

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FILED
DEC 19 10 37 AM '89

U.S. DISTRICT COURT
HARTFORD

JUAN F., a minor, by and through :
his next friends BRIAN LYNCH, :
M.S.W., and ISABEL ROMERO; :
BECKY M., a minor, by and through :
her next friends MORRIS :
WESSEL, M.D., and NANCY ORSI; :
BENJAMIN B., a minor, by and :
through his next friends BARRY :
KASDAN, M.S.W., and EDYTHE :
LATNEY, M.H.S.A.; :
JASON B., a minor, by and through :
his next friends GEORGE PIPKIN :
and JOHN LEVENTHAL, M.D.; :
ANNA R., a minor, by and through :
her next friends CESAR :
BATALLA and JULIA RAMOS GRENIER :
Ph.D; :
DOMINIQUE S., a minor, by and :
through his next friends NANCY :
HUMPHREYS, D.S.W., and MARGARET :
PENN, M.S.W.; :
PATRICK S., a minor, by and through :
his next friends JERRY REISMAN, :
Ph.D, and JULIA HAMILTON; :
DANIEL C., a minor, by and through :
his next friends PATRICK :
BOLOGNA, M.S.W., and CYNTHIA :
MCKENNA, M.S.W.; :
FLORENCE J., a minor, by and :
through her next friends :
MICHAEL ROHDE, M.H.S.A. and :
JUDITH HYDE, M.A.; :
on behalf of themselves and all :
others similarly situated, :

Plaintiffs

v.

CIVIL NO.

H 89 880

DECEMBER 19, 1989

WILLIAM O'NEILL, Governor, State :
of Connecticut, :
AMY B. WHEATON, Ph.D, Commissioner, :
Department of Children and Youth :
Services, State of Connecticut, :
in their official capacities :
: :
Defendants :
:
:
:

CLASS ACTION COMPLAINT

I. INTRODUCTION

This is a civil rights class action brought by and on behalf of Connecticut's most vulnerable citizens -- all abused, neglected, abandoned, and at risk children who are in the custody, care, or supervision of the defendant Commissioner of the Connecticut Department of Children and Youth Services ("DCYS"), as well as all other children who have been abused, neglected, or abandoned or are at risk of such maltreatment, and who are, or should be, known to the defendant Commissioner of DCYS by virtue of that status. In the state with the highest per capita income of any in the country, Connecticut's most vulnerable children continue to be subjected to widespread violations of laws which were enacted to protect them and to ensure for each of them an opportunity for a safe and healthy childhood and a permanent family.

Plaintiffs challenge certain unlawful policies and practices of the defendant officials of the State of Connecticut concerning the operation of Connecticut's child welfare system as it affects their daily lives, specifically:

- a. defendants' failure to provide adequate protective services to children who are abused, neglected or who are at risk of abuse, neglect, and maltreatment, including their failure to ensure that all reports regarding these children are investigated and responded to promptly by caseworkers who are trained adequately and appropriately;

b. defendants' failure to make reasonable efforts to keep families together by providing to families which are threatened with the removal of a child because of abuse or neglect reasonable and appropriate services to prevent placement into out-of-home care;

c. defendants' failure to provide minimally-adequate and appropriate care to all of the children who are placed by them into foster homes or other substitute care settings, including their failure to place children in the least restrictive, most family-like settings and in settings which allow them to maintain sibling relationships, their use of overcrowded and inadequately trained and supervised foster homes that do not conform to nationally-accepted standards, their failure to ensure that all children in care receive adequate medical and mental health assessments and treatment and adequate and consistent parenting and nurturance, and their failure to provide specialized substitute care placements for all children with special needs;

d. defendants' failure to develop and implement appropriate case plans that will assure permanent placements for all children in their custody, either by providing services to families to enable the children to be returned home safely or by timely placement of the children into other permanent homes.

Plaintiffs assert that Connecticut's child welfare system endangers children it is charged to protect, causes harm to

children it is charged to help, and has been allowed to deteriorate to a state of systemic, ongoing crisis. This crisis has caused, and is causing, irreparable injury to the thousands of children involved therein.

Plaintiffs assert that defendants' actions and knowing inactions in the face of this crisis have deprived plaintiffs, and all others similarly situated, of their rights as guaranteed by the First, Ninth and Fourteenth Amendments to the United States Constitution, their rights under the federal Adoption Assistance and Child Welfare Act of 1980 as amended, P.L. 96-272, 42 U.S.C. §§620-627, 670-679, and their rights under the federal Child Abuse Prevention and Treatment Act, as amended, 42 U.S.C. §§5101-5106. Plaintiffs seek declaratory and injunctive relief to remedy defendants' unconstitutional and illegal policies and practices.

II. JURISDICTION

1. This action alleging violations of federal statutes and the United States Constitution is authorized by 42 U.S.C. §1983 and jurisdiction over this action is conferred by 28 U.S.C. §§1331 and 1343 (a)(3).

2. A declaratory judgment is authorized pursuant to 28 U.S.C. §§2201 and 2202 and by Rule 57 of the Federal Rules of Civil Procedure. Injunctive relief is authorized by Rule 65 of the Federal Rules of Civil Procedure. An award of costs and attorneys' fees is authorized by 42 U.S.C. §1988.

III. PARTIES

Plaintiffs

3. Plaintiff Juan F. is a ten year old child who has been under the supervision of defendant Wheaton since at least 1985. He is currently committed to the custody of defendant Wheaton and resides in a Connecticut residential facility.

4. Plaintiff Juan F. appears in this action by and through his next friends Brian Lynch, M.S.W., and Isabel Romero. Mr. Lynch is Chief Executive Officer of The Children's Center in Hamden, Connecticut and a member of the DCYS Regional Advisory Council for Region II. Ms. Romero is President of Connecticut InterAm Corporation in Cheshire, Connecticut and President of the Hispanic Coalition for Children and Families, in Waterbury, Connecticut.

5. Plaintiff Becky M. is a one year old infant who has been under the supervision and care of defendant Wheaton since shortly after her birth in February, 1988. She is currently residing with a relative in Connecticut.

6. Plaintiff Becky M. appears in this action by and through her next friends Morris Wessel, M.D. and Nancy Orsi. Dr. Wessel is a former Vice-President of the Child Welfare League of America and a pediatrician who has, in his thirty-seven years of practice, provided medical care to hundreds of children in the care of the DCYS and its predecessor agencies. Ms. Orsi is Acting President of the Professional Foster Care Association of

Connecticut, President of the Connecticut Family Coalition, and a foster and adoptive parent who has, for seventeen years, provided foster care to more than thirty infants and children who are medically-involved.

7. Plaintiff Benjamin B. is a two and one-half year old toddler who was committed to defendant Wheaton's custody as an "uncared for" child in July, 1988. He currently resides in a Connecticut foster home.

8. Plaintiff Benjamin B. appears in this action by and through his next friends Barry Kasdan, M.S.W., and Edythe Latney, M.H.S.A. Mr. Kasdan is the Executive Director of the Milford Mental Health Clinic, Inc., a member of the DCYS Regional Advisory Council for Region II, and a former foster parent. Edythe Latney is Director of Social Services for the Town of Bloomfield, Connecticut, Co-Chairperson of Advocates for Black Children, and an appointed member of the Governor's Task Force on Transracial Adoption.

9. Plaintiff Jason B. is a ten month old infant, and Benjamin B.'s brother. He is in defendant Wheaton's care pursuant to an Order of Temporary Custody issued in June, 1989. He currently resides in a Connecticut specialized foster home distant from his birth mother and also his brother.

10. Plaintiff Jason B. appears in this action by and through his next friends George Pipkin and John Leventhal, M.D.. Mr. Pipkin is the Executive Director of the Hall Neighborhood

House in Bridgeport, Connecticut, an agency which provides services to nearly 22,000 Bridgeport residents each year, including day care, therapeutic day care, adoption, foster care, and home-based family preservation services. Dr. Leventhal is a pediatrician in the Primary Care Center at Yale-New Haven Hospital and Medical Director of the DART Committee for that facility which has responsibility for assessing suspected child abuse and neglect.

11. Plaintiff Anna R. is a ten year old child who has been committed to defendant Wheaton's custody and who currently resides in a Connecticut foster home.

12. Plaintiff Anna R. appears in this action by and through her next friends Cesar Batalla and Julia Ramos Grenier, M.S., Ph.D. Mr. Batalla is community relations specialist for a prominent Connecticut business, President of the Puerto Rican Coalition of Bridgeport, and Vice-President of the Bridgeport Future Initiative. Dr. Grenier is a psychologist in private practice in Hartford, Connecticut, and a member of the Connecticut Sexual Abuse Task Force.

13. Plaintiff Dominique S. is a seven year old child who has been under the care and supervision of defendant Wheaton since Spring, 1989 and who currently resides in a relative foster home in Connecticut.

14. Plaintiff Dominique S. appears in this action by and through his next friends Nancy Humphreys, D.S.W., and Margaret

Penn, M.S.W. Dr. Humphreys has worked in child welfare since 1960, is currently the Dean of the University of Connecticut School of Social Work, former President of the National Association of Social Workers, and a former board member of numerous national professional child welfare and social work organization. Margaret Penn is a social worker at the Mark Twain School in Hartford, Connecticut, a member of Advocates for Black Children, and a Member of the Connecticut Task Force on Transracial Adoption.

15. Plaintiff Patrick S. is a five year old child who has been under the care and supervision of defendant Wheaton since Spring, 1989, and who currently resides in a relative foster home in Connecticut.

16. Plaintiff Patrick S. appears in this action by and through his next friends Jerry Reisman, Ph.D., and Julia Hamilton. Dr. Reisman is Director of the Capitol Region Education Council's Preschool Intervention Program and Project First Step (a home intervention program). Ms. Hamilton is Chief of Social Work for Ambulatory Care at Yale-New Haven Hospital, a member of the DCYS Regional Advisory Council for Region II, and an Associate Professor of Social Work at Southern Connecticut State University.

17. Plaintiff Daniel C. is a one year old child who has been under the care and supervision of defendant Wheaton since

Spring, 1989, and who currently resides in a relative foster home in Connecticut.

18. Plaintiff Daniel C. appears in this action by and through his next friends Patrick Bologna, M.S.W., and Cynthia McKenna, M.S.W. Mr. Bologna is the Executive Director of the Child Guidance Center of Greater Bridgeport, Inc. and a member of the Executive Committee of the Connecticut Association of Mental Health Clinics for Children. Ms. McKenna is a member of the Board of Directors of The Children's Concern, a past-Executive Director of Casey Family Program, East, and a former consultant to DCYS on foster care issues.

19. Plaintiff Florence J. is a thirteen year old child who was committed to defendant Wheaton's custody in June, 1989 under an Order of Temporary Custody, and who currently is placed with her mother in Connecticut under the protective supervision of DCYS, having been adjudicated to be uncared for.

20. Plaintiff Florence J. appears by and through her next friends Michael Rohde, M.H.S.A., and Judith Hyde, M.A. Mr. Rohde is the Executive Director of the Curtis Home Children's Program in Meriden, Connecticut, Vice-Chair of the Connecticut Commission on Children, and former co-chair of the Connecticut Sexual Abuse Task Force. Ms. Hyde is Director of the Child Protection Council of Northeastern Connecticut, a member of the DCYS Regional Advisory Council for Region VI, and a member of the Board of Directors for the Connecticut Children and the Courts Committee.

