

Consent Decrees

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

TALLAHASSEE DIVISION

Bobby M. v. Chiles

BOBBY M., et al.

Plaintiffs,

v.

BOB MARTINEZ, et al.

Defendants.



Jl-FL-002-007

Civ. Case No.
TCA 83-7003 MMP

CONSENT DECREE

TABLE OF CONTENTS

- I. Representations of the Parties
- II. Submission of Consent Decree to the Court
- III. Settlement Class
- IV. Notice to the Class
- V. Population Reduction
- VI. Program Goals
- VII. Assessment, Classification and Placement
- VIII. Training School Placement
- IX. Technical Assistance and Assessment
- X. Miscellaneous Provisions
- APP. A Notice
- APP. B Standards for Institutional Operations

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

BOBBY M., et al.)
)
 Plaintiffs,)
)
 v.) Civ. Case No.
) TCA 83-7003 MMP
)
 BOB MARTINEZ, et al.)
)
 Defendants.)

CONSENT DECREE

This consent decree is entered into by the below listed parties to this litigation to resolve all claims asserted by the plaintiffs in their complaint as amended, except those related to the Department of Education.

The parties to this consent decree are:

1. Plaintiff children Bobby M., Charles W., Susan S. and Salvadore S., by and through their next friend David Mack, individually and as representatives of all children confined at the training schools;

2. Plaintiff children Raymond C., Richard O. and Thomas P., by and through their next friend Joseph F. Smith, Jr., Esq., individually and as representatives of all children confined at the training schools (while these plaintiffs have not formally served the defendants, the defendants consent to their being included in this consent decree); and

3. The Defendants, acting in their official capacities, the Honorable Bob Martinez, Governor of Florida; Gregory Coler, the Secretary of the Department of Health and Rehabilitative Services; Superintendent Roy McKay; and Superintendent Samuel M. Streit who also serves as the Director of the Department's Children, Youth and Families Programs.

I. Representations of the Parties

WHEREAS the original complaint was filed on January 2, 1983, on behalf of the plaintiffs and all others similarly situated, and as amended, asserted violations of the Rehabilitation Act of 1973 (29 U.S.C. §794), the Federal Civil Rights Act (42 U.S.C. §1983), and the due process and equal protection clauses of the Constitution of the United States at the McPherson Training School in Ocala, now closed by court order, the Arthur G. Dozier School for Boys in Marianna ("Dozier") and the Florida School for Boys at Okeechobee, subsequently renamed the Eckerd Youth Development Center ("Okeechobee");

WHEREAS the defendants filed an answer denying the allegations of the complaint as amended;

WHEREAS the Court has certified a class of all past, present and future children confined to a training school in Florida;

WHEREAS the parties acknowledge that since late 1984, substantial progress in addressing deficiencies in the training schools, as alleged in the original complaint and as amended, have been made at the Florida training schools;

WHEREAS the undersigned counsel are authorized by their clients to enter into this binding decree and to take all steps required of them by this decree;

WHEREAS the plaintiffs consider it desirable and in their best interests and in the best interest of the class members to settle their claims by entering into this decree;

WHEREAS the defendants consider it desirable and in their best interests to settle the claims brought against them and their predecessors in office by entering into this decree;

WHEREAS the parties have determined that the undertakings called for in this decree are reasonable and in the best interests of youth and Florida's juvenile justice system;

WHEREAS the parties agree that the relief set out herein is consistent with applicable law and principles governing treatment, care and custody for this population of youth;

WHEREAS the parties represent to the Court that this decree is fair, reasonable, and adequate to protect the class in accordance with the standards of Federal Rule of Civil Procedure 23(e);

WHEREAS by entering into this decree the defendants do not admit they violated any laws; and

WHEREAS the Court has jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1343(a)(3)&(4);

NOW THEREFORE, the parties by and through their counsel hereby further agree as follows:

II. Submission of Consent Decree to the Court

A. Promptly upon execution of this decree, counsel for the parties shall jointly submit this decree to the Court for its approval and recommend that the Court approve the decree. The decree is an irrevocable agreement to finally resolve this action, and the parties through counsel shall take all steps that may be required or requested by the Court and to use their best efforts to consummate this settlement.

