

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

FLORETTA MCKENZIE
Superintendent of Schools
District of Columbia Public Schools
415 12th Street N.W.
Washington, D.C. 20004

and

DORIS WOODSON
Superintendent of Special Education
District of Columbia Public Schools
Webster Building
10th & H Streets N.W.
Washington, D.C. 20001

Defendants.

C O M P L A I N T

FRANCIS D. CARTER
CHARLES J. OGLETREE
RANDY HERTZ
REITA PENDRY
PUBLIC DEFENDER SERVICE
451 Indiana Avenue N.W.
Washington, D.C. 20001
(202) 628-1200

COUNSEL FOR PLAINTIFFS

	<u>PAGE:</u>
INTRODUCTION: NATURE OF THE ACTION	5
JURISDICTION	7
PARTIES:	
Plaintiffs	7
Class Action Allegations	10
Defendants	11
STATEMENT OF FACTS:	
I. Cedar Knoll Youth Center	
A. Physical Structure	13
B. Educational Services	14
i. Introduction	14
ii. General Educational Services	15
iii. Special Educational Services	16
C. Vocational Training Services	19
D. Mental Health Services	20
E. Medical Services	21
F. Counseling Services, Social Services, and Direct Care	22
G. Climate of Violence	23
H. Recreational Services	24
I. Procedures for Attorney-Client Communications	25
J. Procedures for Family Visitation	25
II. Oak Hill Youth Center	
A. Physical Structure	26
B. Educational Services	27
i. General Educational Services	27
ii. Special Educational Services	28
C. Vocational Training Services	30
D. Mental Health Services	31
E. Medical Services	32
F. Counseling Services, Social Services, and Direct Care	33
G. Climate of Violence	34

PAGE:

H. Procedures for Disciplining Residents ..	35
I. Recreational Services	35
J. Procedures for Attorney-Client Communications	36
K. Policies for Family Visitation	36
CAUSES OF ACTION	37
RELIEF REQUESTED	40

INTRODUC ON: NATURE OF THE ACTION

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

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

The Oak Hill Youth Center is a maximum-security juvenile detention facility operated by the District of Columbia, and also located in Laurel, Maryland. The population of Oak Hill is approximately 150 children. Approximately one-third are detained pending trial or disposition, and the other two-thirds are committed to the Department of Human Services. The buildings at Oak Hill are newer than those at Cedar Knoll and so Oak Hill may appear on the surface to be a better facility. But,

scrutiny : the rehabilitative services at Oak Hill -- the heart of any facility for caring for detained youth and treating delinquent youth -- reveals that the services at Oak Hill are as deplorably inadequate as those at Cedar Knoll.

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

The plaintiffs contend that the totality of the conditions in these juvenile detention facilities violates statutory and constitutional requirements. The plaintiffs live under conditions that are inhumane and that inflict needless suffering. They are deprived of the educational, vocational, mental health, and other social services that they so desperately need and that defendants are obligated to provide. The totality of these conditions violates the children's statutory right to appropriate care and treatment under D.C. Code §§ 16-2313(b) and 2320 (as interpreted in SCR-Juv. Rule 2), their statutory rights to adequate educational services under D.C. Code §§ 31-401 and 31-403 and under 20 U.S.C. §§ 1401 et seq., and their rights under the Fifth and Eighth Amendments to the United States Constitution.

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

2. This action seeks to redress injuries, suffered by plaintiffs and the class they represent, for deprivation of rights secured by the Fifth and Eighth Amendments to the Constitution of the United States, and the Education of the Handicapped Act (20 U.S.C. § 1401 et seq.) These claims for relief are brought pursuant to 42 U.S.C. § 1983.

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

PARTIES

Plaintiffs

4. Each of the plaintiffs is presently incarcerated in a juvenile detention facility operated by the District of Columbia. Plaintiff Jerry M. is detained, pending trial, at Cedar Knoll Youth Center, and plaintiff David U. is detained, pending disposition, at Cedar Knoll. Plaintiff Anthony W. has been committed to the Department of Human Services, and was placed by the Department at Cedar Knoll. Plaintiff Omar H. is detained, pending trial, at Oak Hill Youth Center. Plaintiffs Maurice B., Willie H., Gerald R., and Rondy S. have been committed to the Department of Human Services, and placed by the Department at Oak Hill.