Defendants

21. Defendant WILLIAM O'NEILL is, and at all times pertinent herein has been, Governor of the State of Connecticut. Defendant O'Neill is empowered to take any action concerning the protection of the citizens of the state and is required to prepare a budget for the State. He is also authorized to apply for federal funds or to designate any commissioner, officer or agency of the state to apply for, accept, and expend federal funds allocated or payable to the state, to establish and administer or supervise the administration of any state-wide plan which might be required as a condition for receipt of federal funds, and to take all such other actions as are necessary to fulfill the federal requirements. He is sued in his official capacity.

22. Defendant AMY B. WHEATON, Ph.D, is, and at all times pertinent herein has been, Commissioner of the Connecticut Department of Children and Youth Services. As the chief executive officer of that agency, she is responsible for the overall operation, direction and supervision of DCYS, for initially preparing and finally administering DCYS' budget, for adopting and enforcing regulations and rules for the Department's operation, and for the administration of all state and federal funds received by DCYS for its programs and activities. She is sued in her official capacity.

IV. CLASS ACTION ALLEGATIONS

23. The named plaintiffs bring this action as a class action pursuant to Rule 23 (b) (1) and (2) of the Federal Rules of Civil Procedure.

24. Plaintiffs file this complaint on behalf of themselves and all other similarly situated children, seeking injunctive and declaratory relief from the unconstitutional and unlawful actions and inactions of defendants, as herein set forth.

25. The named plaintiffs, Juan F. et al, are children who are either abused, neglected, or abandoned, or who are at risk of such maltreatment about which DCYS knows, or should know. The named plaintiffs have suffered the deprivations of rights claimed herein.

26. The class plaintiffs seek to represent is composed of: 1) all children who were, are, or will be in the care, custody, or supervision of defendant Wheaton as a result of being abused, neglected, or abandoned, or of being found at risk of such maltreatment; and 2) all children who are, or will be, abused, neglected, or abandoned, or who are or will be at serious risk of such maltreatment, of which DCYS knows, or should know.

27. Joinder of all members is impracticable as the class includes many thousands of children at any one time and class membership fluctuates continuously.

28. The questions of law and fact common to the members of the plaintiff class include: 1) whether defendants operate a child welfare system that conducts inadequate investigations of

child abuse or neglect and fails to offer adequate services to children and their families to enable the children to remain safely in their homes, instead of entering foster care or other out-of-home placements; 2) whether defendants fail to provide appropriate placements and proper care to the children in their custody; 3) whether defendants fail to create and implement appropriate plans for children to assure their proper care and permanent placement; 4) whether defendants' actions and inactions violate plaintiffs' rights under the federal Adoption Assistance and Child Welfare Act of 1980; 5) whether defendants' actions and inactions violate plaintiffs' rights under the federal Child Abuse Prevention and Treatment Act; and 6) whether defendants' actions and inactions violate plaintiffs' rights under the First, Ninth, and Fourteenth Amendments to the United States Constitution.

29. The claims of the representative parties are typical of those of the class in that the constitutional and statutory deprivations alleged by the named plaintiffs and caused by defendants are the same as those suffered by all other class members.

30. The representative parties will fairly and adequately protect the interests of the class. The named plaintiffs have no interests antagonistic to those of the class. Further, plaintiffs are represented by attorneys experienced in children's rights law and federal constitutional litigation.

31. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for defendants.

32. Defendants have consistently acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

V. STATEMENT OF FACTS

A. Administrative and Statutory Framework

1. DCYS

33. The Connecticut General Assembly has declared the public policy of the State of Connecticut to be:

To protect children whose health and welfare may be adversely affected through injury and neglect; to strengthen the family and to make the home safe for children by enhancing the parental capacity for good child care; to provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes to require the reporting of suspected child abuse, investigation of such reports by a social agency, and provision of services, where needed to such child and family. Conn. Gen. Stat. s 17-38a(a).

34. To fulfill this public policy, DCYS was created. It is a single budgeted agency mandated, by Conn. Gen. Stat. §17-412, to "plan, create, develop, operate or arrange for, administer and evaluate a comprehensive and integrated state-wide program of services, including preventive services, for children

and youth" who are mentally ill, emotionally disturbed, substance abusers, abused, neglected or uncared for, committed to it by any court, and voluntarily admitted to it for services of any kind.

35. State law mandates DCYS to provide: an effective program for the placement, care and treatment of children in its care; appropriate services to families and children and youth as needed; staff development and training; and aftercare and follow-up services appropriate to the needs of all children under DCYS care. It is also mandated to prepare biennially a five-year master plan which includes a written plan for the prevention of child abuse and neglect and a comprehensive mental health plan for children and adolescents. Conn. Gen. Stat. §17-412.

36. The Connecticut General Assembly has imposed significant specific responsibilities on the defendant Commissioner of DCYS. She, through her agents, is required to investigate all referrals regarding children who are reported to be abused, neglected, abandoned or at risk of such maltreatment, whether made by a professional mandated by state law to make such referrals, or by some other person, and whether made by written report or by phone, letter or other means. She, through her agents, is further required to conduct "immediate" inspections regarding all referrals to DCYS by state-mandated reporters of any child abuse, neglect or maltreatment, and "prompt" investigations of all other referrals, and, when a referral is

substantiated, to take necessary action to protect the child who is the subject of the referral, as well as all other children at risk by being under the care of the same custodians. Her additional mandated responsibilities include that she: provide careful supervision of all children under DCYS' care and ensure that they have adequate medical, dental, psychiatric, psychological, social, religious and other services; maintain a variety of facilities and services for identification, evaluation, treatment, and aftercare of children and youth in need of DCYS' services and administer them in a coordinated and integrated manner. Conn. Gen. Stat. §§17-32, 17-36 to 17-38c, 17-415, 17-446, 46b-129.

2. Federal Statutory Framework

37. DCYS receives substantial federal funds pursuant to the federal Adoption Assistance and Child Welfare Act of 1980, codified as amended at 42 U.S.C. §§ 670-679 and 42 U.S.C. §§620-627. This Act, and the Connecticut Plans submitted to and approved by the Secretary of the United States Department of Health and Human Services in order for DCYS to obtain funding pursuant to this Act, confer various rights upon children who are in foster care or other out-of-home placements, or who are at risk of entering such placements.

38. The federal Adoption Assistance and Child Welfare Act of 1980 requires that reasonable efforts be made by the defendants to provide services to enable children to remain

with their families or to be returned to their families whenever possible; that all children in foster care be provided written case plans developed and reviewed within specified time periods; that these plans contain certain specified components; that appropriate services be provided to children, their parents, and their foster parents to address each child's needs and to assure each child's permanent placement; that each child receive proper care; that the homes or institutions in which children are placed conform to national standards and that foster care payments are appropriate; that children be placed in the least restrictive, most family-like setting; that children receive periodic judicial or administrative reviews; and that children receive dispositional reviews to determine their future status no later than eighteen months after placement.

39. DCYS receives federal funding pursuant to the federal Child Abuse Prevention and Treatment and Adoption Reform Act, as codified at 42 U.S.C. §§5101-5106.

40. The federal Child Abuse Act confers various rights upon children who, by virtue of reports of abuse or neglect, are or should be known to state agencies which receive funds pursuant to that Act. The Act requires defendants to institute "prompt investigations" into all reports of known or suspected instances of child abuse and neglect to substantiate the accuracy of the report and, if substantiated, to take immediate steps to protect the child who is the subject of the

substantiated referral, as well as all other children who are at risk by being under the care of the same custodians. The Act also requires defendant Wheaton to have administrative procedures, trained and qualified personnel, and facilities adequate to deal effectively with child abuse and neglect cases. The federal Adoption Assistance and Child Welfare Act requires state compliance with the federal Child Abuse Act.

41. Defendant Wheaton has established written DCYS policy to implement the federal and state statutory mandates for protective service investigations, which include specific time periods within which investigations must be initiated and completed. The most serious referrals require same-day commencement of investigation. The investigation of slightly less severe referrals must commence by the following day and investigation of all others within three working days.

B. The Named Plaintiffs

Juan F.

42. Plaintiff Juan F. was born in 1979.

43. Beginning in 1984, or earlier, DCYS began receiving reports that Juan and his younger siblings were being neglected and being raised in conditions which placed them at risk of harm, including being left without parental supervision. DCYS failed to take legally-mandated actions either to protect the children or to make reasonable efforts to provide services that could have enabled Juan's mother to provide adequate care to them.

44. In 1985, Juan's mother requested that her children be placed with DCYS because the family was about to be evicted and all utilities had been cut off for non-payment. DCYS took the children into foster care without making reasonable efforts to provide services to Juan's mother that could have averted Juan's need for foster care placement.

45. Between May, 1985 and March, 1988, Juan was moved from one foster placement to another, living in a total of eleven different foster homes for periods ranging two days to nine months. Although his two siblings are also in DCYS custody, they were not all placed together. Only briefly during this period was he returned home to his mother, and then was again placed in foster care.

46. In March, 1988, having suffered the trauma of these repeated moves and uncertainty in his placement for an extended period of time, Juan was evaluated at a mental health clinic. The evaluation recommended residential treatment with a goal of working toward an adoptive family.

47. Parental rights were terminated in June, 1988, making Juan free for adoption.

48. In August, 1988, Juan was placed by DCYS in a hospital for psychiatric evaluation where he remained for approximately ten days. Though a child known to DCYS to be in need of mental health care, upon release he was placed by DCYS in the State Receiving Home, DCYS' "short"-term shelter facility.

The State Receiving Home has extremely limited treatment capability and lacked sufficient numbers of trained professional staff to meet Juan's mental health needs. He remained at the State Receiving Home for the following eleven months.

49. In July, 1989, DCYS placed Juan in the residential facility where he resides today.

50. Juan has at least one visible medical condition of which the residential facility staff is aware which has existed for some time and which needs surgical intervention. At his admission, however, DCYS failed to provide the residential facility with adequate information about Juan's medical history, compromising the facility's ability to assure timely, appropriate medical care for the child.

51. Since Juan's placement in the residential facility in July, 1989, his DCYS caseworker has rarely visited. During the time Juan has been in the care of DCYS, his case has been frequently transferred from one worker to another, impeding the development and implementation of a consistent plan for his permanent placement.

52. DCYS has not told Juan where it has placed his younger sister and has arranged no visits between them. DCYS also has failed to make adequate efforts to facilitate visits between Juan and his younger brother, who is also in DCYS custody, leaving Juan intensely fearful that he will lose all

contact with his brother, just as he has lost contact with all of his other family members.

53. Despite the fact that DCYS' plan is to have Juan adopted, DCYS has failed to make adequate efforts to seek or secure an adoptive home for him, some fifteen placements and more than four years after being removed from his mother's care.

54. Defendants have violated Juan's federal and statutory constitutional rights, including: by failing to make reasonable efforts to avoid the need for foster care placement, by failing to timely develop and implement written treatment plans which contain the requisite elements, by failing to provide timely and appropriate services or make other efforts to implement DCYS' plan of adoption, by failing to provide him with proper care and adequate services, by separating him from his siblings, and by failing to protect him from harm. As a result of these violations of his rights, Juan has been deprived of the opportunity for healthy development and a normal childhood, and has been, and continues to be, irreparably harmed.