B. Upon final approval by the Court, this decree shall be effective immediately. None of the parties may appeal such approval.

III. Settlement Class

This decree shall apply to all youth who are presently or who in the future will be confined to a training school in Florida.

IV. Notice to the Class

A. Pursuant to Federal Rule of Civil Procedure 23(e), the defendants shall within 14 days after preliminary approval of the decree by the Court post the notice attached hereto as Appendix A

at the training schools in conspicuous places which the youth frequent. Members of the class shall have until June 17, 1987, to submit to the Court any objections they may have. The Clerk shall forward copies of any objections or inquiries to the General Counsel for the Department for all defendants and to plaintiffs' lead counsel on behalf of all plaintiffs.

V. Population Reduction

A. The resident population secured within the perimeter fence shall be no more than 195 youngsters at Dozier and 180 youngsters at Okeechobee by July 1, 1988, and continuing thereafter at no more than that cap until June 30, 1989.

B. Beginning July 1, 1989 and continuing until June 30, 1990, the cap at each training school shall not exceed a resident population of 145 youngsters secured within the perimeter fence.

C. Beginning July 1, 1990 and thereafter, no training school shall exceed a resident population of 100 youngsters secured within the perimeter fence.

D. Beginning with the effective date of this decree and continuing thereafter, each training school shall have no more than 30 total youngsters placed in non-secure transition programs which are outside of the perimeter fence. For purposes of this decree, a non-secure transition program shall mean a residence or cottage where a transitional program is operated under the authority of a training school.

To the extent that the number of youth in non-secure transition programs exceeds the aforementioned limits there shall be a corresponding decrease in the allowable number of juveniles confined within the perimeter fence, e.g., a training school in the final target year could have 60 juveniles in non-secure transition programs but no more than 70 juveniles confined within the perimeter fence.

E. To the extent that the number of residents in the transitional program exceeds 15 at Dozier during the period from July 1, 1988 until June 30, 1989, there shall be a corresponding decrease in the number of residents permitted in the institution proper.

F. No transition program located outside of the perimeter fence shall exceed 15 youngsters per residential unit, and only children lawfully admitted to the training schools shall be placed in such transition programs.

G. The defendants agree to make every reasonable effort and to act in good faith to prevent any significant increase in the current population or significant reduction in current services from the date of the entry of this decree to the first designated target date.

VI. Program Goals

The Department agrees to establish a system of programs and services which will provide to each juvenile a range of services designed to meet his individual needs. The parties acknowledge

that the primary goal of the system contemplated by this section will be to ensure for each juvenile a successful reintegration into his family and home community.

To accomplish this goal, the Department shall develop a continuum of care and services which will allow juveniles to progress developmentally and to receive appropriate services and support throughout their time in care. The Department also commits to reexamine existing programs and to develop alternative programs which will together maximize the use of State resources to meet the needs of individual youth and the public safety interests of the citizens of Florida.

VII. Assessment, Classification and Placement

The Department agrees to develop an assessment, classification and placement process no later than June 30, 1988, that meets the following goals:

1. An individualized, multidisciplinary assessment process that identifies the priority needs of each individual client for rehabilitation and treatment.
2. A classification system that assigns a relative risk factor to each juvenile based upon an objective evaluation of risk to the child and the community.
3. An admissions process that ensures for each juvenile the most appropriate setting that will meet the juvenile's programmatic needs and provide the minimum program security which ensures public safety.

The Department agrees to establish, consistent with this section, a centralized placement authority in Children, Youth and Families Programs to ensure that the placement of each juvenile will be consistent with the goals set forth above.

VIII. Training School Placement

The appropriate population for Florida's training schools should consist of individuals who exhibit serious and/or chronic delinquent behavior. Alternative programming should be provided to all other youth.