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

6. Plaintiff David U. is a sixteen year old youth with substantial emotional problems. He has been diagnosed as severely depressed, passive-dependent, and possibly suffering from brain disfunction. Mental health professionals have determined that David needs a structured program of education and vocational training, and requires individual counseling. Yet, during the three months that David has been detained at Cedar Knoll, pending trial and now pending disposition, he has not received any educational, vocational, or psychological services at all.

7. Plaintiff Anthony W. is a thirteen year old boy with emotional problems and educational handicaps. A psychological evaluation found that Anthony's "functioning fluctuates from mentally deficient to low average," and the D.C. Public Schools determined that Anthony should be placed in a special education school program. But Cedar Knoll has consistently refused to provide Anthony with appropriate special educational services and has failed to adequately assess his educational needs.

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

9. Plaintiff Maurice D., who is committed to Oak Hill. Maurice has a history of severe abuse of PCP, and a psychiatrist has called for drug counseling for Maurice. Oak Hill, however, does not provide any such counseling for its residents. Maurice is also one of several young men who have been physically assaulted by a counselor while at Oak Hill.

10. Plaintiff Willie H. is a seventeen year old with substantial educational handicaps, who has been assessed as needing special education. Oak Hill has consistently failed to provide Willie with the special educational services that he needs.

11. Seventeen year old plaintiff Gerald R., who is committed to Oak Hill, also has major educational handicaps: he suffers from a learning disability, developmental language disorder, and has an immediately noticeable speech impediment. Yet, Oak Hill has placed him in regular classes with the general population, and has failed to provide him with speech therapy services. Although mental health professionals have determined that Gerald is in need of "individual as well as group counseling on a daily basis," he receives no psychological therapy whatsoever at Oak Hill.

12. Plaintiff Rondy S. is an educationally gifted eighteen year old who has earned his G.E.D. degree and intends to pursue higher education. Because Oak Hill will not provide -- or arrange -- college level classes for gifted children like Rondy, he spends his days working on facility maintenance and sitting in the cottage watching television. Rondy was the subject of a vicious assault by another resident, at a time when the residents were inadequately supervised by the counselors.

13. Plaintiffs bring this action by and through their next friend, Donna Wulkan, Clinical Instructor in the Antioch School of Law Juvenile Rights Clinic and Developmental Disabilities Law Clinic. Ms. Wulkan is qualified to serve as next friend for the named plaintiffs and the class which they represent, and will fully and actively advocate the interests of both the named

plaintiff and the class. As a result

(D. D.C. 1984), the Honorable Harold Greene appointed Ms. Wulkan as guardian ad litem for the class of all former, current and future residents of St. Elizabeths Hospital Division of Child and Adolescent Services. In that capacity, Ms. Wulkan participated in negotiations with the District of Columbia and entered into a settlement on behalf of the entire class of children.

Class Action Allegations

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

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

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

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

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

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

Defendants

20. Defendant District of Columbia is a municipal corporation and is responsible for the supervision and operation of the District of Columbia Department of Human Services and the District of Columbia Public Schools. */

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

22. Defendant David E. Rivers is the Director of the Department of Human Services. As such, he is responsible for overseeing the enforcement of laws in District of Columbia juvenile detention facilities, and for the overall treatment, care and protection of all children confined in these facilities.

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

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

24. Services Administration and is responsible for overseeing the enforcement of laws in District of Columbia juvenile detention facilities, and for the overall treatment, care and protection of all children confined in these facilities.

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

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

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

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

I. Cedar Knoll Youth Center

A. Physical Structure

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

30. The vast majority of residential units have substantial holes in the walls and most buildings have major holes in the ceilings. Plaster has fallen in large pieces, and in some buildings, the outer brick layer is completely exposed. This is true even in units such as Carver, Jefferson, and Bunche, which were renovated in recent years but have not been properly maintained. Conditions are particularly deplorable in Wilson Cottage, a dimly lit, decaying building whose interior walls lack large segments of bricks.

