 DEFINITIONS:

1. **Physical Restraint** - Any physical intervention or force used by staff members to control a resident.
2. **Restraint Device** - Devices used to assist in controlling residents. This includes, but is not limited to handcuffs, leg irons, leg braces, waist chains, leather cuffs, PADS (special leather locking restraints) or other hospital type restraints, plexiglass shields, or mattresses with hand holds and does not include aerosol.
3. **Aerosol** - An approved aerosol propellant agent containing Oleoresin Capsicum used to assist in controlling youth.

04-400 POLICY

1. Within the scope of their job performance, staff shall take reasonable

precautions to prevent physically dangerous situations. Safety of staff members, residents, and the public is of paramount importance. Staff shall use the minimum amount of force necessary.

Physical restraint, restraint devices and aerosol are to be used as a means of control. They shall not be used for the purpose of punishment, inflicting pain, or as a means of degradation. Only those restraint devices necessary to address the specific threat posed shall be used.

2. Staff are authorized to use physical restraint and restraint devices which are dictated by specific guidelines.

A. The use of physical restraint and restraint devices are authorized when all of the following conditions apply:

1. Resident fails to follow a staff directive;
2. Resident presents an immediate danger to self, others, or to property, or to escape, or is out of control; and
3. All reasonable means of control or verbal de-escalation have been unsuccessful.

Use of physical restraint or restraint devices may persist for only the period of time necessary to ensure that the resident is no longer a danger to self, others, or to property, or to escape, or is no longer out of control.

B. Use of restraint devices is authorized when transporting residents in the community. They may be used at staff discretion unless specified otherwise by security classification requirements in JRA Bulletin #5 and GHS Policy #14, Security Standards.

Restraint devices may be used to transport a resident on institutional grounds only when the resident presents an immediate danger to self, others, or to property; is a risk to escape; is out of control; or if there has not been adequate time to assess the resident's risk to escape or assault due to the resident's recent arrival to the institution.

C. With the superintendent or designee's daily approval, a youth may be placed on a program which requires the youth to wear restraint devices during specified activities and/or movement.

The superintendent or designee shall specify in writing findings to support the reasons for placing a youth on a restraint program and specify what the youth must do to be removed from the program.

Treatment staff may terminate the program at any time. The superintendent or designee and the youth shall be notified of the program's completion.

If the program continues beyond thirty (30) consecutive days, it shall be approved by the Office Chief.

This program may only be utilized for residents who:

1. Are high escape risks who have recently or continue to verbalize plans and/or give other strong indications of attempting to escape; or
2. Have demonstrated a frequent and consistent pattern of physically assaultive and/or destructive behavior, and have not responded to other means of intervention.
3. Aerosol use is dictated by specific guidelines. It may be used only to incapacitate a dangerous resident, and may not be used for the purpose of punishing, inflicting pain, or as a means of degradation.

A. Aerosol may only be used when:

1. All other reasonable actions to force compliance with a staff directive fail; and
2. In situations which are reasonably likely to result in physical injury to a person(s) or damage to a substantial amount of valuable property.

In determining whether there is a credible threat of injury, staff may consider whether:

- a. The resident has a history of assaultive behavior or attempts to assault;
- b. The resident is seriously threatening verbally to cause injury; or

- c. The demeanor of the resident indicates he is willing and capable of inflicting injury.
 - B. Use of aerosol by staff requires the authorization of the Superintendent or designee. When the use of aerosol is being considered, the on-shift Security Supervisor or designee shall contact the Superintendent or designee in person or by telephone to request authorization for aerosol use.
 - C. Staff who have received authorization shall inform the resident that failure to comply will result in exposure to aerosol. After this warning, the resident shall be given at least two (2) minutes to comply with the staff directive unless immediate action is required and the above conditions are met (04-400, 3A).
 - D. Staff shall continually evaluate whether the conditions leading to consideration of use of aerosol still exist. Staff shall not use aerosol if these conditions no longer exist or the resident complies with the directive.
 - E. If the conditions no longer exist after a warning, but there is a re-escalation of behavior that is an extension of the same incident, an additional two (2) minute warning need not be given so long as the previously mentioned conditions still exist and at least two (2) minutes have expired since the original warning.
 - F. Aerosol shall be used only for the period of time necessary to ensure the resident is no longer likely to cause physical injury to a person or damage to a substantial amount of valuable property.
 - G. Only staff trained in aerosol use are authorized to carry and apply the substance to a resident(s). A listing of staff trained and authorized will be maintained by the designated Security Supervisor.
 - H. A resident shall not be exposed to aerosol if JRA medical staff determine the resident should not be exposed for medical reasons.
4. **Medical staff will examine each resident who has been exposed to aerosol as soon as possible.**