As soon as is practicable, but in no event after June 30, 1988, no juvenile shall be placed in a training school if such juvenile's committing act falls solely within any of the following categories:

1. Any juvenile who has committed technical violations (curfew, attendance, restitution, etc.) of furlough, community control or any commitment program (non-law, rule of program) violation;
2. Any juvenile adjudicated for a misdemeanor while not in a commitment status;
3. Any juvenile adjudicated for a misdemeanor while on non-residential commitment status;
4. Any juvenile adjudicated for a misdemeanor while in residential commitment status which does not include violence to a person or property;

5. Any juvenile transferred for a violent misdemeanor while in residential commitment;

6. Any juvenile adjudicated for a third degree felony unless committed to HRS on at least two previous occasions for third degree or higher felonies;

7. Any juvenile who, pursuant to the plan described in Section VII, has been determined to be classified as inappropriate for placement in a training school.

Juveniles within the above exclusionary criteria may be admitted to training schools only in extraordinary circumstances where the HRS Director of Children, Youth and Families Programs determines such placement is warranted.

In the event of a request for placement in a training school of a child within the exclusionary criteria, and if the director determines preliminarily that the child should be admitted, he shall promptly advise plaintiffs' lead counsel and Mr. Paul DeMuro (see §IX, ¶2), and shall furnish to them the complete HRS record on the child. Within a reasonable time, but in no event more than 72 hours, the plaintiffs' lead counsel and Mr. DeMuro shall provide input to the director concerning the proposed admission. The determination for placement shall rest with the director. A written justification by the director for the decision to place and written comments by Mr. DeMuro shall be filed with the Court. In the event of an irreconcilable difference on placement, plaintiffs may petition the Court to overturn the director's decision to admit.

IX. Technical Assistance and Assessment

1. Plaintiffs and Defendants agree that compliance by the parties with the provisions of this decree shall be reviewed and reported upon at regular intervals.

2. Plaintiffs and Defendants have selected Paul DeMuro to serve as technical assistance and assessment coordinator. Mr. DeMuro will be responsible for administering and coordinating the assessment process contemplated by this decree. Upon request of the Department, Mr. DeMuro also will provide and coordinate technical assistance as contemplated by this section. The responsibilities and duties conferred upon Mr. DeMuro and the technical consultants shall not in any way interfere with the Department's day-to-day responsibility for establishing and administering its programs.

3. To assist Mr. DeMuro with his duties and responsibilities pursuant to this decree, he will have at his disposal the services of the following individuals: Thomas Mullen (institutional conditions and programming); Dr. Michael Milan (psychology and programs); Dr. Michael Cohen (health services) and Ward Duel (environmental).

4. It is the intent of this decree that technical assistance and substantive expertise be accessible to the Department in providing the most meaningful and cost-effective system of juvenile services and programs. To this end, the parties agree that Mr. DeMuro and the technical consultants retained pursuant to this decree will assist the Department in designing the programmatic and systemic goals set out herein.

5. To ensure compliance with the decree, Mr. DeMuro will, with the assistance of the technical consultants, assess and report upon compliance with each of the specific agreements herein. Such reports shall be filed with the Court and provided to all parties.

6. In their official capacities, Mr. DeMuro and the technical consultants, or their successors in that eventuality, will be provided open, uninhibited access to the facilities, including unannounced visits, documents, student files, medical files, staff and children in order to accurately assess compliance and prepare reports of such assessments. All inspections and visits under this section shall be conducted so as not to disrupt ongoing institutional operations.

7. Subsequent to the entry of this decree, and before June 30, 1988, Mr. DeMuro will file with the Court and the parties four technical assistance assessment reports, at quarterly intervals.

8. Mr. DeMuro will certify on or before June 30, 1988, upon the filing of the last quarterly report whether the Department is in reasonable compliance. If the Department is deemed to be in reasonable compliance, Mr. DeMuro will prepare only two reports at semi-annual intervals through June 30, 1989. Should the Department not be deemed to be in reasonable compliance, Mr. DeMuro will continue quarterly reporting until the Department is so deemed.