Becky M.

55. Becky M. was born in February 1988 with multiple congenital abnormalities, including scoliosis in the thoracic region of her spine and abnormalities of the lip and palate.

56. Referrals of neglect and risk of maltreatment to DCYS by the Visiting Nurse Association, which attempted to provide care to Becky and her mother in the months after the

infant's birth, documented the family's inadequate housing and failure to provide adequate care to Becky and her siblings, including leaving Becky unsupervised. By September, 1988, or earlier, DCYS determined that the situation was sufficiently serious to open a protective services case file regarding Becky and her family, but failed to comply with specific legal requirements regarding the investigation of neglect reports and the requisite protective action.

57. Three months after her birth, upon referral from the community clinic which had been providing medical care to her, Becky was brought to a hospital for initial evaluation of her multiple congenital abnormalities and developmental delays.

58. At the time of her initial evaluation and continuing over the following year, this hospital scheduled a series of more than a dozen followup appointments and tests that it considered necessary to fully assess the infant's condition and needs for treatment.

59. Beginning in September, 1988, and continuing through this fall, hospital staff repeatedly advised DCYS that Becky's mother was failing to bring Becky to about two-thirds of these scheduled appointments though they were necessary to meet her critical medical needs. DCYS failed to take appropriate and legally-mandated action, despite continuing knowledge of medical neglect.

60. Concurrently, the community medical clinic staff who were attempting to provide routine health services to Becky were reporting to DCYS staff that she was routinely missing many of these appointments, as well.

61. During this time, Becky's DCYS caseworker changed several times. Calls to DCYS from medical providers were not returned on several occasions.

62. In an August, 1989 letter to the appropriate DCYS Regional Director, hospital staff advised DCYS that any further delays in medical intervention would be a matter of serious concern. Of particular concern to hospital staff was the possibility that Becky's spinal curvature could deteriorate to the point that spinal surgery would become necessary. Hospital staff requested DCYS's assistance in getting this child in for follow-up evaluation and care as soon as possible.

63. From August through November, 1989, Becky continued to miss most of her appointments at the hospital, despite DCYS' repeated assurances to hospital staff that it would assist in transporting Becky to the appointments. Despite DCYS' promise that it would bring Becky to her most recent appointment, competing demands on the DCYS' worker's time on the date of the appointment prevented this. Becky missed the appointment. Becky's current DCYS worker was recently hired by DCYS, has had no formal training from DCYS, yet already has a caseload of nearly 30 "intake" cases.

64. Becky remains in need of a comprehensive evaluation of her medical problems, and, in particular, assessment of, and treatment for, her ear and mouth deformities, which are causing her speech to develop improperly, and for her spinal curvature, which compromises her lung function and could require, if allowed to further deteriorate, spinal surgery. In addition, without a completed assessment, Becky cannot be enrolled in the various programs for which she is now old enough to qualify and which are essential for her development.

65. Despite knowledge of these multiple and serious medical needs and of her caregivers' failure to ensure necessary medical treatment, DCYS failed to respond appropriately, and as required by law, to the repeated reports about medical neglect within mandated time periods, to investigate adequately the ability of Becky's caregivers to meet her serious medical problems, and to take appropriate steps to protect her by either providing such services as are necessary to ensure that Becky's medical needs are met while remaining in her home or, failing that, removing Becky to a placement which is able to meet her needs, thereby violating Becky's federal statutory and constitutional rights.

Plaintiffs Benjamin B. and Jason B.

66. Plaintiffs Benjamin and Jason B. are the toddler and infant sons of Louisa B., a sixteen year old unmarried teenage mother.

67. Louisa B. is herself a product of Connecticut's child welfare system, having been committed to DCYS intermittently since she was six years old. She has been placed by DCYS over the last ten years in multiple out-of-home placements, including foster homes, group homes, a shelter, and the State Receiving Home.

68. Benjamin B. was born in April, 1987 when Louisa was thirteen. Shortly after Benjamin's birth, he was separated from his mother. He lived with Louisa's mother while Louisa, who was in DCYS custody, was placed first in an emergency foster home and then moved through multiple other placements, with frequent turbulent returns to her mother's home. DCYS had no placements available in which Benjamin and his mother could remain together.

69. In August, 1988, DCYS obtained legal custody of Benjamin. He was placed by the court with Louisa's mother. Louisa, who was now fifteen and four months pregnant with her second child, was placed by DCYS in a residential facility for pregnant teenagers, located far from Benjamin, because DCYS had no suitable, closer placement.

70. Between May, 1987 and October, 1988, Louisa frequently reported to DCYS that she believed that her mother was endangering Benjamin because of her alleged substance abuse. DCYS did not conduct a prompt and appropriate investigation of each and every one of these reports as legally-required, nor maintain adequate supervision over the placement.

71. In October, 1988, DCYS finally removed Benjamin from his grandmother's home and placed him in a foster home, after his grandmother was arrested for possession of drugs. Louisa could not assume his care as she was in a DCYS placement for pregnant teenagers which did not accept children and DCYS offered her no alternative placement in which she could live with and care for Benjamin.

72. DCYS changed Benjamin's foster placement on several occasions before finally placing him in the foster home in which he resides today. His foster mother periodically leaves him in the care of her natural and foster children and babysitters who are younger than Benjamin's own mother. The home is located in an area in which Louisa is fearful to travel alone to visit him.

73. Though DCYS' current goal for Benjamin is reunification, he has now begun to refer to his foster mother as "Mommy," to his own young mother's great sorrow.

74. Jason B., Benjamin's younger brother, was born in February, 1989. He has been diagnosed as having multiple and severe birth defects.

75. After his release from the hospital, he resided with Louisa in her mother's home, and then with Louisa in a licensed DCYS foster home which Louisa had herself located after she left her mother's home because she felt endangered by her mother's alleged substance abuse. During this time, Jason was periodically hospitalized because of his medical problems.

76. In June, 1989, Jason was placed in DCYS' custody because Louisa was found to be unable to provide for his severe medical needs, and had received no adequate assistance from DCYS in doing so.

77. After another period of hospitalization, Jason was placed by DCYS in a specialized foster home. Distant from Louisa, it was the only home DCYS had at this time that could meet his medical needs. It is a different home than the foster home in which his brother resides.

78. Louisa's first visit with Jason in this home did not occur until early November, 1989. Louisa has no car and the home is not easily accessible by public transportation. High DCYS caseloads limit the number of times DCYS can transport Louisa to visits to about once a month.

79. DCYS' current plan for Benjamin is to return him to Louisa. However, DCYS has failed to arrange appropriate and necessary visiting between Benjamin and his mother, and to formulate specific plans and identify and provide the services which would allow this plan to be implemented. At the same time, DCYS has failed to consider or implement an alternative permanent placement plan to assure Benjamin a permanent home.

80. DCYS currently has no permanent plan for ten month old Jason, except for continued foster care. DCYS has failed to arrange appropriate and necessary visiting between this baby and

his mother, and it has failed to formulate any specific plan or identify and provide services to assure any permanent placement for Jason.

81. Defendants have violated Benjamin and Jason's federal statutory and constitutional rights, including by failing to conduct prompt and appropriate investigations of reports of endangerment, by failing to make reasonable efforts to avoid the need for foster care placement for them, by failing to place them together and in a home near their mother, and by failing to develop in a timely manner and to implement written treatment plans which contain the requisite elements and which are likely to ensure the boys' permanent placements.

Anna R.

82. Plaintiff Anna R. was born in 1979.

83. Beginning at least as early as April, 1985, DCYS began receiving reports that Anna and her four siblings were being neglected. Subsequent referrals to DCYS included reports that the youngest child was not attending school, that the children were being left alone with the oldest child (then eleven years old), that the children were improperly dressed for winter, that the mother was selling food stamps for drugs, that there was no furniture in the home and all five children slept on mattresses on the floor, and that there was no food for the children in the home.

84. DCYS determined that the situation was sufficiently serious to open a protective services case regarding Anna and her family, by late 1986.

85. During this time, DCYS failed to comply with specific legal mandates regarding the investigation of all neglect reports and requisite protective action.

86. In August, 1987, Anna and her other siblings were placed in DCYS custody in foster care when their mother was imprisoned and relatives could not be located who could care for them.

87. Between August, 1987 and January, 1988, DCYS changed Anna's foster placement twice. While in her third foster home -- from January, 1988 to February, 1989, she was physically abused.

88. Anna was placed in this third foster home though DCYS was aware that the foster parents had alcohol abuse problems and that there was a history of physical abuse in the family.

89. The DCYS caseworker assigned to Anna's case failed to visit and otherwise maintain contact with her with sufficient frequency to ascertain the danger which she was in this foster placement.

90. In February, 1989, DCYS referred Anna to a specialized foster care program after the foster parents in the third home asked that she be removed because of her "bad" behavior. DCYS provided only the most rudimentary information

about Anna's past to the new foster home. No medical information was given, other than that the child's last physical was in December, 1987. There was no record of a mental health assessment ever having been done.

91. Between March, 1989 and September, 1989, Anna resided in her fourth foster placement, in Fairfield County. Anna's mother, who lived in Hartford County, failed to visit her, and DCYS failed to make reasonable efforts to assist her in doing so, though reunification was DCYS' goal at that time.

92. In July, 1989, the coordinator for the foster care program in which Anna is involved wrote to DCYS requesting a meeting to clarify Anna's limbo-like state and advised DCYS that absent a prompt, permanent placement Anna would be irrevocably damaged.

93. DCYS failed to respond promptly to this written request. The requested meeting did not occur until mid-September, 1989. In the interim, Anna's DCYS worker was terminated from employment and a new worker was not reassigned for a number of weeks.

94. In late September, 1989, Anna's fourth foster mother asked that she be moved, because of her acting out behavior. Anna's fifth and current foster home is in New Haven County. Payment to these foster parents was delayed, and they spent hundreds of dollars of their own funds to clothe, feed and house her.

95. Not until October, 1989, was Anna given a mental health assessment. It found her to be depressed and frustrated, and to be demonstrating feelings of abandonment and rejection.

96. DCYS staff has not visited Anna or her new foster parents since she was placed in her fifth foster home two and one half months ago.

97. DCYS' current plan is to free Anna for adoption by filing for termination of parental rights unless Anna's mother finds appropriate housing, abides by a predetermined phone and visitation schedule with Anna, and speaks with her roommate about his police record.

98. To date, Anna's mother has failed to fulfill DCYS' preconditions for reunification, continuing a more than two year pattern of failing to meet DCYS' expectations prerequisite to Anna's return.

99. Though DCYS' current plan is to delay seeking termination of parental rights, DCYS is failing to make reasonable efforts to provide services to Anna and her mother to assist in reunification so that she might be returned home, while at the same time failing to take steps to move Anna toward an alternative permanent placement.

100. Anna currently suffers from severe feelings of rejection and abandonment. She continues to act out her frustration and anxiety and frequently inquires anxiously about

whether she can remain in her current placement, or if she again will have to move.