If medical staff are not on shift when the use of aerosol occurs, the resident(s) will be examined when medical staff return on shift. If there is a medical

need, a medical examination will be arranged immediately. The examining staff will submit a report identifying any injuries and/or medical action taken.

5. **Use of aerosol shall be recorded on video tape whenever possible.**

- A. At the time authorization for the use of aerosol is being requested, staff shall begin and continue to video tape the resident's behavior whenever possible. Exceptions to this include situations in which a video recorder is not available, there is not time to assemble equipment, the equipment malfunctions, there are technical difficulties, or camera operation would cause unreasonable risk to staff.
- B. When possible, the camera shall be located to ensure a complete view of the incident at wide angle, including staff involved in the incident. The camera operator will ensure the date and time are present in the lower left hand corner of the view finder.
- C. The camera will record the entire incident until the resident is placed in his final destination.
- D. Staff intervention with volatile residents during incidents where aerosol is not being considered or authorized may be video taped at staff discretion.
- E. These video tapes are confidential and are to be disclosed only consistent with Washington Public Disclosure Laws or other applicable laws or regulations. They shall be reviewed by staff on a need-to-know basis to provide staff with feedback, debriefing, and/or training.
- F. Video tapes that record the use of aerosol will be secured in the Security Office and an inventory of these tapes will be maintained. These video tapes will be kept for at least one (1) year or until the resident leaves GHS, whichever is the longer period of time. The Area Associate Superintendent shall ensure limited access to these tapes. Video tapes that don't have a recording of aerosol use may be erased and reused with the approval of the designated Security Supervisor.

6. **Documentation is required of all physical restraints, uses of aerosol, and use of all restraint devices excluding routine transportation.**

- A. Written documentation, including incident reports (Attachment A), shall be completed by the involved staff member(s) immediately following the incident when possible. If not immediately possible, the documentation shall be completed prior to the staff member(s) leaving shift.
 - 1. When a restraint device(s) is used a Use of Restraint Device Incident Report (Attachment B) will be completed in lieu of a standard incident report.
 - 2. Incident reports and Use of Restraint Device Incident Reports shall be kept in the resident's case file, treatment file, and an administrative file.
 - 3. When aerosol has been used, the Security Supervisor or designee involved in the use shall complete a Use of Aerosol Report prior to leaving shift. These reports will be filed with the appropriate video tape and a copy will be given to the Associate Superintendent in charge of Security for filing.
 - 4. Medical reports on the incident shall only be kept in the resident's medical file. A copy of the report may be provided to law enforcement.
 - 5. If a law violation (assault, escape, attempted escape, property damage, etc.) occurs in the process of the incident, all involved staff shall complete a Chehalis Police Victim/Witness Report (Attachment D) prior to leaving shift. Involved residents are to be given the opportunity to complete this report. A copy of each of the reports shall be forwarded to the Court Liaison.
- B. The incident report(s) must include:
 - 1. Detailed description of the entire incident including the sequence of events leading to and following the use of physical restraint, restraint devices, and/or aerosol, injury to staff and/or the resident(s), provision of medical assistance to the resident(s), and the less intrusive methods of intervention attempted.