9. After the filing of the semi-annual reports and upon a further certification of the Department's reasonable compliance by Mr. DeMuro, Mr. DeMuro will prepare annual reports. These reports shall continue until one year following a certification of full compliance to assure that the Department is able to maintain compliance. After the final annual report and notice of full compliance by Mr. DeMuro, his responsibilities and authority and that of all other technical consultants shall cease, and the parties may petition the Court for a confirmation of full compliance.

10. All reports referenced above shall be filed with the Court and provided to the parties. Either party wishing to file objections, additions or corrections to such reports may do so, after consultation with the opposing party, within 30 days after the filing of each report. The parties agree that any such submissions will become a part of the record in this case. If no resolution is reached among the parties, the matter may be submitted for disposition by the Court.

11. In the course of providing technical assistance and assessment pursuant to this decree, Mr. DeMuro may retain the services of other consultants in technically complex areas if such need should arise, e.g., an expert on alcohol and substance abuse. If defendants object to the retention of such consultants, they shall notify Mr. DeMuro and lead counsel for the plaintiffs of such objections. Plaintiffs' lead counsel, Mr. DeMuro and the director shall meet within 10 days to discuss such objections and attempt

to reach a resolution acceptable to all parties. If no amicable resolution can be reached, the objection will be submitted to the Court within 5 days for resolution.

12. The defendants shall bear the costs of the technical assistance and assessment contemplated herein. In the event of any irreconcilable disagreement on costs, the matter may be submitted to the Court for resolution. In the implementation of this decree, and in particular with reference to the above assessment process, the parties shall employ their best efforts to resolve informally any non-compliance or other disagreements. To facilitate this process the single point of accountability for the defendants shall be the HRS Director for Children, Youth and Families Programs. For the plaintiffs, lead counsel shall serve as the coordination point for all of plaintiffs' counsel activities. The director and lead counsel shall meet periodically to discuss any issues that may be presented by either side or by Mr. DeMuro and the technical consultants. At a minimum, the director and lead counsel shall consult or meet after the issuance of each report by Mr. DeMuro.

13. Attached hereto as Appendix B are the standards for institutional operation which shall serve as the benchmarks for Mr. DeMuro and the technical consultants.

X. Miscellaneous Provisions

A. Implementation of Prior Orders

The decree incorporates by reference and fully implements

the prior orders in this case governing the following matters:

1. provision of access to counsel (order on stipulated motion dated _____, 1987);

2. prohibition against hogtying and shackling to fixed objects, and regulating the use of mechanical restraints (orders dated February 1, 1983 and July 14, 1983);

3. closure of McPherson Training School (order dated August 6, 1985);

4. removal of females from training schools (order dated August 6, 1985);

5. removal of all children 13 years of age and under from training schools (order dated August 6, 1985);

6. removal of all status offenders from training schools (order dated August 6, 1985).

B. Attorney-Client Access

The lead counsel for the plaintiff class or his attorney designee shall have the right to visit the training schools and transitional programs, meet with his clients, and review his clients' records at reasonable times and with reasonable advance notice to the institutions. The attorney shall use his best efforts to avoid interfering with the ongoing activities and programs at the facilities.

C. Prohibition Against Use of Isolation

The use of punitive segregation, isolation or separation in the so-called lockup, security units, or adjustment units at the training schools has been terminated. No such units or structures

shall be employed at the training schools in the future.

D. Education Claims

Claims concerning education will be resolved by a separate consent decree between the plaintiffs and defendant Commissioner of Education and which will be filed subsequently to the filing of this decree.

Albert J. Hadeed
Southern Legal Counsel
115-A N.E. 7th Avenue
Gainesville, FL 32601
(904) 377-8288

Michael J. Dale
Laurene M. Heybach
Nova University
Center for the Study of Law
3100 SW 9th Avenue
Fort Lauderdale, FL 33315
(305) 522-2300

Claudia Wright
Alexa P. Freeman
ACLU National Prison Project
1616 P Street, N.W.
Suite 340
Washington, D.C. 20036
(202) 331-0500

Carole B. Shauffer
Youth Law Center
1663 Mission Street
Fifth Floor
San Francisco, CA 94103
(415) 543-3379

John S. Miller, Jr.
General Counsel
Department of HRS
1323 Winewood Blvd.
Building 1, Room 407
Tallahassee, FL 32399-0700
(904) 488-2381

By: 

Attorneys for HRS Defendants

Eric J. Taylor
Department of Legal Affairs
Suite 1501
The Capitol
Tallahassee, FL 32301
(904) 488-1573

By: 

Attorneys for Plaintiffs

By: 

Attorneys for HRS Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

BOBBY M., et al.)
)
 Plaintiffs,)
)
 v.) Civ. Case No.
) TCA 83-7003 MMP
)
 BOB MARTINEZ, et al.)
)
 Defendants.)