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

32. The fixtures and furnishings of the buildings are totally deteriorated. The walls have large strips of peeling paint. There are sofas with the stuffings either totally removed or dangling from the sofa onto the floor, and with the springs exposed. There are beds with the metal slats so bent that the bed cannot be used comfortably. Wall sockets are

totally exposed and give electric shocks when used. Many of the electrical appliances used in the residences, such as television sets and floor buffers, have stripped cords which also cause electric shocks to residents.

33. The utility services of the facility are inadequately operated and maintained. The heating and plumbing services are so old and deteriorated, that they regularly overflow, flooding areas and periodically necessitating the temporary closure of cottages. The conditions in several of the cottages violate fire safety requirements.

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

35. Plaintiff Jerry M. lives in Marshall Cottage. His bed is directly adjacent to non-insulated windows that will not fully close, and opposite a broken window that has not been repaired for weeks. His building suffers from broken walls, peeling paint, ramshackle furniture, and vermin.

B. Educational Services

i. Introduction

36. The Department of Human Services has assumed the District of Columbia's responsibility for providing educational services to children who are detained or committed in the District's detention facilities. The Department of Human Services operates a school at Cedar Knoll and a school at Oak Hill.

37. The educational services at these facilities consist of essentially two types of services: (a) Academic courses paralleling the traditional school curriculum and provided to the general population of the facility [hereafter referred to as "general educational services"]; and (b) "Special educational

services" for residents who are educationally handicapped as a result of learning disabilities, mental retardation, emotional disturbance, or other developmental or organic disorders.

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

ii. General Educational Services

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

40. The defendants fail to provide any educational services whatsoever to the residents of Bunche Cottage, the auxiliary maximum security cottage. These children are not allowed to leave their cottage to attend school, and defendants do not send a teacher into the cottage to teach the children. Plaintiff

months, and received no educational services during that period of time.

iii. Special Educational Services

41. Under the federal Education of the Handicapped Act, all educationally handicapped children are entitled to special education and related services. (The law explicitly extends the benefits of special educational services to children in correctional institutions.) The law requires the District to identify, evaluate, and provide special educational services to those children in its correctional facilities who are educationally handicapped. Yet, with respect to the population of children who are confined at Cedar Knoll, the District fails on all three of these requirements of identification, evaluation, and provision of services.

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

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

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

- a. Children who are truly educationally handicapped, but have never been identified as such by Cedar Knoll

are placed in regular classrooms with the general population, and thereby foreclosed from special educational services;

- b. Even when the defendants do identify a Cedar Knoll resident as educationally handicapped, the deficiencies in the evaluation process result in an Individualized Education Plan that is not appropriate for the child's specific disabilities and needs;
- c. Even when the defendants do prepare or obtain a proper Individualized Education Plan, the services actually provided to the child do not fulfill the specifications of the Plan and do not adequately serve the child's special educational needs. The Cedar Knoll teachers, who are assigned the responsibility for providing special education, are untrained in the specific learning disabilities from which the children suffer, and are not provided the time, resources, and equipment necessary to provide an appropriate education to these children.

45. Furthermore, in the course of evaluating and placing children, the defendants fail to afford Cedar Knoll residents and their parents the procedural rights which are guaranteed by federal law. Upon admitting children who were in special education classes in the community, the facility routinely changes the child's educational setting to a general educational class without notifying the child's parents of the change in educational placement and their right to contest the change.

When the facility itself identifies a child as handicapped and orders a preplacement evaluation to determine specific educational needs, the defendants do not notify the child's parents of the identification of a handicap or secure their written consent for a preplacement evaluation. The defendants also frequently fail to notify parents of the results of evaluations, their right to a hearing to contest the evaluation, their right to obtain an independent educational evaluation at public expense, and the nature of the tests, records, and reports relied upon to make the evaluation. Finally, in scheduling meetings for the purpose of preparing Individualized Education Plans, the defendants do not consistently observe statutory requirements for proper and timely notice to the children's parents.

