

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NEIDA SANTIAGO, et al. : CIVIL ACTION
v. :
CITY OF PHILADELPHIA, et al. : NO. 74-2589

THIRD AMENDED STIPULATION IN PARTIAL
SETTLEMENT OF THIS ACTION

Santiago v. Philadelphia



JI-PA-005-009

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PREAMBLE

The following factual background is agreed to by the parties and is incorporated as preamble to this Third Amended Stipulation of Settlement.

A reorganization of the Youth Study Center (YSC) commenced in 1975 and various educational, recreational and other programs were introduced. Shortly thereafter, through the joint efforts of the Family Court and the Youth Study Center, the Detention Alternative Program came into being. This Program, which evolved into the Community Based Emergency Shelter program (CBES), releases juveniles to other facilities when YSC detention is inappropriate. In addition, the YSC employed social workers and requests were made to City authorities for capital funds with which the Center could improve the building and the conditions under which the residents lived.

In 1978, the parties entered into a Stipulation of Settlement. The Stipulation established standards for conditions at the Youth Study Center. It also established intake standards aimed at controlling overcrowding at the YSC. The parties entered into an Amended Stipulation in 1979 in order to comply with newly promulgated state DPW detention regulations.

In February, 1983, pursuant to an Act of the Pennsylvania General Assembly, the YSC Board of Managers was dissolved and management was assumed by the City of Philadelphia. The parties then amended the Stipulation again in December, 1984, to better control overcrowding at the YSC. Now, the parties have agreed to re-examine the 1978 stipulation, as amended, in light of continuing overcrowding. This Third Amended Stipulation is made as a result of that inquiry and incorporates those changes that the parties believe to be consistent with the demands of public safety and to be minimally necessary for the

safe operation of the YSC. It is the express intent of the parties that the items contained in this Third Amended Stipulation shall be maintained in the future.

Although the parties intend that this Stipulation be enforceable in this Court, the parties agree it gives rise to enforceable rights only in the event of a material breach in its observance or pursuant to Section XXVI. Upon execution of the Third Amended Stipulation, prior stipulations will be replaced; the original complaint shall remain withdrawn and its allegations will not be the subject of future proceedings, legal or equitable.

The parties enter into this Stipulation in order to improve conditions at YSC. Nor do the parties intend, by this Stipulation, to make any admission or concession with respect to any other litigation pending in this jurisdiction or elsewhere.

This revised Stipulation recognizes that it is essential for the YSC to remain at or below licensed capacity. In the first six months of 1987, the average daily population of the YSC was over 150 residents, which is more than 45 above the capacity as licensed by the Commonwealth of Pennsylvania. Severe overcrowding has posed a significant risk to the safety, welfare and security of residents and staff. In recognition of this problem, this Stipulation sets a time frame by which defendants must reach and maintain a population that is no higher than 105.

I. Alternative Detention Placement:

The parties recognize that one of the primary goals of juvenile detention is "to provide temporary secure care, while minimizing the negative effects of confinement, for alleged delinquents or adjudicated delinquent juveniles awaiting disposition of the court, when there is a clear and convincing need to protect

the community and when remaining with parents or placement in their care is inappropriate." 55 Pa. Code § 3760 et seq. Social Services Manual, The Office of Children, Youth and Families, Pennsylvania Department of Public Welfare, September 1, 1979 (hereinafter "DPW Detention Regulations"). Because at present the Youth Study Center provides only the most restrictive form of custody -- secure custody -- the City and the Family Court shall continue to implement the plan for less restrictive detention placements, such as CBES, small community-based group homes, foster placements, home detention, and mentor homes. The YSC client population shall be in conformity with the standards set forth in Paragraph XXII, infra.

II. Discipline of Children at the YSC:

A. Corporal Punishment:

1. Subsequent to any use of physical force by a staff member, a "Use of Force" report (86-141) shall be filed immediately by the staff member with his supervisor, describing specifically the reason for the use of force, the amount and type of force used, the resident involved, and the names of all resident and staff witnesses. The supervisor shall investigate the incident and report his findings to the Executive Director of the YSC within 24 hours of the incident. In all cases where there is evidence uncovered that force was used or a "Use of Force" report was filed, the Executive Director shall interview the staff member, resident involved, and any witnesses, a) to determine whether or not force was necessary, b) to counsel all parties about the confrontation, and c) to decide if further action should be taken, including, where appropriate, suspension and/or dismissal of staff who violate this policy.

2. Whenever any YSC resident believes that he has been the victim of unwarranted use of force by a staff member, the resident may, if desired, proceed in accordance with the grievance procedure outlined in Paragraph III B.