2. Reason physical restraint, restraint devices, and/or aerosol were used.
 3. Actual staff directive to resident(s).
 4. Names of all staff and residents involved.
 5. Detailed description of any physical evidence recovered and the steps taken to secure it in the Security Office and/or the Court Liaison's office. The integrity of the Chain of evidence for any physical evidence recovered shall be maintained.
- C. A photograph of any staff or resident injuries or property damage shall be taken as soon as possible, and attached to the appropriate incident report.
- D. In accordance with 04-400, 5, a video tape shall be taken of each incident involving the use of aerosol and secured.
7. **A spray review will be conducted following each incident requiring the use of aerosol.**
- An initial review will be held by the Associate Superintendent in charge of Security along with the staff members involved in the use of aerosol.
- All available documentation, including videos, log entries, and incident reports, shall be reviewed.
- The chairperson of this review shall complete the Aerosol Use Review Worksheet (Attachment E).
- The Superintendent shall review every Worksheet and shall initiate a Major Incident Review in the event of staff and/or resident injury, significant property damage, or potential policy/procedure violations.
8. **Certain physical restraint measures are prohibited.**
- Choke holds, sleeper holds, hog tying or other dangerous holds out of compliance with JRA guidelines shall not be used during physical restraint situations. All restraint methods must be applied so that the application is not intended to cause serious harm or injury. When in restraints, a resident shall not be attached to any furniture or fixture unless there is an emergency

requiring such restraint.

9. **Training programs are required.**

- A. Staff who are expected to use necessary physical restraint, restraint devices, and/or aerosol shall be adequately trained in crisis intervention techniques and in accordance with established JRA guidelines. Training shall be documented in staff records.
- B. Staff trained in the use of aerosol will be required to attend annual training in the following areas:
 - 1. Crisis intervention and verbal de-escalation skills;
 - 2. Interpretation of JRA Bulletin #2 and GHS Policy #4 pertaining to the use of physical restraint, restraint devices, and aerosol;
 - 3. Proper techniques for application of aerosol;
 - 4. Video-taping techniques;
 - 5. Proper de-contamination techniques;
 - 6. Effects of aerosol.

4-500

PROCEDURES

1. **Guidelines for use of physical restraint and use of aerosol.**

Staff shall use the following guidelines for the use of physical restraint and/or the use of aerosol:

A. **Away from incident site (pre-script) when possible:**

At the time authorization for the use of aerosol is being requested, staff shall begin and continue to video tape the resident's behavior until the resident is placed in his final destination, whenever possible.

The Security staff in charge will brief staff on the resident(s) involved, sequence of events justifying the use of physical restraint or use of aerosol. Include the name of person authorizing the use of the physical

restraint and/or aerosol.

B. At the incident site:

- 1) Verbally direct the resident to comply.
- 2) If non compliant, direct approved staff to apply the determined method of physical restraint (i.e. aerosol, physical force).
- 3) Record the showering of resident(s) exposed to aerosol, if applicable. (The video camera will be directed from the waist up).
- 4) Record the medical examination of the resident and a brief description of his condition.
- 5) Record the final placement of the resident(s) in the room if aerosol was used.

C. Away from incident site (post-script):

- 1) Debrief staff involved.
- 2) Complete all necessary documentation, route it, and secure physical evidence and, when aerosol is used, the video tape.

2. Restraint Device/Aerosol Inventory and Storage:

A. Aerosol:

An appropriate variety of dissemination methods and quantities shall be available. The security supervisor is responsible for ensuring that only approved aerosol is authorized for purchase, storage and use.

All aerosol shall be stored in a secure method that will prevent residents from having access to it. The locked cabinet in the storage room outside of the Intensive Management Units is designated as the storage area for the primary stock of aerosol.

A master perpetual inventory shall ensure an accurate record on the disposition of all aerosol containers. When aerosol containers are unaccounted for, the following will occur:

1. A written report shall be submitted to the Superintendent via the chain of command by the staff discovering the inaccuracy.

2. The area Associate Superintendent shall assign an investigator to determine the disposition of the missing aerosol.

B. Restraint Devices:

The Security Supervisor shall oversee the purchase and dissemination of hand cuffs, leg cuffs, leg braces, waist chains, soft cuffs, plexiglass shields and mattresses with hand holds. An inventory of all restraint devices shall be maintained separate from the inventory of aerosol. Restraint devices will be stored to ensure that residents do not have access to them.