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

47. Plaintiff Anthony W. is a thirteen year old boy with substantial educational handicaps. A Child Guidance Clinic evaluation found that Anthony's "functioning fluctuates from

mentally deficient to low average," and that he "functions at only the third grade level." The D.C. Public Schools determined that Anthony is educationally handicapped, and prepared an Individualized Education Plan for provision of appropriate special educational services to Anthony. But when Anthony was committed to Cedar Knoll, the institution's educational assessor failed to obtain his prior school records and erroneously concluded that "[t]he need for an IEP is not apparent, at this time." As a result, Anthony has been deprived of the special educational services that he needs. In changing Anthony's special educational status and declining to enforce the previously prepared Individualized Education Plan, defendants failed to comply with the substantive and procedural criteria of the federal statute.

C. Vocational Training Services

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

49. Plaintiff Jerry M. suffers from the lack of any vocational services at Cedar Knoll. A psychological evaluation of Jerry, prepared prior to his incarceration, recommended that he "receive pre-vocational counseling to prepare him for a future career" and that he receive "[v]ocational training through high school." Upon Jerry's incarceration, a Cedar Knoll psychologist recommended that "[d]ue to the resident's age, Jerry would profit from a vocational assessment in order to determine his vocational interests and ability areas." This vocational assessment apparently was never arranged. Even if it had been, however, it would have been an exercise in futility

since there still would not have been any vocational services at Cedar Knoll for Jerry.

D. Mental Health Services

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

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

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

- a. The testing is often insufficiently comprehensive to detect and identify the precise mental health needs of the residents;
- b. The inadequate time for therapy forces the psychologists to adopt a "triage" policy of providing therapy only to the most needy and as a result, many residents' mental health needs go unattended;

- c. The facility follows a policy of denying therapy services to the entire detained population, with the exception of those children who have been court-ordered to receive therapy while detained;
- d. Even when the psychology department does provide therapy to residents, it is almost exclusively group therapy, and residents' needs for individual therapy are frequently unmet.

53. Plaintiff David U. has significant mental problems. A psychiatrist with the Metropolitan Psychiatric Group found that David suffers from "significant depression," and may also be suffering from "minimal brain disfunction with perceptual problems . . . that might be even partially ameliorated by low dose antidepressant." A private psychologist recommended that David receive "[e]nrollment in individual counseling." Yet, during a previous period of commitment to Cedar Knoll and during his present period of detention at Cedar Knoll, David has not received either psychiatric or psychological therapy services. During his previous period of commitment, the Cedar Knoll psychologist concluded that: "David is not a priority candidate for mental health services. However, when resources permit, he will be considered for a counseling group. . . ."

E. Medical Services

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

Moreover, when medical emergencies do occur, there are not adequate facilities and staff for quickly transporting residents to medical care.

55. Plaintiff Rondy S. was assaulted and seriously injured by another resident in December of 1984. He sustained major lacerations to the back of his head. There was a delay of almost an hour before counselors were able to arrange transportation for the forty minute trip to D.C. General Hospital.

F. Counseling Services, Social Services,
and Direct Care

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

57. The majority of the "social service representatives" do not have the requisite training or certification to provide social work services. As a result, these workers do not do an adequate job of assessing the residents' needs, counseling the residents, and arranging for appropriate services. The "social service representatives" are not properly supervised and do not receive a consistent program of in-service training.

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

59. Cedar Knoll does not have a sufficient number of counselors to provide direct care and supervision to all of its residents. The facility attempts to redress this deficiency by permitting counselors to work overtime for higher pay. As a

result, a large proportion of the Cedar Knoll staff works long overtime hours, often working as many as sixty or eighty hours a week. The effect upon the counselors' performance is profound: counselors fail to provide adequate supervision and care for the residents, and display irritability and short tempers in dealing with the residents.

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

G. Climate of Violence

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

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

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

62. In October of 1984, plaintiff Jerry M. witnessed a counselor's physical assault on DeAnthony C., a seventeen year old resident. DeAnthony had spoken to the counselor in a manner that was insulting (but not threatening). The counselor grabbed DeAnthony by the throat and threw him against a wall. The counselor thereafter dragged DeAnthony across the floor of the room. DeAnthony sustained visible bruises to his neck and body as a result of this attack.

63. In December of 1984, plaintiff Rondy S., who was then residing at Cedar Knoll, was physically assaulted and seriously injured by another resident. During a period in which the residents were inadequately supervised by a counselor, a resident attacked Rondy with a wooden pole. The pole-wielding resident was able to inflict severe injuries on Rondy before a counselor learned that an assault was occurring and intervened. Because there was only one counselor on duty, he required the assistance of other residents in order to end the fight and immobilize the attacker. Thereafter, the counselor had to rely on residents to contact security and back-up counselors while he continued to restrain the attacker.