B. Crisis Intervention/Disciplinary Isolation Procedures:

1. "Isolation" (also known as "segregation") is the placement of a resident in a locked room to control behavior. The resident's request to spend time in a private, unlocked room or room which unlocks from the inside is not to be considered isolation and should be granted, if feasible. Quarantine or other preventive health measures are not considered isolation but can only be ordered by a licensed physician. Locking residents in rooms during a normal eight-hour sleeping period is not considered isolation if the rationale and procedures are documented in the current program description.

2. Use of Isolation

a. The parties recognize the potential for aggressive, disruptive or threatening behavior on the part of the residents of a detention facility. Children in detention are often in a tense or unsettled emotional state which may lead to displays of anger, tension, loss of self-control, frustration, or violence, directed toward staff or other residents. Staff shall attempt to prevent such behavior by recognizing indications of impending behavior and intervening in a positive, constructive manner to neutralize or prevent such acting out or assaultiveness. Isolation or handcuffs shall be used only to control behavior which is a clear and present danger to the resident, to other residents, or to staff.

b. Residents requiring isolation or handcuffs shall not be denied food, or subjected to corporal punishment, or abusive or degrading treatment.

c. Isolation and handcuffs shall not be used as punishment, for the convenience of staff, or as a substitute for program. They shall not be used unless all other available techniques or resources have failed.

d. When isolation or handcuffs are used, an incident report including the following shall be entered in the residents' record: the method

used, the conduct necessitating the isolation or handcuffs, alternative methods which were unsuccessful in controlling the behavior, the period of time the resident spent isolated or handcuffed, the monitoring report, and the physical and emotional condition of the resident during and after release from isolation or handcuffs.

e. A log recording all incidents where isolation and handcuffs were used shall be established. For each incident the name of the resident, whether isolated or handcuffed, the date and time period over which the isolation or handcuffs were used, the staff who used it and the staff who authorized its use shall be noted. This log shall be submitted quarterly to the Department, the President Judge (Administrative Judge, Family Court Division), and the County Executive Officers (Commissioner of the Department of Human Services).

f. The Executive Director is responsible for insuring that staff know specific procedures, methods and steps relating to the use of handcuffs and isolation and that the staff is familiar with these regulations and the criteria for their application.

g. Authority for isolation rests with the Executive Director, or in the Executive Director's absence the staff person designated by the Executive Director. The Executive Director shall see the resident, assess the resident's needs, and seek professional consultation if indicated. Normally, written authorization with date and time shall precede the placement of a resident in isolation. In emergencies, telephone authorization may be accepted, to be followed promptly by a written authorization, dated and signed by the Executive Director or his/her designee not later than four hours after the telephone authorization.

h. Authorization for isolation is good for only four hours. For every four hour period the procedure in paragraph (a) through (g) shall be

followed. The time the authorization is received will be recorded. Isolation shall not exceed 16 hours in any 48 hour period without a written court order. When requesting a court order for continuing isolation beyond 16 hours in a 48 hour period, the facility shall give prior notice to the child, and the child's attorney of record or the County Public Defender's Office. Court authorization and any other documentation shall be included in the child's record.

i. In the absence of a written or telephone authorization, a resident may be placed in isolation as a protective measure for no more than one hour when such action is immediately necessary. At such times, the Executive Director or designee shall be notified immediately and approve such act. If, after visiting the resident, the Executive Director or designee deems isolation necessary, they shall document their observations fully on the incident report.

3. The following procedure shall be followed when a resident is in isolation:

-- potentially dangerous articles shall be removed from the resident. This includes articles of clothing, such as belts, if there are reasonable grounds to believe such clothing constitutes a substantial threat to the health or safety of the resident. In no case shall all clothing be removed.

-- a staff person shall be assigned to sit in the room with the resident or immediately outside the room. The staff member shall have no other duties or responsibilities other than supervision of the resident. At all times the staff and resident shall have visual and audio contact, and not rely on intercoms, closed circuit television or other such devices.

-- the physical needs of the residents shall be given prompt response.

4. The following shall be available for a child in isolation, unless staff determine that possession presents an immediate danger to the child or others:

- a clean dry room of moderate temperature, equipped with light sufficient for reading between the hours of 7 a.m. to 10 p.m.;
- sufficient clothing to meet seasonal needs;
- a bed, including blankets, sheets, pillow and pillow cases, and mattress;
- personal hygiene supplies including soap, toothpaste, toothbrush, hairbrush, comb, towels and toilet paper;
- minimum writing materials including pen, pencils, paper and envelopes;
- prescription eyeglasses, if needed;
- access to books, periodicals and other reading materials;
- adequate toilet facilities and bathing facilities;
- correspondence privileges applicable to all juveniles in the facility; and
- access to medical care.