101. Defendants have violated Anna's federal statutory and constitutional rights, including: by failing to conduct prompt and appropriate investigations of her maltreatment, by failing to make reasonable efforts to protect her and to avert the need for foster placement for her, by failing to protect her from harm, by failing to provide her with proper care and adequate services, and by failing to develop in a timely manner and to implement written treatment plans which contain the requisite elements to ensure her a permanent placement.

Plaintiffs Dominique S., Patrick S. and Daniel C.

102. Plaintiffs Dominique S., Patrick S., and Daniel C. are two brothers and a half brother aged seven, five and one, respectively.

103. Beginning in April, 1989, and continuing through late May, 1989, DCYS received complaints from various sources that the boys, who were living with their mother, were being neglected and were at risk of maltreatment. These referrals, including one from a neighbor and another from a worker with the Connecticut Department of Human Resources, advised DCYS that there were drugs in the home, that the children were being left alone, hungry and crying, that the mother was about to be evicted, that the apartment was dirty and full of garbage and rats, that the boys were unbathed and their clothing was dirty,

that Dominique was not being sent to school, and that the children were being left outside all day and into the evening with no supervision. Because of confusion in the DCYS office, one of these referrals was mistakenly given to a worker who was not involved in the investigation, and the worker responsible for investigating the case failed to learn of it until three weeks after it was made.

104. On two occasions when the DCYS worker made a home visit to investigate, the worker was told -- through closed doors -- that the boys' mother was not available. On two subsequent occasions a worker spoke with the mother, though was not allowed in the home. She denied all neglect allegations but admitted to keeping Dominique out of school. The worker simply made a referral to a parent aide program.

105. Based on these cursory "investigations" DCYS developed a treatment plan in June, 1989 that stated that the goal of DCYS involvement was for the mother to provide a healthy and stable environment and that DCYS was to refer her for appropriate support services, maintain contact with all parties, and file neglect petitions if Dominique continued chronic absenteeism. DCYS did not make reasonable efforts to implement this plan.

106. In early July, 1989, police, responding to a domestic dispute report, found the plaintiff children at home with no food and virtually no furniture in the home. Drug

paraphernalia and empty beer cans were also found. A rag was on fire on the living room floor. Plaintiffs' mother and her companion, (Patrick and Daniel's father) were both arrested for risk of injury and the father was additionally charged with reckless burning. A DCYS serious incident summary stated there was serious neglect and risk of injury. The children were placed in DCYS custody.

107. Though plaintiffs' aunts, with the consent of plaintiffs' mother, expressed their willingness to DCYS to assume the boys' care, DCYS instead separated the boys and placed them in different foster homes and in a different town than their mother. They remained there until moved by DCYS to the home of one of these same aunts, several weeks later.

108. This aunt, though licensed by DCYS as a relative foster home, waited about two months to receive her first check from DCYS to pay for food and shelter for the three boys.

109. At the time the boys were removed from their home, the DCYS caseworker assigned to their case had been employed by DCYS for only about five months. He had received virtually no training from DCYS and had more than fifty other cases already, with responsibility for nearly 100 children.

110. The current plan for these children is that they be reunited with their mother. However, the plan has been developed without any adequate assessment of the children's and the mother's situations and needs for services. DCYS has no

adequate plan for the provision of necessary reunification services, nor has DCYS made any reasonable efforts to implement its plan. At the same time, DCYS has made no adequate assessment as to whether the boys' placement with their aunt is an appropriate and possible long-term placement, even though these children remain in DCYS custody.

111. Defendants have violated Dominique, Patrick, and Daniel's federal statutory and constitutional rights, including: by failing to conduct prompt and appropriate investigations of their maltreatment, by failing to protect them and to make reasonable efforts to avoid the need for foster placement for them, by failing to protect them from harm, by failing to place them together in out-of-home placements, and by failing to develop in a timely manner and to implement written treatment plans which contain the requisite elements to ensure the boys a permanent placement.

Plaintiff Florence J.

112. In June, 1980, when Florence J. was four years old, a referral was made to DCYS after Florence had been diagnosed as having gonorrhoea. DCYS left her in the care of her mother, after its "investigation" revealed no clear explanation of the origin of this condition.

113. In December, 1981, a hospital again referred Florence to DCYS for investigation of possible sexual abuse after Florence was found to have a vaginal discharge and an enlarged

vaginal opening. DCYS placed Florence temporarily with her grandmother while it investigated, then returned her to her mother's care when it decided it could not establish the identity of the perpetrator. DCYS failed to comply with specific legal requirements regarding the investigation of abuse reports and requisite protective action.

114. Seven years later, in December, 1988 when Florence was twelve years old, she was again referred to DCYS, this time by school authorities after Florence revealed a pattern of sexual abuse by two of her uncles since she was five years old. After parental denials of any wrongdoing, DCYS staff decided to keep Florence in the home. At least one of these uncles continued to babysit for Florence on occasion.

115. In April, 1989, DCYS received yet another referral about Florence. A Junior League Phone Friend, to whom Florence had made repeated calls to discuss her father's inappropriate touching, reported her concern. Not until three weeks later did DCYS, after phone calls to Florence's school and the Junior League, interview Florence at school. Florence described a seven year history of being sexually abused not only by her uncles, but also by her father.

116. In a follow-up interview at school shortly thereafter, Florence told DCYS staff that she had been sexually abused as recently as the preceding day. DCYS did not initiate

any emergency proceeding to assume legal custody, change her placement, or otherwise act to ensure her safety.

117. It was not until several days later that DCYS questioned Florence's mother about her daughter's allegations. Florence's mother consented to voluntarily place her at a hospital for evaluation. Florence was found to have trichomonas vaginalis vaginitis. An in-patient psychiatric evaluation was recommended.

118. Florence was subsequently admitted to a private psychiatric hospital, where she made further disclosures regarding the sexual abuse, and talked about suicide. Professional staff at this hospital recommended to DCYS that Florence be placed, upon her discharge, in a group home for victims of sexual abuse or in a specialized foster home because Florence's mother could not protect her from further abuse. Follow-up aftercare through special community sexual abuse programs was also recommended by hospital staff.

119. While Florence was at this psychiatric hospital, DCYS filed a neglect and uncared for petition regarding her.

120. In early June, 1989, DCYS sought and obtained Florence's mother's consent to her daughter's transfer from the psychiatric facility. DCYS did not place her in a group home or specialized foster home as professionally recommended, but sent her to the State Receiving Home. When Florence's mother

subsequently demanded that Florence be returned home, DCYS obtained legal custody.

121. Florence remained at the State Receiving Home for nearly two months. It was a placement which was inappropriate for her needs. While there, she received no treatment. Visitation with her mother was not frequent because the State Receiving Home was distant from her mother's home. Florence took suicidal actions.

122. Though Florence remained greatly in need of counselling, her DCYS worker, who then had a caseload of more than fifty cases, could not spend the time to provide, or to obtain, counselling for her.

123. As early as June, 1989, DCYS had decided that placement in a residential treatment facility or group home was appropriate for Florence. However, DCYS staff made no referrals for these placements until September, 1989, and no placement appointments were scheduled.

124. In late July, 1989, Florence ran away from the State Receiving Home. After she was found, DCYS placed her with her paternal grandmother while retaining legal custody.

125. Florence's treatment plan requires DCYS staff to maintain contact with Florence and her mother. However, Florence was not visited by her DCYS worker from the end of June, 1989 until the very end of November, when he came principally to introduce her to the worker to whom her case was being

reassigned. He had expressed that his caseload is far too high to permit frequent contact.

126. In early December, 1989, Florence was placed under the Protective Supervision of DCYS, having been adjudicated, by consent, to be uncared for. Certain specific conditions were set by the court as prerequisites to Florence being allowed to return to and remain with her mother, including the immediate initiation of individual and family counselling, and her father moving out of the home. DCYS is mandated to monitor compliance, and take action if these conditions are not met, but continues to fail to meet its legal obligations.

127. Florence remains at risk of serious harm while in her mother's care unless DCYS provides all necessary court-ordered supervision, and she is at risk of again being placed in DCYS custody. In addition, she has not, to date, been provided the treatment necessary to ameliorate the effects of years of sexual abuse about which DCYS was advised, but from which DCYS failed to protect her, even though DCYS staff has repeatedly been told that such treatment is necessary, by both its own, and also by outside, professional staff.

128. Defendants have violated Florence's federal statutory and constitutional rights, including: by failing to conduct prompt and appropriate investigations of her maltreatment, by failing to make reasonable efforts to avoid the need for foster care, by failing to protect her from harm, by

failing to provide her with adequate care and services, by failing to place her in placements which were appropriate to her needs and the least restrictive possible, and by failing to develop in a timely manner and to implement written treatment plans which are appropriate to ensure her a permanent placement.

C. The Crisis in Connecticut's Child Welfare System and its Systemwide Violations of the Law

129. Connecticut has the highest per capita income of any state in the country. Yet, Hartford, Bridgeport, and New Haven rank among the top twenty cities nationally in abject poverty.

130. While the number of children under the age of eighteen in Connecticut has been decreasing over the last eight years, the extreme poverty experienced by many of Connecticut's children, as well as increases in reported domestic violence, parental substance abuse, AIDS and homelessness, have led to a doubling in the numbers of protective service referrals made to, and investigated by, DCYS over this same time period. Approximately 70% of DCYS' investigations each year confirm that the children referred have been abused, neglected, or abandoned, or were at risk of such maltreatment.

131. Concurrent with an increase in the numbers of protective service referrals has been an increase in the seriousness of the referrals being made. Nearly half of the DCYS average daily child welfare caseload are victims of family violence. In addition, the number of referrals accepted by DCYS

for investigation which involve addiction has increased approximately four-fold in the last three years.

132. In addition, an increasing number of families are re-entering the DCYS system, or are being referred multiple times in a year.

133. The numbers of children and families identified by DCYS as currently in need of services, as well as the number to whom defendant Wheaton is now providing services, is increasing. In each month in 1987 DCYS served an average of 11,638 cases statewide. By 1989, this number had increased to more than 14,000, and the gap between the number of cases opened and the number closed continues to widen. For example, five of six DCYS Regions reported a net gain of cases in April, 1989. In the Hartford Region (Region IV) in April, 1989, more than twice as many cases were opened as were closed. DCYS as a whole reported a net gain of more than 200 cases in this single month.

134. The increase in the need for DCYS' involvement has not been matched by a corresponding increase in adequately trained workers and appropriate services, widening the gap between that which defendants are currently providing to children and that which they are required by federal law to provide to them.

135. Indeed, the crisis in Connecticut's child welfare system has grown so acute that defendant Wheaton, in her February 21, 1989 testimony to the Appropriations Committee of the

Connecticut General Assembly, likened the system to a "hospital emergency room" and decried the "senseless, merciless destruction and devastation of our children."

D. Defendants' Failure to Investigate Referrals and Protect Children Who are Abused, Neglected, and at Risk of Maltreatment

136. The number of children reported to DCYS being physically and/or sexually abused, neglected, abandoned or at risk of these dangers has increased dramatically over the last several years. In SFY 81-2, DCYS accepted for investigation referrals in 7,542 cases involving 10,846 such children. In the past year, SFY 88-9, the number had dramatically increased to 13,090 cases involving 20,233 children.