Security staff will issue cottage staff approved non aerosol restraint devices when needed for transporting/movement or a leg brace program. A check-out system will be used to track the use of these devices. The cottage directors are responsible to ensure that these devices are returned in proper working order upon completion of use.

Security staff are authorized to carry hand cuffs and hand cuff keys on their person during their shift to allow for ready use.

In the event that a restraint device is unaccounted for, the following will occur:

1. A written report shall be submitted to the Superintendent via the chain of command by the staff discovering the inaccuracy.
2. The area Associate Superintendent shall assign an investigator to determine the disposition of the missing restraint device.

Attachment A

INCIDENT REPORT

THIS REPORT MUST BE SUBMITTED BEFORE LEAVING YOUR SHIFT

TO: _____ DATE: MONTH, DAY, YEAR _____

REPORTING PERSON: _____ LOCATION OF INCIDENT: _____

PERSONS INVOLVED: _____ COTTAGE OR DEPARTMENT: _____

INCIDENT: _____

COMMENTS AND RECOMMENDATION OF DEPARTMENT HEAD OR SUPERVISOR: _____

SIGNATURE OF DEPARTMENT HEAD OR SUPERVISOR: _____

THIS REPORT MUST BE SUBMITTED BEFORE LEAVING

Type of Restraint Device(s) Used: _____ **Time In:** _____ **Out:** _____

PERSONS INVOLVED COTTAGE OR DEPARTMENT

Incident

Signature of Department Head or Supervisor

USE OF AEROSOL REPORT

My name is: _____ Today's Date is: _____

The time is: _____

The Video Camera operators name is: _____

The following resident(s) are involved: (Give names and JRA Numbers)

_____	JRA NUMBER: _____
_____	JRA NUMBER: _____
_____	JRA NUMBER: _____

What led to decision to use aerosol restraint? _____

The sequence of events that led to the decision to use aerosol are as follows: (Chronological order of reasons and action that was taken prior to making the decision to use aerosol.) _____

Less intrusive methods of intervention attempted: _____

Staff involved: _____

I gave the following instructions to staff: _____

Were there injuries? _____ Was medical assistance provided? _____

Where the resident(s) is now and what is his behavior? _____

cc: Video tape file
Security Associate Superintendent

ATTACHMENT D:

CHEHALIS POLICE DEPARTMENT

WITNESS-VICTIM STATEMENT

Date: _____ Time: _____ Case Number: _____

Name: _____ DOB: _____

Address: _____

Phone Number: _____

I, _____ hereby make the following statement: _____

[illegible]

I HAVE READ THE ABOVE STATEMENT AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESS: _____ SIGNED _____

IMU DUE PROCESS POLICY

(1) A youth may be placed in IMU if he:

(a) Presents a threat of physical harm to self, others, property, or to escape, if not placed in IMU; or

(b) Commits a rule violation warranting placement in IMU in accordance of the Standard Rules of Conduct.

The Standard Rules of Conduct shall generally describe the prohibited conduct and prescribe the maximum number of days of IMU confinement for engaging in the conduct. Youth shall be given advance notice of the Standard Rules of Conduct.

(2) Before a youth is transferred to IMU under section (1)(a), whenever possible consistent with institutional security, the youth shall be told why he is being transferred, and be given the opportunity to explain to the cottage director or designee why he should not be transferred. As soon as possible after the youth is transferred to IMU, he shall be given a written statement of the reasons for the transfer.

(3) A youth transferred to IMU under section (1)(a) may be released from IMU at any time prior to the expiration of 72 hours at the discretion of the superintendent or designee. If the youth is held in IMU longer than 72 hours, he shall be given a hearing under section (5).

(4) If placement of a youth in IMU is sought under section 1(b), prior to transfer, the youth shall be given notice of the charges against him, and a hearing under section (5) not less than twenty-four (24) hours after notice is given.