H. Recreational Services

64. The recreational program at Cedar Knoll consists of periodic basketball games and non-physical activities such as television, movies and card games. The Cedar Knoll staff do not ensure that all the residents have an adequate amount of daily major muscle activities.

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

66. Plaintiff Jerry M. spends most of his free time playing cards or watching television. The only major physical activity in which he engages is an occasional game of basketball in the institution's gymnasium.

I. Procedures for Attorney-Client Communications

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

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

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

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

J. Procedures for Family Visitation

71. For the children at Cedar Knoll, like all children, the emotional bonds to their parents are a crucial stabilizing and shaping influence on the child's development. Because children

confined at Cedar Knoll are physically separated from their parents, many for the first time in their lives, it is vital that the children be permitted frequent contact with their parents.

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

II. Oak Hill Youth Center

A. Physical Structure

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

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

75. The cottages at Oak Hill are not designed to protect residents from extreme weather conditions. In the winter months, the lack of adequate insulation allows the cold air to pierce the walls and window frames. During the intense heat of

the summer months, the lack of air conditioning in the cottages renders the children's rooms almost unbearable.

76. Plaintiff Gerald R. lives in a cottage that is always cold during the winter. He has tried putting cardboard in the window of his room as insulation, but this is not sufficient to keep out the cold air.

B. Educational Services

77. The Department of Human Services has assumed the District's obligation for providing educational services to children who are detained at or committed to Oak Hill. As at Cedar Knoll, the vast majority of the Oak Hill residents are educationally handicapped and in need of special educational services. In addition, even the remaining students, who are capable of attending general educational classes, often require special attention (because of behavior and adjustment problems in the school setting) and remedial tutoring.

i. General Educational Services

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

79. Plaintiff Rondy S. is a very bright eighteen-year old who has completed his G.E.D. degree and has been assessed as capable of performing well on a college level. Rondy would like to pursue higher education. But Oak Hill has done nothing to arrange college-level courses for him. Rondy spends his days working on facility maintenance and sitting in the cottage watching television.

ii. Special Educational Services

80. As at Cedar Knoll (see paragraphs 41-45), the defendants fail to fulfill their federal statutory duties to identify, evaluate, and provide appropriate special education and related services to educationally handicapped children who are confined at Oak Hill Youth Center.

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

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

83. The defendants violate their duty to provide appropriate special educational services to all handicapped Oak Hill residents, in that: (a) Children who are truly handicapped, but have never been identified as such by Oak Hill, are placed in regular classrooms and foreclosed from special educational services; (b) Defendants fail to prepare Individualized Education Plans appropriate to the specific needs of the handicapped children, even when the facility does identify their handicaps; and (c) Even when defendants do prepare or obtain a

proper Individualized Education Plan, the services actually provided to the child do not fulfill the specifications of the Plan and do not adequately serve the child's special educational needs.

84. In the course of evaluating and placing children, the defendants furthermore fail to afford Oak Hill residents and their parents their procedural due process rights. Defendants fail to properly notify residents' parents of changes in their children's educational settings, identifications of handicaps, and scheduling of meetings to prepare Individualized Education Plans, fail to obtain these parents' written consent for preplacement evaluations, and fail to properly advise these parents of their procedural rights to contest the facility's evaluation.

85. The defendants have failed to identify the educational handicaps of Gerald R., who attends regular educational classes at Oak Hill School. Private psychiatric and psychological assessments of Gerald found that he suffers from a learning disability, developmental language disorder, and is in need of special educational services. Yet, when Gerald was evaluated by Oak Hill's educational assessor, the assessor failed to recognize Gerald's handicaps or recommend special education classes.

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

87. Plaintiff Willie H. was identified as educationally handicapped by the Oak Hill staff. But, in evaluating Willie and preparing an Individualized Education Plan, the defendants failed to comply with the substantive and procedural requirements of the federal statute. Moreover, the facility does not actually provide Willie with the services promised in his Individualized Education Plan.