137. The total number of referrals to DCYS regarding children subjected to, or at risk of, maltreatment exceeds the number which DCYS elects to investigate. DCYS follows a pattern and practice of failing to investigate a significant number of all "at risk" referrals. It estimates that about 60% of all calls concerning children who are at risk of abuse or neglect have been screened out; no investigation takes place because of staff shortages, leaving many children who are reported to DCYS without any investigation of how serious or imminent the harm might be to them, and without any protection from harm.

138. DCYS also follows a pattern and practice of failing to investigate certain abuse/maltreatment reports based on substance abuse, domestic violence, mental retardation or

caretaker immaturity. In certain regions of the state, DCYS also follows a pattern and practice of failing to investigate certain reports which are based on sexual abuse, incest, educational abuse and medical neglect, leaving these children in danger of continuing harm.

139. Those investigations which DCYS does undertake are not all initiated or completed with the promptness required by federal law and DCYS' own policy implementing state and federal law mandates. The investigations, even when completed, are not always conducted by adequately trained staff and in a manner which consistently meets professional standards concerning the content of investigations necessary to protect children from harm, nor is appropriate protective action consistently taken when DCYS' investigation substantiates maltreatment.

E. Defendants' Failure to Ensure Sufficient Services to Avert Out-of-Home Placements

140. Between January, 1983 and January, 1987, the number of children in DCYS' child welfare jurisdiction who were in out-of-home placements each day decreased from 4,287 to 3,293. Since 1987, however, this number has begun to rise. In January, 1988 there were 3,470 such children in out-of-home placements. By January, 1989, this number had increased to 3,612.

141. In the 1988-90 Child Welfare Services Plan and its August, 1989 Update, approved by defendant O'Neill and submitted to the United States Department of Health and Human Services as a prerequisite to receipt of Title IV-B funds under the P.L. 96-

272, defendant Wheaton expressed concern that the number of Connecticut children in out-of-home care is "too high" and acknowledged that "[e]xpanded alternatives to out-of-home placements would prevent many unnecessary placements."

142. Defendants have failed to provide sufficient services statewide (and particularly to non-English-speaking and African-American families) to ensure timely access to services which are necessary to ensure that reasonable efforts are, and can be, made by DCYS to avert out-of-home placements for all children. Although some pilot programs are available, they serve only a small fraction of the families of children known by DCYS to be at imminent risk of out-of-home placement.

F. Defendants' Failure to Provide Adequate Care and Treatment to Children in DCYS Care

1. Failure to Provide Adequate Medical Care

143. Many children who enter DCYS custody, and for whom defendants thereby assume responsibility for ensuring adequate medical care and treatment, have acute medical and dental problems, and also chronic handicapping medical, developmental, and behavioral problems. DCYS has estimated, for example, that children in foster care are three to seven times more likely than children in the general population to have chronic medical problems, three times more likely to have hearing problems, two times more likely to have visual problems, and two to three times more likely to have intellectual deficits.

144. Many children who enter DCYS care escape detection of their serious medical needs by DCYS, and still others fail to receive necessary preventive and on-going recommended treatment.

145. DCYS has no consistent, coordinated, and comprehensive system to ensure that the health care needs of children in DCYS care are met. As a result, various specific deficiencies in the medical care for these children are allowed to persist, including:

a. children receive no immediate health screening routinely at the time of their placement with DCYS, though such screening is essential to ascertain their current health status and treatment needs;

b. children entering DCYS care neither routinely receive a more comprehensive assessment of their health care needs, a treatment plan, and all necessary followup treatment, nor are they routinely ensured all necessary periodic medical and dental examinations, thereby allowing many medical and dental problems to remain undetected and untreated until they grow more severe and more seriously jeopardize the children's health;

c. DCYS does not maintain, as a part of each child's DCYS record, a fully documented medical history and record of the current status of compliance with, and the adequacy of, the child's prescribed course of treatment. Children often

move from one placement to another with the current foster parent or custodian, the current provider of health care, as well as DCYS, unaware of their current medical needs and on-going treatment, if any;

d. children discharged from DCYS care experience a lack of continuity in their health care because of DCYS' inadequate referral and follow-up system;

e. there are inadequate monitoring, quality assurance, and other appropriate mechanisms of administrative oversight, review, and decisionmaking to assess the individual medical needs of children in care and to assure that they are receiving necessary and appropriate treatment.

146. Defendants have long been aware that the medical needs of these children have been inadequately met:

a. Several years ago a DCYS Health Care Advisory Committee, which included a number of pediatricians, emphatically identified the gaps in services outlined above, and produced a twenty-three page proposal for a DCYS Health Care Unit to remedy these problems. The Unit was never established and a medical passport, which this group developed over two years ago, has yet to be fully implemented within DCYS.

b. A study by the Connecticut Chapter of the American Academy of Pediatrics in October 1987, conducted with DCYS' encouragement and entitled Health Care for Children in Foster Care, verified that low levels of reimbursement and lack

of medical information on foster children were the primary problems facing health care providers and made specific remedial recommendations, few of which have been implemented;

c. DCYS' Budget Option for SFY 88-89 requesting \$90,000 for initial health screens for all preschool foster children for six months went unfunded by the State, as did DCYS' plans to increase medical resources by employing a nurse coordinator in each Region.

147. Despite defendants' long knowledge, they have failed to implement reasonable plans to provide and ensure necessary medical and other health care services for children in DCYS custody.

2. Failure to Provide Adequate Mental Health Treatment

148. Many children who enter DCYS custody, and for whom defendants thereby assume responsibility for ensuring adequate mental health care and treatment, have pre-existing mental health problems which require treatment and which are often exacerbated by their experiences while in DCYS care. For other children, their experiences in entering, and while in, DCYS care cause new mental health problems to arise which require diagnosis and treatment.

149. Until September, 1989, DCYS had no mental health plan, though federal law (P.L. 96-660), and state law for nearly a decade, (Conn. Gen. Stat. §17-412), have mandated DCYS to develop a comprehensive mental health plan. DCYS' attempts

in the past to plan for mental health services have been erratic and inconsistent, and indeed DCYS has never conducted an overall assessment of the mental health needs of children in its custody.

150. DCYS' current mental health plan, entitled "Carlos Rodriguez is Waiting," addresses only the mental health needs of children and adolescents with serious emotional disturbances. There remains no comprehensive plan for those children in DCYS jurisdiction who do not fall into this category, and even this limited plan is far from being implemented.

151. DCYS has no consistent, coordinated, and comprehensive system to ensure that the mental health care needs of children in DCYS care are identified and met. Often mental health treatment for a child in custody is tailored to the availability of services, rather than to the actual needs of the child. As a result, various specific deficiencies in the mental health care for these children, in addition to those alleged in SV.G., infra, are allowed to persist, including:

a. DCYS does not ensure that appropriate mental health assessments are performed for each child coming into DCYS care by appropriately trained personnel, that appropriate referrals are made for treatment, and that necessary treatment is, in fact, provided;

b. While all Regions lack adequate diagnosis and assessment services, there is also a tremendous disparity among Regions in children's access to such services;

c. DCYS fails to maintain, as a part of each child's DCYS record, a fully documented history of mental health assessments and treatment and a record of the current status of compliance with, and the adequacy of, the child's prescribed course of treatment. As a result, those persons currently providing care to the DCYS child are often unaware of the child's current treatment needs, delaying and impeding the delivery of necessary treatment and causing interruptions in the child's course of treatment;

d. For children who are African-American and Latino, there is no system to ensure that sufficient numbers of appropriately trained, culturally sensitive, and bilingual persons exist to perform necessary evaluations and render appropriate treatment;

e. children discharged from DCYS care experience a lack of continuity in their mental health care because of DCYS' inadequate referral and follow-up system;

f. there are inadequate monitoring, quality assurance, and other appropriate mechanisms of administrative oversight, review, and decisionmaking to assess the individual mental health needs of children in care and to assure that they are receiving proper treatment;

g. Emergency psychiatric services for children in DCYS care are insufficient to meet the need, and access to services varies by Region. There are gaps in out-patient

services across the State. Assessment and diagnostic shelter services are insufficient. Emergency psychiatric beds, both for emergencies and for short-term hospitalizations, are lacking for children in each Region who need in-patient hospitalization. There are inadequate mental health crisis intervention services for children with special cultural and linguistic needs;

h. Children in need of mental health out-patient evaluative and treatment services through DCYS-contracted child or family guidance clinics encounter long waiting lists because of inadequate funding of such services, resulting in delays in care and, on occasion, otherwise avoidable out of home placements, and inappropriate or overly restrictive placements;

i. The number of referrals to DCYS' three in-patient psychiatric facilities exceeds the number of children able to be admitted. In addition, because DCYS has no automated system to track available residential treatment and hospital beds, children do not receive the necessary services as soon as they are needed. On many occasions, children in DCYS care have been hospitalized in local community hospitals or maintained in other inappropriate settings waiting for a bed space at an appropriate psychiatric facility;

j. Children in DCYS care lack equal access to state hospital care because of geographic disparities in the services DCYS offers;

k. Only 55% of the 149 DCYS' state hospital beds are located in closed units which provide a high level of security. The admission of children in DCYS care who are in need of such a secure setting is often delayed as a result;

l. Programmatic differences among the hospitals also limit the treatment services which are available to adolescents in DCYS care in a particular Region. Only fourteen to seventeen year olds from Regions I and V can enter a long term voluntary admission treatment service through the Adams House program at Housatonic. Adolescents from other Regions have no access to a comparable program at Altobello;

m. Once children in DCYS care are hospitalized, lack of community resources and high caseloads lead DCYS workers to view the hospitalization as a temporary reduction in an already over-burdened, active caseload, rather than an on-going crisis with the highest priority for resolution, resulting in some children languishing in overly restrictive placements;

n. Discharge planning for children in DCYS care who are released from a psychiatric facility is inadequate because of the lack of appropriate and sufficient community-based services and placement alternatives, and insufficient staff to coordinate such planning.

152. For well over eight years, the defendants and their predecessors have known that the mental health needs of children in DCYS care were not being adequately met. There have

been repeated Task Force reports prepared by DCYS alone, and in conjunction with private sector providers, which have documented the deficiencies, as detailed herein, and made professional recommendations to remedy them, including the September, 1986 Mental Health Services to Children and Youth, a Blueprint for Change, the January, 1987 Legislature's Program Review and Investigations Committee report Psychiatric Hospital Services for Children and Adolescents, the April, 1988 DCYS Report of the Residential Study/Work Group Findings and Recommendations, the September, 1988 DCYS report Day Treatment Services for DCYS Children: Program and Fiscal Needs for Ensuring Viability into the 1990's, the October, 1988 report of DCYS' Committee on Inpatient Psychiatric Care for Children (which remains in draft form over a year later), and DCYS' recent mental health plan for seriously emotionally disturbed children, Carlos Rodriguez is Waiting. Defendants have neither implemented these various professional recommendations, nor implemented reasonable alternative plans to provide necessary mental health services for children in its custody.

3. Failure to Provide Adequate Substance Abuse Treatment

153. Some of the children who are the legal responsibility of defendants have serious substance abuse problems.

154. The DCYS-sponsored 1988 Residential Study/Work Group Report, and the reports of the recent Drug and Alcohol Task

Force, have found that all levels of services are lacking for adolescents in DCYS care who are in need of treatment for alcohol and drug abuse problems.