(5) An IMU placement hearing shall be conducted by an

impartial hearings officer appointed by the superintendent or designee. A youth shall have the right to:

- (a) Appear before the hearings officer and present oral or written statements on his own behalf;
- (b) Call witnesses unless the hearings officer finds that the testimony of the witness would be irrelevant, repetitive, unnecessary, or would disrupt the orderly administration of institution; and
- (c) Appointment of a staff advocate if the hearings officer finds that the youth is illiterate or unable to understand the nature of the proceedings, or to reasonably defend against the charges without assistance.

At the hearing, treatment staff from the youth's cottage shall present evidence on how the criteria for IMU transfer are met. The youth shall have no right to cross-examine witnesses, except as permitted by the hearings officer.

(6) After hearing the evidence, the hearings officer shall decide:

- (a) Whether the criteria of section (1)(a) are proven by a preponderance of the evidence; or
- (b) Whether the criteria of section (1)(b) are proven by a preponderance of the evidence, and if so, how many days of confinement should be imposed up to the maximum number of days specified in the Standard Rules of Conduct. In deciding on the number of days of confinement, the hearings officer shall consider the intellectual, mental, and emotional condition of the youth.

The hearing officer's decision, stating finding and reasons, shall be in writing and be given to the youth.

(7) A decision approving an IMU transfer shall notify the youth that the decision may be appealed in writing by the youth to the superintendent within five (5) days of receipt of the decision. The superintendent or designee shall issue a written decision on the appeal within ten (10) days of receipt of the appeal. The youth shall be notified promptly of the superintendent's decision. An appeal will not stay the IMU transfer, unless so ordered by the superintendent or designee.

(8) A youth placed in IMU under section (1)(a) shall be released upon opening of the first available bed when it is determined that the behavior leading to transfer is not likely to reoccur. This determination shall be made at least every thirty (30) days by the IMU supervisor or designee. The youth shall be present when the determination is made, and be given the opportunity to present his views. A release decision, giving reasons, shall be in writing and be given to the youth.

(9) A youth placed in IMU under section (1)(b) shall be released upon opening of the first available bed when the penalty has been served.

(10) A youth may be denied credit off his maximum sentence during days confined in IMU. No denial shall occur, however, once the youth has been approved for release pending opening of the first available bed.

(11) At the time of the hearing under section (5), or within 72 hours of placement in IMU, absent exigent circumstances, staff

shall prepare, with input from the youth, a written plan to allow reintegration of the youth into the general population as soon as possible.

RELEASE DATE DUE PROCESS POLICY

(1) The release date of every resident shall be set at the maximum. Time may be earned off the maximum if the resident complies with the terms of the Treatment/Behavior Contract. Whether the youth has complied regularly shall be reviewed in accordance with the terms of the Contract.

(2) If treatment staff believes a youth is not entitled to full credit off his maximum sentence during a review period, the youth shall be given written notice for the reasons for the denial of credit. Within not earlier than twenty-four (24) hours after the notice, the youth shall receive a hearing before an impartial hearings officer. The youth shall have the right to:

(a) Appear before the hearings officer and present oral or written statements on his own behalf;

(b) Call witnesses unless the hearings officer finds that the testimony of a witness would be irrelevant, repetitive, unnecessary, or would disrupt the orderly administration of the institution; and

(c) Appointment of a staff advocate if the hearings officer finds that the youth is illiterate or unable to understand the nature of the proceedings, or to reasonably defend against the charges without assistance.

Treatment staff recommending denial of credit shall present evidence on how the youth has failed to comply with the terms of the Contract and why denial of credit is justified. The youth shall have no right to cross examine witnesses, except as permitted by the hearings officer.

(3) The hearing officer may decide to deny credit if non-compliance with a term of the Contract is proven by a preponderance of the evidence. No credit may be given for days spent by a youth in IMU, except for days spent awaiting opening of the first available bed outside IMU. The hearing officer's decision, giving findings and reasons, shall be in writing and be given to the youth.