5. If any of the above are denied to, or removed from the child, the reasons shall be documented in the incident report.

6. A monitoring report with observations entered at no less than 15 minute intervals shall be maintained as part of the incident report described in paragraph 2.d.

III. A. Handbook for Residents:

1. Each new resident of the YSC shall receive a handbook which, in clear and simple language, shall describe the services and facilities provided at the YSC, explain the rules regarding discipline and outline the procedures of the Family Court. The handbook shall describe the YSC grievance procedure.

2. Within 24 hours of admission, each new resident's social worker shall go over the handbook with him to be sure that he understands it fully. Copies of the handbook in Spanish shall be available for those who speak that language.

B. Grievance Procedure:

1. Residents may make complaints to Youth Detention Counselor (YDC) supervisory or social work staff about any matter covered in this Stipulation, including but not limited to intake, incidents or conditions at the YSC.

2. Said staff shall reduce the complaint to writing. One copy of the complaint shall be placed in the resident's file, and one copy in a central file maintained by the YSC Executive Director or his designee.

3. The Executive Director shall ensure that each complaint is investigated thoroughly and resolved, if possible.

4. a. The resident may complaint about disciplinary isolation, either verbally or in writing, to any paid employee or volunteer in the YSC, or to the resident's attorney, parent, or legal guardian. The complaint must be presented by any YSC staff person receiving it to the YDC Supervisor within two hours of initial request. The YDC Supervisor, upon receipt of such request will form a hearing/investigative board consisting of the YDC Supervisor, one YDC II (not assigned to the resident's unit), and one YDC I (not assigned to the resident's unit). The hearing/investigative board shall convene no more than two

hours from the time the request is made to the YDC Supervisor, and shall review the incident and the disciplinary action taken. The hearing/investigative board shall question the resident, all witnesses and take all information necessary to arrive at a conclusion. Written findings of this board shall be given to the resident no later than two hours following initiation of investigation. One copy of the findings shall be placed in the resident's file and one copy transmitted to the Deputy Director of childcare for filing in the YSC central file.

b. The resident may appeal the board's finding to the Deputy Director or Executive Director for final review and determination. A resident through his attorney may appeal all findings and actions to the Family Court.

5. Both the resident's file and the central complaint file shall reflect the disposition of each complaint and the time it took to dispose of each complaint.

6. Every resident shall be informed of this grievance procedure upon admission to YSC.

IV. General Institutional Conditions:¹

A. Room Furnishings:

1. Each room shall have a bed, blankets, sheets, pillow and pillow cases, and mattress.

2. The individual rooms and sleeping areas shall be painted at least once every two years, and residents shall be allowed to decorate their area so long as walls are not marred or defaced. All beds shall be kept in good repair, and mattresses shall be aired out and/or cleaned when necessary.

B. Physical Plant: The YSC shall make all repairs and renovations necessary to insure the following:

1. Installation of a fully operable heating system, regulated to avoid overheating and discomfort.

2. Installation of a fully operable air conditioning system which shall ventilate all areas of the institution where the residents move about, including sleeping quarters.

3. Installation of sufficient windows in appropriate places to provide adequate ventilation.

V. Freedom of Movement:

Defendants shall make every effort to provide adequate supervision so that doors between the front sections of the units and sleeping area will be open as often as possible, allowing residents to have access to either. Free access to bathrooms shall be assured at all hours. Residents shall not be permitted to enter someone else's room without staff approval.

On a broader level, residents shall be allowed as much freedom of movement as is possible without increasing the risks of absconding by residents.

VI. Privacy:

YSC shall include provisions for quiet rooms, and observation rooms, which shall not be used as bedrooms and which afford privacy under supervision.

VII. Visitation:

A. All YSC visiting sessions shall be held according to YSC Standard Operating Procedures for Visitation.

B. No regular visits shall be scheduled during school hours.

C. Parents, families and significant others important to the child shall have visiting rights.

D. The Executive Director, with documentation in the resident's detention file that visiting rights shall have unquestionable and overwhelmingly damaging effects on the resident, may restrict visiting rights. The child may appeal the restriction through the grievance procedures outlined in the facility's handbook. If parental rights are involved, the parents shall have prior notice and the opportunity to challenge the facility's decision to restrict visiting. If a challenge is received from the parents, the facility shall immediately petition the court to adjudicate the matter.

E. The Executive Director may restrict visitation only when it is necessary to ensure the security of the facility. Such a restriction shall be considered an exception to the general visitation policy, and must be documented, with reasons, in the resident's file, if a particular resident's right to visitation is restricted, or in correspondence with plaintiff's counsel, if there is a general restriction on visitation. If an individual child's right to visitation is restricted the child may appeal the restriction as in (d), above.