155. Specialized, and appropriately-staffed, substance abuse evaluation and intervention services that can ensure the appropriate utilization of, and expeditious placement of youths in, limited residential treatment programs are minimal, and not coordinated state-wide.

156. DCYS has only twelve short-term treatment beds, and has failed to develop all other components of a comprehensive and integrated statewide substance abuse program. It lacks adequate numbers of long-term beds, specialized group homes (halfway houses), residential placements for children returning from hospitalizations for substance abuse, day treatment, aftercare, and treatment services which are necessary to meet the unique treatment needs of DCYS' young substance-abusing population. As a result, necessary care and treatment has been delayed or denied to children in DCYS custody who have substance abuse problems.

4. Failure to Provide Adequate Treatment Services for Sexual Abuse Victims and Offenders in DCYS Care

157. Though many children in defendants' care are the victims and/or perpetrators of sexual abuse, DCYS has failed to provide adequate training in sexual abuse or to develop sufficient specialized sexual abuse services and placements in

all Regions of the state to meet the treatment needs of this population, denying appropriate care and treatment to children in need of these services to remedy the enormous injuries caused to them through sexual abuse.

G. Failure to Ensure that all Children in DCYS Care Receive Necessary and Appropriate Treatment, and Appropriate and Least Restrictive Placements, by Providing a Complete Continuum of Care.

158. Connecticut's child welfare system does not currently guarantee equal access to care, services, and placements which are necessary and appropriate to the treatment needs of each individual child in DCYS' jurisdiction. Without a full continuum of services and placements, children in need of DCYS placement too often are placed by DCYS where beds are available -- not necessarily in placements appropriate to their needs -- and there are frequently waiting lists for necessary services, care, and programs.

159. Defendants' failure to establish needed new services and placements to create a full continuum of services and placements for children in DCYS' care results in children being denied proper care and treatment, and/or being placed, or being allowed to remain, in settings which are inappropriate or more restrictive than their needs require.

160. Gaps in the continuum of care are particularly wide for non-English speaking children, African-American children, and children in certain rural areas of the state. Spanish-speaking children and families face additional delays in

obtaining, and/or denials of, appropriate placements and services because of the paucity of Spanish-speaking professional staff within DCYS and in the DCYS-contracted agencies.

1. Foster family care

161. Foster parents assist defendant Wheaton in fulfilling her legal obligation to meet all of a foster child's developmental needs, including his nutritional, physical, psychological, religious, recreational, safety, educational, and medical needs.

162. In July, 1987, an internal DCYS Foster Care Committee reported that "Connecticut's foster care system is critically depleted and fragile."

163. Since that time, the foster care system has further deteriorated. The need for appropriate foster placements in Connecticut far exceeds the number of homes currently available and licensed, and the gap between this need and the homes which are appropriate, and also available, has grown wider.

164. While the average number of children in placement on a daily basis with foster families decreased 15.4% between SFY '83 and SFY '87 -- from 2,054 to 1,737 -- the number of foster children has again begun to increase, to 1,869 in SFY '88 and 2,064 in SFY '89. These children are the victims of increasingly severe abuse and neglect, including conditions unknown a decade ago such as AIDS, in utero exposure to "crack", and massive homelessness.

165. Concurrent with the increase in the number of children in need of foster placement has been a decrease in the number of approved foster placements. In 1982 there were approximately 1340 licensed foster homes in Connecticut. By April, 1989 this number had decreased to approximately 990. For nearly all of the past five years, DCYS has had a net loss in licensed foster homes. In addition, some DCYS staff choose not to place children in certain licensed foster homes as they have judged them to be unacceptable placements for children.

166. The shortage of appropriate, licensed, and available foster homes results with increasing frequency in inappropriate placements for children in need of substitute care.

167. Defendants often cannot place children in close geographic proximity to their birth parents, impairing reunification efforts.

168. Siblings have been placed into separate foster homes and into homes which are distant from each other, impairing sibling visitation and family reunification.

169. Children have been placed in foster homes which are over their licensed capacity, impairing the foster parent's ability to adequately meet the child's needs.

170. Newborn infants, and children with disabilities, often are forced to live in hospitals beyond the time hospitalization is medically necessary for them.

171. DCYS has failed to develop appropriate placements for older children, pregnant teenagers, and children who are disturbed, acting-out, and/or in need of temporary, emergency foster care in a foster home, and so, instead, places them in settings which are overly restrictive and/or inappropriate for their needs, or allows them to remain in placements which are dangerous or harmful to them.

172. Some children are being moved from one foster home to another, subjecting these children to additional and continuing psychological damage. The percentage of the children who have been in an out-of-home placement for more than six months and who have been in more than three placements has increased steadily since 1984 -- from approximately 22% in 1984 to approximately 37% in 1989.

173. Though DCYS sets capacity limits for foster homes, DCYS, on occasion, allows, by informal policy and by practice, up to five African-American or Latino foster children to reside in a foster placement, while generally limiting the number of Caucasian children placed in a foster home to three.

174. An insufficient number of Latino foster homes causes DCYS, on occasion, to place a Spanish-speaking foster child with foster parents who cannot speak Spanish, thereby traumatizing the child who suddenly finds s/he cannot speak to anyone in the placement, impeding the foster child's ability to develop trusting relationships with adults, impairing

reunification efforts with the birth parents, and, on occasion, resulting in the foster child learning to speak only English, thereby becoming unable to communicate with his/her birth parents.

175. The number of emergency and respite foster care beds is inadequate to ensure that a placement is open and available when needed, resulting in DCYS placing children in homes which are beyond their licensed capacity, or far from the child's home, or which lack even an extra bed in which a child can sleep.

176. Increasing numbers of children in need of foster placements are medically-involved and require foster parents who have specialized skills to meet their medical needs, including children infected with the Human Immunodeficiency Virus (AIDS) or harmed by prenatal exposure to harmful drugs and alcohol. Yet DCYS has failed to recruit, train, and adequately support foster parents who are competent to meet the complex medical needs of these children.

177. Repeated reports and recommendations, including the January 7, 1985 DCYS Foster Care Rate Structure Study, the July 1, 1987 Final Report of the DCYS Foster Care Committee, the June 28, 1988 Final Report to DCYS on Recruitment and Retention of Foster Parents, by Spectrum Research Associates, and the defendant Commissioner's own Budget Options to defendant O'Neill, have documented these serious problems and consistently

recommended the necessary and reasonable steps which must be taken to ensure a sufficient number and range of foster homes, including: a. increasing the rate of payment to foster parents; b. increasing support services for foster parents; c. improving training for foster parents and social workers; and d. enhancing recruitment and retention efforts by DCYS staff, especially for Latino and African-American placements and for placements for medically-involved children.

178. Despite these concrete, specific, and repeated professional recommendations, the foster care system continues to deteriorate.

179. Current DCYS foster care rates remain about 30% short of the current USDA standards for the cost of supporting children of varying ages in Connecticut, and DCYS' payments are frequently delayed, imposing financial hardship on many foster parents and impairing the recruitment of persons with competent parenting skills who are eager to be foster parents, but who cannot assume these additional financial burdens.

180. DCYS continues to fail to provide foster parents with frequent, routine, and supportive contact with adequately trained DCYS social workers who would assist them in providing competent and adequate care to the foster children. DCYS continues to fail to provide foster parents with adequate information about the foster children who are newly-placed in their care, such as histories of medical conditions and sexual

and physical abuse, though such information is necessary for the parents to immediately and competently assume their parenting responsibilities. DCYS continues to fail to provide foster parents with necessary supportive resources to provide care to foster children who are frequently emotionally-troubled (such as respite care, day care, individual and family counselling to assist in integrating the foster child into the family, parenting training, funds for necessary incidental expenses, and crisis intervention services). As a result, many foster homes cannot be retained, and many children are moved from one foster home to another.

181. Current pre-licensing foster parent training is inadequate to prepare foster parents to parent children who have been abused, neglected, abandoned, and who may have complex medical and mental health needs.

182. Post-licensing training is neither required nor offered on an on-going and consistent basis, though required by national professional standards and recommended in the various professional reports on foster care prepared for, and by, DCYS.

183. DCYS lacks procedures and staff to fully assess the competence of potential foster parents, to monitor adequately the quality of care in each foster home, and to conduct relicensing inspections at sufficient frequency to ensure the safety and welfare of the children placed therein. Defendants commonly rely on only "paper" relicensure, rather than

on-site inspections, for placements in which DCYS places children over five years of age.

184. DCYS lacks adequate staff and resources to recruit, study and license new homes. Recent statutory requirements which impose time limits for licensure of the relative homes which DCYS uses as foster placements, without a corresponding increase in the size of the DCYS homefinding and licensure staff, has further hindered DCYS' recruitment, licensing, and retention efforts. As of August 1989, DCYS was taking eight to twelve months to study and license new homes, resulting in significant attrition among the potential foster parents awaiting licensure who have completed pre-licensing training, and a loss of potential homes.

185. One tragic consequence of DCYS' failure to maintain a foster care system with an adequate number of appropriate and closely-monitored homes is that some children, removed by DCYS from their birth parents' homes for their protection, have then been subjected to abuse and neglect in the foster homes in which DCYS has placed them.

2. Specialized and treatment foster care

186. Many of the children in defendant Wheaton's care require specialized or treatment foster care placements because of their medical, physical, psychological, developmental or behavioral problems. Other children, who are in foster care placements which are in danger of being disrupted, require

appropriate services to avert disruption and the resultant gravely deleterious effects of multiple foster care moves.

187. Defendants have been advised repeatedly, through studies, task force reports, and evaluations of pilot programs starting as early as 1971 and continuing through the past year, and defendant Wheaton's own Budget Options have acknowledged, that additional specialized and treatment foster care beds are needed to avert unnecessary institutionalization, inappropriate placements, and further damage to children.

188. Absent a comprehensive, statewide system of specialized and treatment foster care, DCYS has caused children in its custody to be unnecessarily institutionalized, or remain institutionalized beyond the time that care in such a restrictive setting has been necessary; children have been released from residential and psychiatric facilities to inappropriate placements (including shelters, the State Receiving Home, and their own homes); children have not come into placement though placement was necessary for their safety and wellbeing; children have suffered moves through multiple foster homes; and children have otherwise been allowed by DCYS to remain in placements which are deleterious to them and which fail to provide them with appropriate care, causing them serious and long-lasting harm.

3. Day treatment

189. Defendants have failed to establish sufficient day treatment programs in all Regions of the state, though they

offer a structured treatment environment which allows some children to remain with their families who otherwise would be likely to require or remain in out-of-home placements. As a result, some children remain longer than necessary in residential facilities and other institutional settings, and other children in DCYS care remain in the community though they are harmed, or are at risk of harm, without this necessary care.

4. Shelters and Group Homes

190. DCYS fails to provide shelter services and group homes in all Regions of the state to all children in DCYS care who are in need of such services. Certain categories of children are particularly underserved, such as girls in need of group home beds and children in need of adequate emergency shelter who are aged eight to thirteen, who have special needs, who are severely acting out or firesetters, or who have committed sexual offenses.