C. Vocational Training Services

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

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

90. Plaintiff Gerald R., who is committed to Oak Hill, suffers from the lack of vocational training services. A private psychiatrist and psychologist found that Gerald needs such services, and even the diagnostic staff at Oak Hill concluded that Gerald needs to "learn a marketable skill." Nevertheless, defendants have not made any provision for his learning such a skill while at Oak Hill.

91. When plaintiff Maurice B. appeared for disposition, the Probation Department's social summary recommended that Maurice "be committed to DHS and that he be prepared for vocational training and employment during his time at the Children's Center." Maurice, who was committed to Oak Hill and is now twenty years old, is in the barbering class. Even after he completes this class, his prospects for employment will have been only marginally improved.

D. Mental Health Services

92. The psychiatric services at Oak Hill are provided on a part-time contractual basis by Dr. Andres Aceituno, who provides 20 hours of services per week, and Dr. William Goldstein, who provides 10 hours per week. As earlier described (see paragraph 51, supra), Dr. Aceituno has difficulties in communicating with residents because of his limited facility with the English language. In continuing to retain his services, and indeed relying on him for the bulk of psychiatric services at Oak Hill, defendants have violated their duty to provide children at Oak Hill with adequate psychiatric assistance.

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

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

94. Plaintiff Gerald R. has substantial mental health needs. A private psychiatrist who examined Gerald at length, found that he suffers from major recurrent depression and needs "individual as well as group counseling on a daily basis." A private psychologist similarly concluded that Gerald should "[p]articipat[e] in counseling." Nonetheless, during the five months that Gerald was confined in pre-trial and pre-disposition detention at Oak Hill, he received no mental health services whatsoever. When Gerald was subsequently committed to Oak Hill, the facility psychologist did not review court records containing the prior psychiatric assessment of Gerald. Gerald was not placed into therapy and does not receive any mental health services at Oak Hill.

E. Medical Services

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

96. Plaintiff Gerald R. was severely injured in November of 1983 when he was struck in the mouth by another resident. One of his teeth was knocked out, two other teeth were loosened, and he was bleeding from the mouth. The injury occurred at night, and the counselors did not take him for any medical attention that night. The following day, at Gerald's insistence, he was

taken to the dentist. But the facility has never arranged for Gerald to receive the replacement tooth he needs.

F. Counseling Services, Social Services,
and Direct Care

97. Like at Cedar Knoll, defendants deal with staff shortages at Oak Hill by allowing counselors to work over-time for higher pay. Many of the counselors at Oak Hill work as many as sixty to eighty hours in a single week. As a result, they are irritable and short-tempered with the residents and fail to provide adequate supervision and care.

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

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

100. Although a large proportion of the population of Oak Hill suffers from drug abuse and drug dependency problems, defendants fail to provide any drug counseling to these children. (Although the facility at one time provided a drug counseling program for a small number of residents, that program has been discontinued.) Even in cases in which the court has specifically ordered drug counseling for a particular child, defendants frequently fail to provide or arrange for such counseling.

101. Plaintiff Maurice B. came to Oak Hill with a history of severe abuse of PCP. Recognizing this problem, the Oak Hill psychiatrist stated: "A drug rehabilitation program is clearly indicated and necessary for Maurice. It should begin as soon

as possible. Yet, defendants fail to provide Maurice with any drug counseling.

G. Climate of Violence

102. Like at Cedar Knoll (see paragraphs 61-63, supra), the defendants have created a climate of violence at Oak Hill. Inadequately trained and supervised counselors, short-tempered from long over-time hours, periodically assault the children who are in their care.

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

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

105. Plaintiff Maurice B. is one of the children who was physically assaulted by a counselor. In January of 1985, an Oak Hill counselor responded to what he perceived as impertinence on Maurice's part by physically striking Maurice with his fist.

106. In November of 1983, during a period of inadequate counselor supervision of the residents, another resident assaulted plaintiff Gerald R. and knocked out one of his teeth, loosened two other teeth, and left Gerald bruised and bloody.

H. Procedures for Disciplining Residents

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

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

109. In contravention of the standards established in In re Savoy and Rule 4.12, the Oak Hill counselors frequently impose punishments without an adjudicatory hearing, impose periods of seclusion exceeding 7 days for a single incident of misbehavior, and impose "group punishment" of an entire unit for the transgressions of a single resident of that unit.