F. Visiting policies and hours shall be explained to the child, the parent(s) and significant others.

VIII. Mail:

A. 1. Children shall be able to correspond with others through normal use of the Postal Service. If the child is without financial resources the facility shall provide postage.

2. Outgoing mail shall not be opened by staff.

3. Incoming mail from elected or appointed Federal, State, or county officials shall not be opened by staff.

4. If it is necessary to search other incoming mail for contraband, the mail shall be opened by the resident in the presence of staff, and any contraband confiscated. No incoming mail shall be read.

B. YSC shall provide for pickup and delivery of mail on a same-day basis.

IX. Telephones:

Outgoing calls to attorneys shall be made available on request. Other calls to parents, relatives or other shall be made available by the YSC at specified times of the day, but shall not exceed one call per day. With the exception of phone calls to attorneys, telephone use may be restricted if the telephone privilege is abused by the resident. Any restriction of telephone use shall be documented in the resident's personal file. An up-to-date log shall be kept of calls made by or on behalf of each resident. Privacy shall be afforded within the space limitations provided, and subject to the need for adequate supervision.

X. Recreation:

A. 1. YSC shall have a recreational program. Recreational activities shall be selected, designed and implemented to meet the needs of residents appropriately. YSC shall have, as part of the annual program description, a recreational plan which clearly illustrates the manner in which the program meets the individual needs of the children from the geographic area being served. A member of the staff shall have supervisory responsibility for the recreational program.

2. A choice of appropriate games and other leisure time activities, both indoors and outdoors, shall be provided with diversification according to age. This shall include the opportunity for a minimum of two hours of strenuous physical exercise daily.

3. Various creative activities shall be provided.

B. A wide selection of reading and writing materials, art supplies, and games shall be available and regularly maintained. Regular opportunities for coeducational activities shall be provided, not solely as a reward for good behavior.

C. Every recreational worker employed at YSC shall have undergone training in physical education and shall possess such demonstrated aptitude and work experience as shall qualify him or her to supervise the recreation of children who have behavioral problems or are emotionally disturbed. To this end, every recreational worker shall participate in mandatory in-service training.

XI. Library:

The YSC shall supplement the services of the YSC School by providing library services on each unit for use after school hours, on weekends, and during school vacations.

XII. Medical Services:

A. No thorazine or other tranquilizing drugs shall be administered at the YSC unless specifically prescribed, in writing, by a physician. In such instances, the physician shall examine the youth to review such use every 24 hours and keep full documentation for the resident's file.

B. Each resident shall be afforded reasonable access to a psychiatrist and/or a psychologist in accordance with his/her wishes, including consultation and crisis intervention.

XIII. Hygiene:

A. Adequate soap, toothpaste, toothbrushes, and deodorant of commercially acceptable brand shall be available to all youths. Residents shall be allowed to shower daily.

B. Bed linen shall be changed weekly, and blankets washed on a regular basis. Towels shall be changed twice a week.

C. Clothing provided by the YSC shall be similar to what is worn in the community. Clean underwear shall be furnished daily for girls, and at least twice a week for boys. Clean clothing shall be issued at least every three days.

D. Custodial services shall be provided daily, with special emphasis on bathrooms. Showers and toilets shall be disinfected daily, and the cafeteria, kitchen and eating areas shall be kept in a clean state.

XIV. Food Services:

A. The YSC shall be in compliance with all codes and regulations applicable to the kitchen and dining areas. Such areas shall be maintained so that compliance with such codes is continued.

B. YSC shall staff the food services in a manner "sufficient to prepare and serve the meals that meet the nutritional needs of the children" (DPW Annual Review of 1975). A fully qualified dietician shall approve all menus on a regular basis.

XV. Custodial Services:

A. Residents shall be required to clean their own sleeping rooms, living areas, and bathrooms, and adequate cleaning supplies must be provided for this purpose. All other custodial services shall be provided by YSC.

B. Nothing in this section shall prohibit a resident of the YSC from participating in a work/study or vocational education program organized and supervised by the YSC School.

XVI. Fights Among Residents:

Staff members shall not allow residents to fight with one another. When a fight occurs, counselors shall make every effort to break it up immediately.

XVII. Sexual Incidents:

Homosexuals shall be protected from harassment, and shall not be stigmatized by putting them in isolation, segregating them by unit, or otherwise discriminating against them. Counselors, however, shall be aware of the possibility of homosexual rape, and provide protection for potential or actual rape victims. Only the initiator of such an assault may be punished.