191. Services and placements to assist adolescents in DCYS care to make the transition to independent living, such as therapeutic group homes and life skills training, are woefully inadequate in the state.

192. Pre- and post-natal maternity homes for pregnant adolescents in DCYS' care, and particularly for those who already have children, are virtually non-existent in the state.

5. Residential treatment

193. Residential treatment is a necessary component of the continuum of care for the most seriously disturbed children and adolescents in DCYS' custody who need twenty-four hour care in a structured environment which offers individualized treatment planning, and who cannot be maintained in other settings.

194. Defendants fail to provide adequate residential treatment services to children in need of such placements who are aged fourteen to seventeen, who are sexual offenders or who have sexual identity problems, and who are severely disturbed, firesetters, or assaultive.

195. Without a comprehensive continuum of treatment services and less restrictive placements in any Region of the state, some children remain in residential care when a less restrictive setting is appropriate for their needs, while other children in need of residential placement remain in placements which are inappropriate for their needs awaiting a residential bed.

6. Aftercare Services

196. DCYS fails to provide adequate aftercare services to children in its care, though such services can reduce the time that children remain in an institutional or other out-of-home setting, can preserve and enhance the gains in treatment

made while in an out-of-home placement, and can reduce the likelihood of re-institutionalization and re-referral to DCYS.

197. In May, 1986, the DCYS Commissioner's Aftercare Task Force designed a model for aftercare services and recommended development of overnight respite care, day treatment and supervised independent living programs. This model, however, has not been implemented, nor has any reasonable alternative to it.

H. Failure to Develop and Implement Plans to Enable Children to Leave Foster Care and Other Out-of-Home Placements

198. DCYS fails to consistently develop in a timely and legally sufficient manner, and to implement, the written plans required by federal law. Many plans are vague and unfocused, do not contain meaningful timetables, and are often developed in the absence of professional judgments and without taking into consideration the needs of the child and the family. In those plans which contain a plan of reunification of the child with the parent, DCYS often fails to identify and provide the services necessary to implement that plan, with the result that children remain in state custody unnecessarily.

199. In addition, a number of defendants' current practices actually impair efforts to reunify children with their parents, such as: placing children in out-of-home placements which are geographically distant from the birth parents, thereby severely impairing visitation, especially for parents with

limited financial means; placing children in foster homes in which the foster family speaks a language different than the birth parents, without ensuring the children an opportunity to maintain their native language; and maintaining such high caseloads for DCYS workers that it is impossible for them to take reasonable steps to implement treatment plans. In addition, defendants fail to provide a complete and comprehensive continuum of aftercare services in all Regions which can maintain a child in his or her home once he is returned, resulting in an increasing rate of re-referrals to DCYS and repeated removals from home.

200. Treatment plans are not always reviewed every six months as required by federal law, nor are dispositional hearings always held within time limits mandated by federal law.

201. For some children, DCYS maintains a "plan" to return the child to his or her home but fails to make reasonable efforts to implement the plan or retains the plan long after it ceases to be realistic, and in many instances long after the parent has ceased to have a meaningful relationship with the child.

202. For children with a DCYS' plan for termination of parental rights and adoption, DCYS fails to take all necessary steps to ensure that they are legally available for adoption, and that each child is quickly placed in an appropriate adoptive home. DCYS' delays, in freeing these children for adoption and

in recruiting, screening, and licensing potential adoptive parents, mean that some children will be permanently deprived of any opportunity to grow up in a caring adoptive family.

I. Failure to Move Children to Adoptive or Other Permanent Homes when Reunification is Impossible.

203. Even when a child is available for adoption, DCYS fails to take appropriate and timely steps to obtain an adoptive home for him or her.

204. The number of DCYS children who are freed for adoptive placement far exceeds the number of licensed adoptive homes, particularly if the children are African-American, Latino, or have special needs.

205. The gap between the number of DCYS children awaiting adoptive homes and the number of available placements has been markedly increasing. In June, 1988, there were 450 children awaiting placement and 146 licensed homes. One year later, in June, 1989, there were 541 DCYS children with parental rights terminated awaiting adoptive placements and only 166 licensed adoptive homes available. In addition, some homes licensed for adoption are not actually used by DCYS because caseworkers find them to be inappropriate for the particular child in need of adoption.

206. Departmental studies of recruitment, licensing, and retention of adoptive homes have documented, and defendant Wheaton's own Budget Options have acknowledged, that additional services and supports for potential adoptive families (such as

increased pre- and post-licensing training, adoption supports and subsidies, and support services beyond the time of adoption), as well as additional staff to recruit, conduct home studies, and license, are necessary to increase the number of available, licensed adoptive homes generally, and in particular the number of African-American and Latino adoptive homes. These services are also essential to minimize the possibility that the adoptive placements will be disrupted.

207. Despite defendants' knowledge of the problem, defendants have failed to take the steps necessary to ensure that there is adequate recruitment, licensing, and training of sufficient numbers of appropriate adoptive parents to ensure that children in DCYS custody will expeditiously be moved into adoptive homes.

J. Failure to Provide Sufficient, Trained Staff to Fulfill Defendants' Legal Obligations.

208. Trained social work staff and supervisors, together with sufficient support staff, equipment, and services, are essential components of Connecticut's child welfare system.

209. Defendants have failed to maintain adequate numbers of DCYS caseworkers, support staff, equipment and services to comply with the DCYS' legal obligations under federal law.

210. Since SFY 81-2, the number of investigations of abuse, neglect, and at risk referrals completed by DCYS has nearly doubled. Since 1987, the average daily caseload served by

the regional offices has increased by about 15%, and the number of abused, neglected or maltreated children who are in out-of-home care has increased by about 10%. The total number of currently authorized positions in DCYS, however, has failed to increase proportionately with this need for service.

211. Many authorized positions in the agency are vacant and defendants have ordered some of them to remain unfilled. Recent retirements under the state's early retirement plan have exacerbated DCYS' staffing shortages. Only about 1/4 of the nearly seventy DCYS employees who recently retired, including more than ten social workers in the Regional offices, currently are authorized to be replaced.

212. Staffing shortages are further exacerbated by staff who are unable to meet their job responsibilities because they are on workmen's compensation or leaves for medical or personal reasons.

213. As a result of defendants' chronic understaffing of DCYS' social work force, the DCYS social worker staff have dangerously high caseloads that far exceed minimally-accepted professional standards and the professional standards as set forth in various state task force reports (including the Report of the 1986 Governor's Task Force on Family Violence and the February 1989 Report of the Governor's Task Force on Justice for Abused Children) and DCYS' Budget Options from at least SFY 85-6 through and including SFY 89-90. DCYS' Child Welfare Service

Plan Update 1989-90 states that DCYS' 1989 caseload figures "represented an increase over the previous year and are above recommended standards".

214. In early 1989, defendant Wheaton testified to the Appropriations Committee of the General Assembly that these shortages require DCYS intake staff, who -- defendant Wheaton claimed -- have an "average" caseload as high as thirty-six cases, to make a series of choices, none of which are "good" because "any of them could result in a child being hurt": to turn away referrals, to delay initiation or completion of the investigation, or to spend less time than is needed to assess the situation.

215. Defendant Wheaton also testified to this Committee that the average caseloads of treatment workers, who are assigned ongoing supervision of the confirmed abuse and neglect cases in which children are at greatest risk, "range from a low of twenty-five to a high of forty-nine," assuming no staff vacancies or leaves. DCYS' statewide average treatment caseload of 32.4 last spring was "50% over the national standard of good practice," which the Commissioner testified to be "between seventeen and twenty" treatment cases per worker.

216. The caseloads of many individual intake and treatment caseworkers far exceed these already high average caseload figures, particularly in offices with high vacancy and leave rates and many newly-hired social work employees. Some

individual intake workers have as many as thirty or more cases. Some individual treatment workers have sixty or more cases. Significant workload inequities exist among workers, among units, and among the six Regional Offices of DCYS. Bilingual caseworkers frequently carry caseloads greater than the average.

217. Inadequacies in support staff, equipment, and services, including shortages in clerical staff and necessary equipment, and defendants' failure to hire social work aides to assist caseworkers, also contribute to the existing delays in providing casework services to children.

218. Defendants are well aware of the harmful impact of these staffing inadequacies on Connecticut's most vulnerable children. Defendant Wheaton, in her 1989-90 Budget Options to defendant O'Neill, stated that because of increases in referrals and high caseloads "[r]egular, supportive contact between Department social work staff and even the highest risk families is next to impossible". She characterized the situation in child protective services as "unacceptable and dangerous" and stated that without additional casework positions "the Department cannot assure the safety and protection of children."

219. Though defendants have been long aware of these staffing inadequacies, staffing problems have grown more severe. DCYS has fewer authorized positions in the current SFY 1989-90 budget than it had the preceding year.

220. DCYS also has a high rate of turnover among casework staff, resulting in a less experienced staff to manage the complex cases for which defendants are responsible. Since SFY 85-6, the turnover rate among DCYS social work staff has approximately doubled. At least one-third of the caseworkers in the Hartford DCYS office are new this year, and only about 30% of the social work staff in that office has worked there for more than two years.

221. The high turnover rate among DCYS casework staff, and the number of new staff currently being hired with no formal social work education, makes staff training for newly-hired social work staff a matter of particular importance, yet the training program for such staff is less comprehensive and timely than it was several years ago, is inadequate, and falls short of national standards.

222. Formal system-wide training for new staff was, for a time in 1988, totally suspended. Many positions for staff development and training remain unfilled; a budget adequate for such training is lacking. Current staff training is inadequate to ensure that workers are aware of their responsibilities and that they have the basic information, knowledge, and skills necessary to ensure that the children's legal rights are protected.

223. For example, caseworkers can be assigned cases and even go to court prior to completion, or even initiation, of any

formal and systematic basic training about DCYS and its processes. DCYS also fails to provide an adequate on-going training program for more experienced caseworkers and social work supervisors.

224. Social worker supervisors are responsible for the supervision of an excessive number of cases, limiting their ability to ensure that social work staff provide services competently and in a timely manner. In addition, because of social worker shortages, supervisors are called upon to assist in providing casework services, further limiting their ability to provide supervision, sound caseload management, and consultation in complex situations.

225. Though an increasing percentage of the children in DCYS care are Latino, there remains a critical shortage of Spanish-speaking social work staff. As a result, Latino children and families have experienced delays in receiving culturally and linguistically appropriate services, even beyond those experienced by other children in defendant Wheaton's care.

226. High caseloads hinder DCYS workers in providing necessary oversight for children and youth who experience serious emotional disturbance and who are in placement or at high risk of placement because of this. There is insufficient staff to perform essential quality assurance functions and to plan, develop, and administer community services in each Region.

K. Inadequate Records and information systems

227. DCYS has no reliable system for identifying the individual children in care and tracking the actions taken for each of them on essential matters which are necessary to protect them, to ensure that they receive proper care, and to assure them a permanent placement. The computer system maintained by DCYS contains unreliable and inaccurate information which makes it impossible for DCYS to fulfill all of its various legal obligations.

228. In addition, DCYS' records on individual children and families are seldom complete, impairing DCYS' ability to fulfill its legal obligations to all children in its care.