INFORMATION ABOUT PROPOSED FEDERAL
COURT ORDERS THAT AFFECT THE LEGAL RIGHTS
OF STUDENTS AT THE TRAINING SCHOOLS

If you are in a training school in Florida, you need to know about two proposed United States court orders that will affect your legal rights while you are in a training school.

These proposed court orders come from a United States judge in Tallahassee. The United States judge is not the same as your juvenile judge. Your juvenile judge handled your offenses under Florida law. The United States judge is deciding how the training schools should follow United States law.

The court orders the United States judge is considering are only suggested orders. The United States court may or may not approve them.

FILED IN OPEN COURT THIS

May 8, 1987
CLERK, U. S. DISTRICT
COURT, NORTH. DIST. FLA.

The court orders will affect all youth in training schools now and in the future.

These are what the proposed orders do:

1. The number of youth at the training schools will be smaller. Right now, there are about 260 to 275 youngsters at each training school. Within 3 years, each training school will only be allowed to have 100 youth within the fence. Up to 30 other youth also will be allowed to live outside of the fence of each school in a non-secure cottage or residence to help the youngsters get a job or to adjust to return to their home community.

2. HRS will develop more programs and services to help youth with their individual problems and needs.

3. HRS will develop a new classification system for deciding which HRS program best fits a youngster's needs.

4. Only boys who have committed serious or repeated crimes will be sent to a training school.

5. Educational programs will be improved.

6. Over the next few years, several people who know a lot about training schools and juvenile programs will visit the schools to see if the court orders are being followed.

7. There are other court orders already signed by the United States judge in this case in 1983, 1985 and 1987. These orders will be followed, including having lawyers to help boys at the training schools.

8. Lock-up, security units or adjustment units will not be used again, but the schools may use disciplinary cottages.

You have a right to read a copy of these proposed United States court orders. If you want to see written copies, you can get them by asking the superintendent, your cottage parent supervisor or your social worker. To make sure you get a copy, you should write your request down and give it to the person from whom you request the copy.

If you have any questions about how the United States court orders will affect your legal rights, you may call Al Hadeed or Jodi Siegel at (904) 377-8288. They are lawyers who have been involved in this lawsuit who represent the youngsters at the training schools. If you want to write to them, their address is 115 N.E. 7th Avenue, Gainesville, FL 32601.

You may also call or write John Miller, the HRS lawyer in Tallahassee. His address and phone are: Department of HRS, 1323 Winewood Blvd., Building 1, Room 407, Tallahassee, FL 32399-0700, telephone (904) 488-2381.

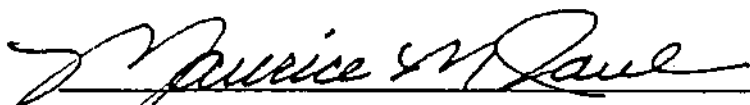
You have the right to call or write these lawyers or any other lawyer you choose about the proposed United States court orders.

If you have a problem with the proposed United States court orders, you may object to them in writing by sending your written comments to Marvin S. Waits, Clerk of the Court, U.S. Courthouse, Northern District, 110 East Park Avenue, Tallahassee, FL 32301. Your letters must be received by June 17, 1987.

The United States judge will read or listen to all of the objections and decide whether to make the proposed orders final. The judge will make this decision at a court hearing on July 2,

1987, beginning at 11:00 a.m., at the United States Courthouse in Tallahassee.

Done and ordered this 8th day of May, 1987, in Tallahassee, Florida.