XVIII. Conversion of Personal Property:

A system to reduce the incidence of missing property shall be maintained, and modified when necessary. Records of items "checked in" by residents shall be kept, and legible receipts given to residents. In addition, a system for reporting missing items shall be maintained.

XIX. Social Services:

A. The Social Work Supervisor shall have an M.S.W. Each social worker employed by the YSC shall have a B.S.W. at a minimum.

B. Within 24 hours of admission, each resident shall be assigned a specific social worker, and the resident's parents or guardian and attorney shall be notified of the social worker's identity within 24 hours of the assignment.

C. It shall be the responsibility of the social worker to assist the resident in solving problems arising from detention and incarceration, to assist him in maintaining contact with family, legal counsel, and the court, to provide counseling on a short-term basis, especially family counseling, as needed, to coordinate the activities of other persons in the facility and of outside persons and agencies in order to meet the resident's needs, and to insure his well-being during the resident's stay at the YSC.

D. Social workers shall be provided in sufficient numbers to provide such individualized attention.

XX. Child-Care and Professional Staff at the YSC:

A. The staff-child ratio mandated under the DPW Detention Regulations shall be maintained.

B. Qualifications: All child care staff shall meet all state regulatory requirements and all local Civil Service requirements.

C. In-house training:

1. Initial training at the YSC shall consist not only of orientation to the YSC, its facilities, procedures and policies, but also shall include training from qualified professionals in the areas of management and understanding of the behavior of disturbed juveniles, recognition of and procedures for dealing with severe psychological disturbances, drug overdose and medical emergencies, and the function of the juvenile court system.

2. Ongoing training shall be provided on a regular, mandatory basis, and shall be no less than 40 hours each year. Training shall include use of passive restraints, and other areas that are a part of the initial training.

3. Budget allocations for staff development shall be made on annual basis to ensure compliance with DPW Regulations and to ensure continuance of current training programs.

D. Regular communication between social workers, teachers, probation officers and child-care workers shall be maintained, and child-care workers shall review a child's file as part of their duties, in order to have as full a picture as possible of a child's background.

XXI. Equal Protection:

Under no circumstances shall female residents of the YSC be denied, because of their sex, access equal to that of male residents with respect to any activity, condition or right guaranteed by this Stipulation, including but not limited to education, medical care and infirmary, outdoor and indoor recreation, counseling, and freedom of movement.

XXII. Population Standards:

These standards do not regulate either the appropriateness of or the guidelines for placement of youths in secure or non-secure alternatives to the Youth Study Center. In addition, these population standards do not apply to youths who are court-certified to be tried as adults.

A. Standards for YSC Court Intake Personnel.

1. Mandatory Detention

All parties agree that the YSC Court Intake Personnel must exercise judgment as to the detention of every and all juvenile(s) at the Youth Study Center. Even if a juvenile is not included for mandatory release in paragraphs B and C below, no category of alleged conduct or background in and of itself justifies a failure of the YSC Court Intake Personnel to exercise discretion to release the juvenile. In every case that the YSC Court Intake Personnel orders detention, the YSC Court Intake Personnel is responsible for confirming the existence of documentation that permits detention under these standards.

2. Mandatory Release

a. The YSC court intake personnel shall not order detention at the YSC of any juvenile 12 years of age or younger, regardless of the nature of the offense and/or the charges against the juvenile. No set of circumstances, including bench warrants or other orders of commitment by judicial defendants, shall permit detention at the YSC of any child 12 years of age or younger. If the juvenile cannot be returned home, the intake official shall place the juvenile in a community-based emergency shelter.

b. The YSC court intake personnel may not detain an accused juvenile unless the juvenile:

1. is charged with a crime which in the case of an adult would be punishable as a felony (any degree) or misdemeanor of the first degree; OR

2. the juvenile is an escapee from an institution or other placement facility to which he/she was committed after a previous adjudication; OR

3. The juvenile has failed to appear at a scheduled court hearing, and that failure to appear has resulted in the issuance of a bench warrant for the juvenile; OR

4. has been verified to be a fugitive from another jurisdiction, an official of which jurisdiction has formally requested that the juvenile be placed in detention. The term "official" includes, but is not limited to law enforcement agents, court probation officers, judges and court personnel. Verification may be oral with written verification within twenty-four (24) hours.