110. In one of these episodes of "group punishment," plaintiff Maurice B. and all the boys in his unit were placed in seclusion as punishment for one of the boys' throwing a snowball at another cottage.

I. Recreational Services

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

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

113. Plaintiff Willie H. spends his free time playing cards or watching television. The only major physical activity in which he engages is an occasional basketball game in the gymnasium.

J. Procedures for Attorney-Client Communications

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

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

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

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

K. Policies for Family Visitation

118. Like at Cedar Knoll (see paragraphs 71-72, supra), the defendants limit their provision of free transportation for

committed children's parents to one day a month. Since many of the children's parents are impoverished and do not own cars, they cannot travel to Laurel to visit their children on more than this single occasion each month.

119. When plaintiff Willie H. was committed to Oak Hill, the facility's psychologist reported that Willie needs "emotional support" and that the facility should "[e]ncourage frequent visiting by Willie's family as long as he remains at Oak Hill." Notwithstanding any encouragement that may or may not have occurred, Willie's family cannot visit him more than one day a month because they are impoverished and must rely on the limited transportation facilities provided by defendants.

CAUSES OF ACTION

120. With respect to each of the following Counts, plaintiffs re-allege and incorporate by reference all of the allegations contained in paragraphs 1 through 119.

COUNT I

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

COUNT II

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

COUNT III

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

COUNT IV

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

Amendment rights to be free from harm and cruel and unusual punishment, and their Fifth Amendment right to rehabilitative treatment.

COUNT V

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

COUNT VI

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

COUNT VII

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

process right to receive adequate treatment and to be safeguarded from summary punishment, and their Eighth Amendment right to be free from cruel and unusual punishment.

RELIEF REQUESTED

WHEREFORE, plaintiffs pray for the following relief:

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

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

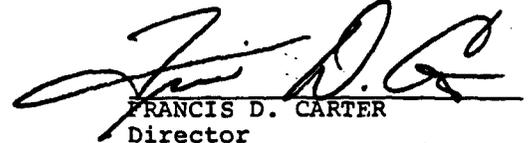
3. That the Court grant injunctive relief, pursuant to Rule 65 of the Superior Court Rules of Civil Procedure, enjoining defendants, their agents, employees and those acting in concert with them from interfering with plaintiffs' rights under the laws of the District of Columbia, the laws of the United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

- a. Provide appropriate, humane, and safe living conditions in the residential units;

- b. Provide adequate and appropriate educational services (for both the general population and for educationally handicapped children) and comply with all substantive and procedural requirements of the Education of the Handicapped Act;
- c. Provide sufficient and adequate vocational training services;
- d. Provide sufficient and adequate mental health services, including both psychiatric and psychological services, and including assessments and individual and group therapy;
- e. Provide sufficient and adequate medical services;
- f. Provide adequate and appropriate counseling services (including drug counseling), social services, and direct care and arrange the staff training programs necessary to guarantee these services;
- g. Provide the staff training and supervision, and take such other steps as are necessary, to preclude counselor assaults upon residents and resident assaults upon other residents, and end the "climate of violence" that currently prevails in the juvenile detention facilities;
- h. Ensure the promulgation of and staff compliance with procedures for disciplining students that are in accordance with prior decrees in In re Savoy and that fully protect the rights of residents;
- i. Provide adequate recreational services;
- j. Adopt all procedures necessary for ensuring that all children have adequate access to their legal counsel, both by telephone and in meetings in person;
- k. Adopt all procedures and take all steps necessary to ensure that all detained and committed children have sufficient opportunity for visits at least every week by their parents and other close relatives.

4. That the Court grant such other and further relief
as the Court may deem just and proper.

Respectfully submitted,



FRANCIS D. CARTER
Director
Bar No. 164376



CHARLES J. OGLETREE
Deputy Director
Bar No. 272658



RANDY GERTZ
Staff Attorney
Bar No. 335596



REITA PENDRY
Staff Attorney
Bar No. 327775

COUNSEL FOR PLAINTIFFS

Public Defender Service
451 Indiana Avenue N.W.
Washington D.C. 20001
(202)-628-1200

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