(4) A decision approving denial of credit shall notify the youth that the decision may be appealed in writing by the youth to the superintendent within five (5) days of receipt of the decision. The superintendent or designee shall issue a written decision on the appeal within ten (10) days of receipt of the appeal. The youth shall be notified promptly of the superintendent's decision.

DIVISION OF JUVENILE REHABILITATION

DJR BULLETIN #13

YOUTH COMPLAINTS

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13-300	DEFINITIONS
13-400	POLICY

ADMINISTRATIVE POLICY

DJR BULLETIN NO. 13

SUBJECT: YOUTH COMPLAINTS

INFORMATION

CONTACT: Robin Cummings
MS: 5720
P. O. Box 45720
Olympia, WA 98504-5720
PHONE: (206) 586-2101 SCAN 321-2101
FAX (206) 586-5317 SCAN 321-5317

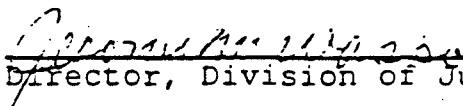
AUTHORIZING

SOURCE: RCW 13.40.010 (2)

EFFECTIVE

DATE: February 1, 1993

APPROVED BY:


Director, Division of Juvenile Rehabilitation

SUNSET REVIEW

DATE: February 1, 1995

13-100 PURPOSE

This bulletin establishes a process for resolving youth complaints about policies, procedures or actions by staff.

13-200 SCOPE

This policy applies to all Division of Juvenile Rehabilitation (DJR) operated or contracted programs.

13-300 DEFINITIONS

1. None

13-400 POLICY

1. Youths have a right to a review of complaints.
 - A. Youths have the right to make complaints about actions and decisions of staff or policies and procedures.
 - B. Facility administrators shall attempt to have complaints resolved at the lowest possible level.

4. Program Administrators shall distribute records.

Program Administrators shall distribute copies of the final decision to involved parties. A copy of the final decision shall be placed in the youth's case file, and a copy shall be retained at the facility for one year.

5. Region Administrators may waive policy for CCPs.

Region Administrators may waive the requirements of this bulletin for Community Commitment Programs (CCPs), provided the CCP has an acceptable local complaint resolution procedure and the DJR youths in CCPs shall have the right to appeal to the division ombudsperson.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

DIVISION OF JUVENILE REHABILITATION

YOUTH COMPLAINT - APPEAL PROCEDURE

If you have a complaint about your living conditions or one of the staff, the following steps may be taken to resolve the matter:

- 1) First, talk with your counselor. There may be a misunderstanding that can be settled when the facts are reviewed.
- 2) If Step 1 did not resolve things to your satisfaction, complete the Youth Complaint - Appeal Request form and give it to a staff member or supervisor.
3. If you still feel that you have a complaint after the supervisor makes a decision, then the request must be sent to the Program Administrator within seven days. You will receive a written response from the Program Administrator within seven days.
4. If still dissatisfied, you may request the matter be sent to the Division of Juvenile Rehabilitation (DJR) Director. You will be contacted by the ombudsperson who handles all complaints for the Director. The decision you receive will be final.
5. Nothing in this procedure prevents you from obtaining legal counsel to pursue the complaint further.

DIVISION OF JUVENILE REHABILITATION
YOUTH COMPLAINT - APPEAL REQUEST

FACILITY _____ ETHNICITY _____

YOUTH'S NAME _____ COTTAGE _____

COMPLAINT: Date of occurrence: _____ I would like to complain about the following:

Staff Involved (If any) _____

Witnesses (If any) _____

I seek the following resolution: _____

Youth's Signature _____ Date _____

SUPERVISOR'S ACTION: _____

Supervisor's Signature _____ Date _____

I would like to appeal this decision to the Program Administrator: YES _____ NO _____

Youth's Signature _____ Date _____

PROGRAM ADMINISTRATOR'S REVIEW: _____

Administrator's Signature _____ Date _____

I would like the Division Director to review my complaint: YES _____ NO _____

Youth's Signature _____ Date _____

Date that request for Director's review was received _____