U.S. District Court Judge

CERTIFIED A TRUE COPY

MARVIN S. WAITS, CLERK

By Jinger Channing
Deputy Clerk

APPENDIX B

The following standards are to be applied as they affect operations of the training schools and the youth held there. Whenever any standard in its text makes reference to having a particular policy or procedure, the assessment shall include not only the existence of the policy or procedure but also its substance and adherence to the policy or procedure.

For certain standards, especially those relating to Living Conditions and Sanitation, the parties acknowledge that strict, immediate and full compliance could entail significant outlays. It is not the intent of the parties that the following benchmarks result in significant outlay, but only cost effective means to achieve a healthful, safe and habilitative environment for youth confined to the training schools.

I. Programming

Implementation and maintenance of appropriate programs for all youth pursuant to the standards of the American Correctional Association, Standards for Juvenile Training Schools, 2d Edition 1983; standards 2-9334; 2-9340; 2-9341; 2-9342; 2-9357; 2-9358; 2-9359; 2-9360; 2-9361; 2-9362; 2-9363; 2-9364; 2-9365; 2-9366; 2-9367; 2-9368; 2-9369; 2-9371; 2-9372; 2-9373; 2-9374; 2-9375; 2-9376; 2-9377; 2-9378; 2-9379; 2-9380.

Adequate and appropriate classification procedures within each training school, considering the likelihood the juvenile may abscond, the degree to which the juvenile needs protection either

from self-injurious behavior or harm from others, and the juvenile's program needs.

Adequate and appropriate privacy screening in the bathroom areas of the cottages which also takes into account internal security.

II. Living Conditions and Sanitation

A. In general, the standards outlined in the chapter on Environmental Health in the American Public Health Association Standards for Health Services in Correctional Institutions (the latest edition was published in 1986) apply to the training schools unless otherwise specified, and shall include the following modifications: Standard A.1. to exclude the requirement of a registered engineer or architect; Standard B.8. modified to conform with the energy conservation measures of the Florida General Services Administration with respect to installation of self-closing water faucets; and E.4.D. modified for dormitory space to 50 square feet of floor space per juvenile. In addition, all relevant ACA Standards for Juvenile Training Schools will apply.

B. Standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) apply to ventilation.

C. All electrical, plumbing and mechanical work done in the future, except for minor repairs to existing buildings, must meet Florida state codes and regulations normally applied to similar facilities privately owned.

D. Lighting in areas where visual tasks and grooming take place must be at least 20 foot candles.

E. Florida standards for food service establishments apply to all areas where food is prepared and served, including the kitchen, food service, food storage (both refrigerated and dry), commissary, living units where meals are served and bakery. In addition, the U.S. Food and Drug Administration standards in the 1976 Food Service Sanitation Manual apply.

F. Screens must be maintained on all operating windows and doors to the extent practicable; window panes must be continually maintained in all areas; structural defects which allow rodents to enter the buildings must be cured; and effective vermin and pest control programs must be implemented.

G. Comprehensive written preventive maintenance manuals must be prepared for the two schools and utilized which include an inventory of all equipment and systems along with a schedule for regular inspection and maintenance of the equipment and systems which includes the maintenance requirements of the manufacturer's specifications. The manual must specifically state the employees responsible for executing the plan and specific measures to be taken in maintaining each machine or system. Those persons will be adequately trained for their duties. As part of the preventive maintenance program to be developed, a preventive maintenance staffing study must be conducted at the two facilities. Trades people in the key trades (plumbing, electrical, refrigeration and heating, etc.) must be available either on staff or by contract.

H. A checklist must be developed for the inspection and maintenance of each machine or system and the person responsible for inspection and maintenance must certify that the facts stated on the checklist are true.

I. An adequate inventory of parts regularly needed must be maintained to prevent unnecessary delays in major repairs.

J. Emergency response teams must be established that are trained to respond to emergencies and are available on a 24 hour, 7 day a week basis.

K. The National Fire Protection Association's Life Safety Code governs all aspects of fire safety. Where dorms are locked, LSC requirements for detention and correctional facilities apply.