229. In the Spring of 1986, a detailed study of DCYS' data processing services reported emphatically that DCYS' information system was insufficient. The SFY 87-8 Budget Option requesting additional funds to expand these services stated that "[y]ears of neglect in this area have seriously diminished the effectiveness and efficiency of the Division. The agency simply cannot reasonably respond to external requests for information and meet Federally mandated program reporting requirements. Most importantly, meeting the needs of its clients [sic] base is becoming seriously impacted through the insufficiency of its automated support systems to provide timely and accurate information to the social workers in the field interacting with these clients."

230. Though aware that DCYS' records and information systems must be significantly upgraded to ensure that the needs of children in DCYS care are adequately met, defendants have failed to remedy all the various deficiencies of the systems, thereby violating plaintiffs' right to receive services in a child welfare system with an adequate information system.

L. The Continuing Crisis in Connecticut's Child Welfare System

231. Over the last six years, innumerable studies and task force reports by, for, and involving DCYS have "studied" the crisis in Connecticut's child welfare system.

232. These studies and task force reports include: Family with Service Needs Work Group: Committee on the Hard to Service Draft Report (10/83); The 1984-5 Proposal of the DCYS Committee on Acting Out Kids; The DCYS Foster Care Rate Structure Study (1/85); The Governor's Task Force on Family Violence Report (1985); The DCYS Specialized Foster Care Report (11/85); Final Report of the Connecticut Sexual Abuse Task Force (1/86); Final Report and Recommendations of the Governor's Task Force on Family Violence (1/86); The DCYS Commissioner's Aftercare Task Force Report (5/86); DCYS' First Annual Advocacy Action Plan to Enhance Services for Minority Children and Youth (5/86); DAS-BIDP Data Processing Services Study (Spring, 1986); Mental Health Services to Children and Youth, A Blueprint for Change (9/86); DCYS' Report on Adoption for Connecticut's Black Children (11/86); Report of the DCYS Health Care Advisory Committee (1987);

Psychiatric Hospital Services for Children and Adolescents (1/87); Final Report of the DCYS Foster Care Committee (1/87); Final Report of the DCYS Adoption Committee (7/87); Health Care for Children in Foster Care (10/87); Report of the Residential Study/Work Group - Findings and Recommendations (4/88); DCYS' Final Report on Recruitment and Retention of Foster Parents (6/88); Final Report of the Task Force on Transracial Adoption (6/88); Research and Study on Treatment Foster Care (8/88); Governor's Intra-Agency Plan on Youth Substance Abuse Prevention and Intervention (9/88); Day Treatment Services for DCYS Children: Program and Fiscal Needs for Ensuring Viability into the 1990s (9/88); DCYS' Proposal for a System of Psychiatric Inpatient Care for Children (Draft, 10/88); Report of the Governor's Task Force on Justice for Abused Children (2/89); DCYS' Out of Biological Home Committee Report (4/89); Refinancing and Expanding Services to Children Through a Controlled Use of Medicaid (Title XIX) (7/89); Carlos Rodriguez is Waiting- Connecticut's Plan for a Comprehensive, Community-Based Service System for Children and Adolescents Who Experience Serious Emotional Disturbance and Their Families (9/89).

233. These studies and task force reports, and others, have acknowledged the multi-faceted nature of the crisis in Connecticut's child welfare system and, with striking consistency, have recommended the various steps which defendants must take to ensure that children in DCYS care and supervision

receive the protection, care, and treatment to which they are lawfully entitled.

234. However, defendants have failed to follow these professional recommendations to address this crisis, and also have failed to develop alternatives to bring Connecticut's child welfare system into compliance with the law. At a time that the number of children in need of DCYS' care and protection continues to increase, Connecticut's child welfare system continues to deteriorate.

235. The knowing actions and inactions of the defendant officials of the State of Connecticut, as herein set forth, are causing Connecticut's most vulnerable citizens -- the children who have been abused, neglected, abandoned, and who are at grave risk of such maltreatment -- to continue to suffer irreparable injury for which there is no adequate remedy at law.

VI. FIRST CAUSE OF ACTION - Federal Adoption Assistance and Child Welfare Act of 1980.

236. Paragraphs 1 through 235 are incorporated herein by reference, the same as though pleaded in full.

237. Defendants' actions and knowing inactions have deprived plaintiffs and the members of their class of the rights conferred upon them by the federal Adoption Assistance and Child Welfare Act of 1980, 42 U.S.C. §§620-627, 670-679, including their rights to:

- a. DCYS' reasonable efforts to prevent plaintiffs'

removal from their homes and to prevent unnecessary separation from their parents;

b. DCYS' reasonable efforts to provide services to enable children to be returned to their families whenever possible;

c. timely and appropriate services to prevent and remedy neglect, abuse, and dependency which may result in out-of-home placement;

d. individualized written case plans developed in accordance with reasonable professional judgment that contain specified elements; timely and complete implementation of said plans by the provision of necessary and appropriate services; and timely and complete review of those plans;

e. placement in foster homes or other out-of-home placements which are appropriate for plaintiffs' needs and which conform to nationally-recommended standards, and appropriate foster care payments;

f. appropriate services for plaintiffs, their parents, and their foster parents to address each child's needs and to assure each child's permanent placement;

g. placements in the least restrictive, most family-like settings;

h. proper care and treatment;

i. periodic judicial or administrative reviews;

j. dispositional reviews to determine future status within eighteen months after placement, and periodically thereafter;

k. services in a child welfare system with an adequate information system;

l. defendants' compliance with the Child Abuse Prevention and Treatment Act.

VII. SECOND CAUSE OF ACTION - Federal Child Abuse Prevention and Treatment Act.

238. Paragraphs 1 through 237 are incorporated herein by reference, the same as though pleaded in full.

239. Defendants' knowing actions and inactions in failing to appropriately investigate all referrals to DCYS, and in failing to provide adequately trained staff in sufficient numbers to undertake such investigations in a timely and complete manner and to take appropriate protective action, have deprived plaintiffs and the members of their class of the rights conferred upon them by federal Child Abuse Prevention and Treatment Act, 42 U.S.C. §5106 et seq., including their rights to:

a. prompt investigations into all reports regarding children who are known to be, or suspected of being, abused, neglected, abandoned, or at risk of such maltreatment;

b. appropriate protection when reports of abuse or neglect have been substantiated;

c. adequate procedures, trained and qualified

personnel, and facilities to deal effectively with child abuse and neglect cases.

VIII. THIRD CAUSE OF ACTION - Fourteenth Amendment to the United States Constitution - Right to a Safe, Decent, and Humane Environment while in the Custody of the State and Right not to be Harmed.

240. Paragraphs 1 through 239 are incorporated herein by reference, the same as though pleaded in full.

241. Defendants have a duty to ensure the safety, security and freedom from harm of all children in their care and custody and all children of whom defendants have, or should have, knowledge who are at risk of harm. Defendants have failed to develop and maintain a complete continuum of care in all Regions, including services, placements, and programs which are staffed by appropriately qualified, trained and supported persons, which are adequately monitored, which are not overcrowded, which meet nationally-recommended standards, and which adequately meet the physical, emotional, medical, psychological, and developmental needs of plaintiffs and the members of their class. Defendants' actions and inactions have caused plaintiffs and members of their class to be denied appropriate and necessary care and to be subjected to harm, in violation of plaintiffs' rights under the Fourteenth Amendment to the United States Constitution.

IX. FOURTH CAUSE OF ACTION - Fourteenth Amendment to the United States Constitution - Right to Care That is Consistent With Competent Professional Judgment.

242. Paragraphs 1 through 241 are incorporated herein by reference, the same as though pleaded in full.

243. Defendants' actions and inactions in failing to provide children in their custody and/or under their supervision with care consistent with competent professional judgment has caused plaintiffs and the members of their class to be deprived of their rights under the Fourteenth Amendment to the United States Constitution.

X. FIFTH CAUSE OF ACTION - Fourteenth Amendment to the United States Constitution - Right Not to Be Deprived of State and Federally-Created Liberty and Property Rights Without Due Process.

244. Paragraphs 1 through 243 are incorporated herein by reference, the same as though pleaded in full.

245. Plaintiffs and the members of their class enjoy certain liberty and property rights which have been created by mandatory state and federal law governing their protection, care, and treatment including, but not necessarily limited to: the right to prompt investigation of all referrals regarding children who are abused, neglected, or at risk; the right to protection when DCYS investigations substantiate harm or danger; the right to careful supervision when in DCYS care, to such DCYS contact as is necessary to promote their safety and support, and to maintenance of such records as are necessary for such proper

supervision; the right to adequate food, clothing, shelter, and medical and mental health care services while in care; and the right to safe and secure out-of-home placements which are appropriately licensed. Defendants' knowing actions and inactions, in administering a child welfare system which arbitrarily denies plaintiffs and the members of their class various of their liberty and property rights, deny plaintiff class members their rights to due process of law as guaranteed by the Fourteenth Amendment to the United States Constitution.

XI. SIXTH CAUSE OF ACTION - Fourteenth Amendment to United States Constitution - Right to Placement in the Least Restrictive, Appropriate Placement.

246. Paragraphs 1 through 245 are incorporated herein by reference, the same as though pleaded in full.

247. Defendants' failure to establish and implement a full continuum of services and placements in all Regions and to make appropriate placements for each child has caused plaintiffs and members of their class to be placed in inappropriate placements and in placements which are more restrictive than is necessary to provide them with appropriate care and treatment and to protect them from harm, thereby violating plaintiffs' rights under the Fourteenth Amendment to the United States Constitution.

XII. SEVENTH CAUSE OF ACTION - First, Ninth, and Fourteenth Amendments to the United States Constitution - Right to Freedom of Association and to Family Integrity.

248. Paragraphs 1 through 247 are incorporated herein by reference, the same as though pleaded in full.

249. Defendants have denied plaintiffs and members of their class their rights to freedom of association and to family integrity as guaranteed to them by the First, Ninth, and Fourteenth Amendments to the United States Constitution by: failing to place children in DCYS care in close proximity to their parents; failing to provide services necessary to enable children in DCYS care to remain together or to be reunified whenever appropriate; failing to place siblings in need of out-of-home placements in the same placements; and failing to facilitate visitation between children and parents, and children and their siblings.

XIII. PRAYER FOR RELIEF

WHEREFORE, the plaintiffs respectfully request this Court to:

1. Assume and retain jurisdiction over this action;
2. Certify this action as a class action;
3. Enter preliminary and permanent injunctive relief necessary and appropriate to:
 - a. remedy defendants' violations of the plaintiffs'

rights under the federal Adoption Assistance and Child Welfare Act of 1980, as amended;

b. remedy defendants' violations of the plaintiffs' rights under the federal Child Abuse Prevention and Treatment Act, as amended;

c. remedy defendants' violations of the plaintiffs' rights under the United States Constitution.

4. Enter a declaratory judgment declaring that defendants' policies and practices violate the plaintiffs' rights under the federal Adoption Assistance and Child Welfare Act of 1980, as amended, under the federal Child Abuse Prevention and Treatment Act, as amended, and under the United States Constitution.

5. Award to the plaintiffs their costs and attorneys' fees.

6. Grant such other relief as this Court deems just and proper.

Respectfully Submitted,

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