3. Mandatory Release Pending Dispositional Review

The YSC court intake personnel may not detain at the YSC any juvenile who has been court committed to an institution or other placement faci-

lity under a previous adjudication and who is awaiting a court review of commitment and new disposition unless the juvenile:

- a. has been charged subsequent to the initial commitment with a felony (any degree), or misdemeanor of the first degree; OR
- b. is an escapee from the institution or placement facility; OR
- c. the juvenile has failed to appear to a scheduled court hearing, and that failure to appear has resulted in the issuance of a bench warrant for the juvenile; OR
- d. the juvenile is being held in a secure institution as defined and regulated by State laws and/or regulations; OR
- e. the juvenile is considered by the placement facility or the court to be no longer amenable to that institution's treatment program because of a pattern of violent behavior that endangered the safety of others.

If the juvenile is being held in a non-secure setting, and does not meet the above criteria, but must be held pending a court review, the YSC shall not detain such juvenile and the juvenile shall be placed in a community-based emergency shelter.

4. Discretionary Situations: In every situation in which release of an arrested juvenile is not mandatory, the YSC court intake personnel shall first consider and determine whether any form of control (such as intensive supervision) short of detention is available to reasonably reduce the risk of flight or danger to others. If no such measure will suffice, the YSC court intake personnel shall state explicitly in writing the reasons for rejecting alternatives to detention. When YSC court intake personnel determine that a form of detention is a permissible interim status under subsections 2. or 3., above, secure detention at the YSC may be selected only if there is evidence that it is likely that release will result in an identifiable danger to others

or a significant risk of flight to avoid appearance in court. The YSC court intake personnel shall give reasons for his/her determination in writing to the Executive Director of the YSC.

Absent such evidence, the YSC court intake personnel shall release the juvenile or order detention in a non-secure facility (e.g. CBES).

5. Protective Detention: Placement in a detention facility solely for the protection of an accused juvenile may be permitted only upon the voluntary written request of the juvenile or his/her attorney.

6. Protective Care: A juvenile shall not be detained at the YSC solely because he/she has no parent, relative or guardian who is willing and able to provide custody and care. Instead, such a juvenile shall be placed in a CBES.

B. Standards for Court Ordered Detention

1. Statement of Reasons

Any time the Family Court orders a juvenile detained at the YSC, the judge shall set forth in writing the specific section of this decree that permits detention. The court shall ensure that a copy of the statement of reasons is forwarded to the YSC at the time the child is transferred from the court to the YSC. In addition, the court shall set forth on the record the reasons for ordering detention rather than detention alternatives. This procedure shall apply any time the court orders detention at the YSC or orders continued detention at the YSC.

2. Mandatory Release

The Family Court shall not order detention of any juvenile except in accordance with the provision of paragraphs A.2. and A.3. of this Order including amendments hereto.

In addition, the Family Court shall not order detention at the YSC in the following situations:

a. Mental Health Commitment. The Family Court shall not order detention at YSC of any juvenile properly committed, voluntarily or involuntarily, under the Mental Health Procedures Act. The City of Philadelphia commits itself to ensure that necessary beds are available.

b. Probation Violations

1. Technical: The Family Court shall not order the detention at YSC of any juvenile alleged only to have violated the technical terms, rules or conditions of probation.

2. New Offenses: The Family Court shall not order detention at YSC of any juvenile on probation who is alleged to have committed a new offense unless such detention would be permitted under subsection A, above (Standards for YSC Court Intake Personnel).

c. Post-Adjudication Pending Disposition. No juvenile who has been adjudicated delinquent, but who is awaiting disposition, shall be held at the YSC unless he/she has been adjudicated delinquent for one of the offenses for which such detention would be permitted under subsection A (Standards for YSC Court Intake Personnel). Nothing herein shall be interpreted as preventing the Family Court from holding a juvenile at CBES if appropriate.

d. Post-Disposition Awaiting Transfer to Private Non-Secure Institutions. City defendants shall ensure the transfer of all juveniles committed to non-secure private institutions in the five-county Southeast Region, comprising Philadelphia, Bucks, Chester, Delaware and Montgomery Counties, within twenty-four (24) hours of said commitments. The City defendants shall ensure the transfer of all juveniles committed to non-secure private institutions outside the five-county Southeast Region within seventy-two (72) hours of said commitments.

e. Post-Disposition Awaiting Transfer to State Institutions. For all juveniles committed to state institutions, the Family Court shall,

at the time of initial commitment, order that the juvenile be transferred to the state institution within one week of the commitment decision. If the youth is not transferred to the state institution during that week, YSC will contact court listings and request a review by the committing Family Court judge to determine why the transfer did not occur. Said review shall take place within seventy-two hours of the contact by the YSC.

3. Discretionary Situations: In all cases in which the court may order detention at the YSC, the court shall review de novo all factors that officials earlier in the process were required by these standards to have considered. The court shall review with particularity the adequacy of the reasons for detention recorded by the intake official.