L. For laundry, Guidelines for Hand Washing and Hospital Environmental Control, 1985 edition, published by the Center for Disease Control.

M. Applicable rules from the Florida Administrative Code on environmental health, Chapters 10D-7 and 33-8.

III. Medical, Dental, Psychological and Substance Abuse Treatment Services

Further, development and maintenance of a comprehensive, humane approach to the provision of medical, dental and mental health care services for youngsters, which are essential to a juvenile's rehabilitation and safety:

A. American Correctional Association, Standards for Juvenile Training Schools, 2nd edition 1983, as supplemented January 1986:

1. Standards 2-9229 through 2-9235, 2-9236 (substance abuse specialists must be included), 2-9237 through 2-9244, 2-9246 through 2-9249, 2-9252 through 2-9263, 2-9264 (the problem oriented medical record structure is to be used), 2-9265 through 2-9269, 2-9271, 2-9272. A records specialist will be consulted to devise the most useful medical, dental, mental health recording system.

2. 2-9254. This standard is revised to provide training of all staff in suicide recognition and prevention techniques.

B. American Public Health Association, Standards for Health Services in Correctional Institutions, 2nd Edition 1986:

1. Primary Health Care Services sections A (and Appendix I), C, D, E, F, G, H, I, J (including the recent, updated loose-leaf version of Drug Facts and Comparisons as required by HRS regulation 95-3), K, L, M (and Appendix II except for the protocol provisions for testing of AIDS. Due to the rapid development of information and research in this volatile area, the technical consultants may be called upon to provide advice on how AIDS should be handled).

2. Primary Health Care Services, section N. In addition, children who have suffered sexual assault shall be examined immediately by the physician on call and/or a physician at the appropriate hospital or sexual assault treatment center. Testing and treatment

shall be undertaken for sexually transmitted diseases and referral must be made for appropriate psychological support, counseling or treatment. Follow-up on any disease transmission shall be conducted at a 2-3 month interval. The medical record shall reflect the nature of the incident and mental health care follow-up. A supportive staff member shall be assigned to stay with this juvenile for a reasonable period on a one-on-one basis to avoid subsequent harassment, monitor the juvenile's response and insure adequate services.

3. Health Care Services for Special Populations; Dental Health Care Services; Other Special Services, sections A and B; Evaluation of Health Services (Quality Assurance); Health Records; and Staffing and Organization of Health Services, except that paragraph numbered 2 shall not apply. Health records of juveniles transmitted outside of the training school for any purpose shall be purged so as not to contain any information regarding the nature of the juvenile's offense. This is intended to assure that post-discharge health care services performed by other providers are not influenced by release of information concerning committing offenses which are sealed and made confidential by Florida law.

4. Pharmacy Services.

5. Each training school must make available a range of health services beyond those which can be provided on an ambulatory basis. The plan for such services shall be in writing and include levels of care available both inside and outside the facility. Each school shall also designate an appropriately staffed and equipped area in which limited observation and health care management may be provided for those cases not requiring hospital or infirmary services. All care provided in secondary care facilities, both inside and outside the schools, shall be regularly evaluated as part of the health services quality assurance program. Written records of such evaluation shall be maintained.

C. Administration of Juvenile Justice (National Advisory Committee for Juvenile Justice and Delinquency Prevention 1980):

1. Standards 4.2121 a.-f. & last sentence, 4.2122 except that subsection b is revised to permit an individual with a Masters Degree in the behavioral sciences to assume this position, 4.213, 4.214 - in addition, there shall be referrals to appropriate specialists for additional evaluations as necessary.

2. The IPP (or the training school's equivalent) envisioned in 2.214 must be truly "individualized", must clearly identify the youth's strengths and weaknesses as well as those of his family and

significant other adults in his life. The IPP must specify the problems he experiences. There must be a clear statement of the goals, and long term and short term objectives for resolution of the identified problems. The IPP shall provide that the program and services provided to the youth are designed to achieve those objectives and shall be linked to successful re-entry and reintegration into the youth's home community. Time lines for achievement shall be provided. A formal progress review will be, at a minimum, conducted at 30 days, 90 days and every 90 days thereafter.

3. 4.215, add "Counseling and treatment must be given to those children suffering from alcoholism or other drug addiction or who are the children of a parent so affected." Certain youth will require participation in a program whose principle treatment focus is the disease concept of drug addiction and alcoholism. To accommodate successful reintegration into the youth's home community, there should be linkage with Alcoholics Anonymous, Al-Anon or Alateen.

4. Each juvenile is to receive individual counseling on a bi-weekly basis for a period of at least 1/2 hour with a person who possesses at least a Masters Degree in Social Work (M.S.W.), Psychology, or a related mental health discipline, or an individual who has demonstrated sufficient skills comparable to those held

by a competent counseling professional. If professional staff conclude that any juvenile requires less frequency, the basis shall be clearly and fully documented in the juvenile's record.

5. 4.2151 and 4.2152. The semi-autonomous living unit will be the focus of the rehabilitation program for these children. The cottage caseworkers or social workers or their equivalent shall fully inform themselves of the status and progress of juveniles assigned to their caseloads. One means of accomplishing this objective is through attendance at group therapy sessions (or their equivalent) and through in person contact with the youth. 4.2151 is modified to require group counseling (or their equivalent) 2-3 times weekly, the quality and quantity of which is overseen and assured by a person who possesses at least a Masters Degree in Social Work, Psychology or a related mental health discipline. Staff will initiate additional counseling and contact as necessary.

6. 4.217, 4.2174. A student is to be informed within 24 hours of entry to the facility that he may consult with either a psychologist or psychiatrist. Such consultation is to be afforded immediately if necessary but no later than 24 hours from the time of request. Many children will not require special mental health services and for those children, the rehabilitative services described in subparagraph 5 will suffice.

Special treatment, however, must be afforded to sex offenders and those suffering from the aftermath of incest, sexual or physical abuse.

D. The standards listed above may be superseded and modified where consistent with better programmatic, medical, dental and/or mental health practices. Such standards are not meant to limit the ability of the training schools to provide other and better services. The parties specifically recognize that in certain areas - alcoholism, drug addiction, AIDS, children of alcoholics (COA) syndrome, etc. - research data and treatment modalities are constantly changing and it is the intention of the parties that these changes be reflected to improve institutional practices.

IV. Staff Training

American Correctional Association Standards for Juvenile Training Schools, numbers 2-9085 to 2-9099, 2nd edition 1983, as supplemented by January 1986 edition.

V. Juvenile Rights and Discipline

American Correctional Association Standards for Juvenile Training Schools, numbers 2-9273 to 2-9333, except that standards 2-9300, 2-9301, 2-9302 and 2-9312 shall not apply and that the training schools shall utilize the disciplinary cottages or other programs for major rule violations. Standard 2-9316 is modified

so that referral is not mandatory but shall be based on the rehabilitative mission of the training school.

Albert J. Hadeed
Southern Legal Counsel
115-A N.E. 7th Avenue
Gainesville, FL 32601
(904) 377-8288

Michael J. Dale
Laurene M. Heybach
Nova University
Center for the Study of Law
3100 SW 9th Avenue
Fort Lauderdale, FL 33315
(305) 522-2300

Claudia Wright
Alexa P. Freeman
ACLU National Prison Project
1616 P Street, N.W.
Suite 340
Washington, D.C. 20036
(202) 331-0500

Carole B. Shauffer
Youth Law Center
1663 Mission Street
Fifth Floor
San Francisco, CA 94103
(415) 543-3379

John S. Miller, Jr.
General Counsel
Department of HRS
1323 Winewood Blvd.
Building 1, Room 407
Tallahassee, FL 32399-0700
(904) 488-2381

Eric J. Taylor
Department of Legal Affairs
Suite 1501
The Capitol
Tallahassee, FL 32301
(904) 488-1573

By: Albert J. Hadeed
Attorneys for Plaintiffs

By: Eric J. Taylor
Attorneys for HRS Defendants
Martinez, Coler, McKay and
Streit