4. Release Alternatives: The court may release the juvenile on his or her own recognizance, on conditions, under supervision, including release on a temporary basis to the attorney if so requested for the purpose of preparing the case.

5. Judicial Review: All juveniles detained at the YSC after intake shall have their cases reviewed by the court within one working day. If the court orders detention at the YSC, the court shall review its decision within ten (10) days of detention and every ten (10) days thereafter. No juvenile shall be detained in contravention of the Pennsylvania Juvenile Act. At the hearing the court shall determine whether detention at the YSC is permitted based on criteria stated in this Order or whether circumstances now permit less restrictive alternatives. Detention cases shall have priority both in court hearings and case planning. If a juvenile is detained at the YSC for more than thirty (30) consecutive days, the probation staff and the social work staff of the YSC shall begin planning for the juvenile.

C. Prevention of Overcrowding.

1. Housing/sleeping areas at the YSC shall not include any gymnasium, corridor or bench area, or any other area not designed for permanent residence.

2. The population of the YSC shall not exceed the following levels:

As of January 31, 1988: 120 Residents

As of February 15, 1988: 105 Residents

These population levels shall hereafter be defined and referred to as "maximum allowable population."

D. Obligations of City Defendants Operating YSC.

It is recognized by all parties that City officials responsible for operating YSC have independent obligations to comply with and enforce the Population Standards set forth in this decree. The following provisions thus apply to ensure compliance with this decree and to protect City defendants in their good faith implementation of this decree. "Youth Study Center" or "YSC" in this section refers to the City defendants who operate the facility, as opposed to the "YSC Court Intake Personnel," who are responsible to the Family Court defendants.

1. The Youth Study Center shall not accept for detention any juvenile unless there is documentation showing that the juvenile's detention meets the criteria set forth in this decree. "Documentation" shall include a court order indicating the juvenile's commitment to the YSC or any other document signed by the court, or any document signed by YSC Court Intake Personnel, so long as such other documentation sets forth a statement of reasons with sufficient specificity to warrant detention under these standards. Family Court defendants agree that good faith refusal of the Youth Study Center to accept a child for detention at the YSC in the absence of a court order or other documentation as defined above, shall not subject the Youth Study Center or any City official to state court contempt proceedings.

2. If it becomes apparent at any time that a child is being detained at the YSC in violation of this decree, YSC officials shall first notify the committing Family Court judge that YSC officials believe the child is being held in violation of the decree. Within one working day thereafter, the judge, with notice to the parties, shall reconsider the prior order of detention and enter a new order that is consistent with this decree. If the committing judge is unavailable, or after review declines to release the child, and if YSC officials still believe that the child is held at YSC in violation of this decree, YSC officials shall notify the Administrative Judge of Family Court or his/her designee. Within one working day of said notice, the Administrative Judge or his/her designee shall review the order of detention and issue an order that is consistent with this Decree. Notice of this review shall be given to the prosecutor and the juvenile's defense counsel. In conducting this review, the Administrative Judge shall be bound by the factual findings of the committing judge. The Family Court may propose to the parties and to this Court an alternative mechanism for reviewing and remedying alleged violations of the Population Standards set forth in this Decree. Said alternative shall be approved by the parties and by this Court prior to replacing the review by the Administrative Judge or his/her designee as provided herein.

E. Incorporation of Juvenile Act

Sections 6335 and 6341(b) of the Pennsylvania Juvenile Act, 42 Pa.C.S.A. § 6301, et seq., are incorporated herein and made a part of this Order. If the detention time limits identified in those provisions are not met, the review mechanism set forth in paragraph XXII.D.2., above, shall become effective.

F. Detention as Punishment

The parties agree that detention at the YSC may never be used as punishment. The contempt power of Family Court judges does not permit detention

of juveniles at the YSC unless such detention is otherwise permitted by these Standards.

XXIII. Monitoring and Implementation

A. Monitor

1. Within ten (10) days of the effective date of this Third Amended Stipulation, the parties shall agree on the name of a person whose name the parties shall submit for appointment by this Court as Monitor.

2. The Monitor shall serve for two years.

3. The Monitor shall be paid by the defendant City at an appropriate rate.

4. The Monitor may be an organization, in which case the fee paid shall include the Monitor and support staff.

5. Duties

a. The Monitor shall collect forms which have been completed by the YSC, the Family Court and YSC Court Intake Personnel at the YSC.

b. The forms shall enable the YSC, the Family Court, and YSC Court Intake Personnel to provide the information required by Section XXII.A.4. Discretionary Situations, Section XXII.B.1. Statement of Reasons, and by subsection C.2. of this section on Monitoring.

c. In order to verify the accuracy of completed forms, the Monitor shall have access to YSC, to its records and to administration, staff and residents, as well as to the records of Family Court.

d. For the first year following the effective date of this Third Amended Stipulation the Monitor shall, beginning on the 60th day after said date, make bi-monthly reports to this Court and Counsel concerning compliance with the terms of the Stipulation.

e. The Monitor shall prepare at least every six months a summary of complaints filed pursuant to Section III.B. above. The Monitor shall send the summary to all Counsel.

f. During the second year following the effective date of this Third Amended Stipulation the monitor shall make bi-monthly reports to this Court and Counsel concerning compliance with the terms of the Stipulation.

g. By the end of the second year following the effective date of the Third Amended Stipulation, the Monitor, City defendants and plaintiffs' counsel shall appoint a six-person Advisory Committee.

B. Advisory Committee

1. When the Monitor's term is completed, the Advisory Committee shall assume all duties of the Monitor except those enumerated in A.5.-d.-f., above.

2. The Advisory Committee shall be unpaid.

3. City defendants shall supply the Advisory Committee with necessary clerical and secretarial assistance.

4. The Advisory Committee shall make regular reports to Court and Counsel, which shall, at a minimum, be quarterly.

5. Said reports shall describe compliance with the terms of this Stipulation.

C. Implementation

1. In fidelity to the principle that federal courts should avoid unnecessary intrusion upon the daily operation of local institutions and the state courts, the enforcement of population standards and the implementation of the maximum allowable population is left, in the first instance, to the appropriate Judicial and City defendants; initial attempts to ensure compliance with the terms of this Stipulation in individual cases with regard to population

standards contained herein shall be made within the state court system, including the state appellate courts.

2. On a weekly basis, Judicial and City defendants, jointly or severally, shall provide counsel for plaintiffs with daily population figures that shall include the following information for each resident: name, date of birth, date of admission, most serious charge alleged in the petition, and the section under this Decree that permits detention at the YSC.

3. The parties recognize that the YSC population fluctuates on a daily basis. Therefore, the parties agree that plaintiffs will not seek remedial action or sanctions under Section XXVI unless the maximum allowable population of the YSC is exceeded for five (5) consecutive days or for thirty (30) out of the forty (40) days preceding the application for remedial action or sanctions.

XXIV. Effect on Educational Stipulation:

This Third Amended Stipulation does not replace the Education Stipulation of December 29, 1978, which remains in force.

XXV. Modification:

This Stipulation or any portion thereof may be changed, modified or amended upon agreement of all parties.

XXVI. Jurisdiction and Remedies:

A. The parties intend that breach of this Stipulation will create enforceable rights. Any alleged violations are to be raised before the Court for the sole purpose of adjudicating issues related to compliance with this Stipulation and will not subject the named defendants or their successors in

office to contempt penalties unless, subsequent to the Court's decision and Order, the determined violations continue.

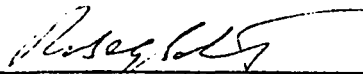
B. In the event of a determination by this Court, upon application of the plaintiffs or after a hearing, that the population of the YSC exceeds the maximum allowable population, as set forth above, this Court shall order the City defendants to petition the Judicial defendants for the release of specific juveniles until the maximum allowable population is achieved or restored. City defendants shall not seek the release of any juvenile charged with or adjudicated delinquent of murder, manslaughter or forcible rape, or the use of a gun or knife in the commission of a robbery or aggravated assault. City defendants shall likewise not seek the release of any person whose release would pose an imminent threat to public safety.

C. If, after fourteen (14) days from the date of an Order promulgated under subsection B., the YSC population still exceeds the maximum allowable population, City defendants, upon further order of this Court, shall admit no additional juveniles except those charged with or adjudicated delinquent of murder, manslaughter or forcible rape, or the use of a gun or knife in the commission of a robbery or aggravated assault, until the number of juveniles at the YSC is within the maximum allowable population and new admissions will not cause the maximum allowable population to be exceeded.

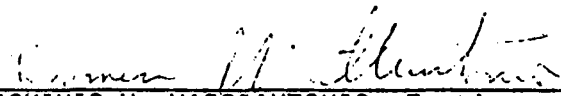
D. In addition to the remedies provided in subsections B. and C.,

this Court is empowered to order such other and further relief, including sanctions for contempt, as it deems necessary and appropriate to effectuate the remedial purposes of the population controls of this Stipulation.

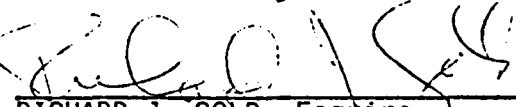
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Date: January 11, 1988