



JI-CA-011-002

SETTLEMENT AGREEMENT

1  
2 This Agreement settles and resolves the issues in  
3 Steven L. et al. v. Kern County et al., Civ. No. CV-F-83-189  
4 EDP, ("the lawsuit") a civil rights lawsuit filed May 5,  
5 1983, in the United States District Court, Eastern District  
6 of California challenging the legality of certain conditions  
7 of confinement at the Kern County Juvenile Hall ("Juvenile  
8 Hall") and Kern County Youth Facility ("KYF"). The  
9 Agreement is entered into by counsel for the plaintiffs in  
10 the lawsuit on behalf of the named plaintiffs and all  
11 juveniles who are now, or who in the future may be confined  
12 in Juvenile Hall or KYF ("Plaintiffs") and by Kern County,  
13 California, by and through its duly elected Board of  
14 Supervisors; Bill G. Williamson, in his capacity as Chief  
15 Probation Officer of Kern County, California; Gary  
16 Boleschka, in his capacity as the Director of Juvenile Hall;  
17 and James R. Webb, in his capacity as Director of KYF  
18 ("Defendants").

19 The lawsuit alleges, among other things, that  
20 Defendants' practices and policies regarding access to  
21 attorneys, mail censorship, use of isolation and other  
22 disciplinary practices violates the rights of juveniles  
23 confined at Juvenile Hall and at KYF as guaranteed to them  
24 by the Fourteenth Amendment to the United States  
25 Constitution and Section 1983 of Title 42 of the United  
26 States Code. On January 31, 1986 the United States District



1 Court abstained from exercising jurisdiction in the lawsuit,  
2 pending a definitive state adjudication of the issues  
3 presented. The plaintiffs appealed the United States  
4 District Court's decision to abstain to the United States  
5 Court of Appeals for the Ninth Circuit (U.S.C.A. 86-1753)  
6 and that appeal remains pending at this time.

7 The parties to the lawsuit have reached mutual  
8 agreement that the terms of the Agreement described herein  
9 are an appropriate and acceptable final resolution of the  
10 merits of this litigation. Nothing in this agreement shall  
11 be construed as any admission of prior wrongdoing or  
12 liability on the part of any defendants.

13 In consideration for the Plaintiffs' voluntarily  
14 dismissal of the pending appeal, and the waiver of further  
15 hearings, trial findings, conclusions and rights of appeal  
16 on all issues in controversy, the Defendants agree to be  
17 bound by the terms of this agreement. The Defendants  
18 further agree that this Agreement shall bind their  
19 successors, officers, agents, servants, employees and all  
20 other persons acting in concert or participation with any of  
21 them, as of the date of this Agreement.

22 The parties hereby agree that, simultaneous with the  
23 signing of this Agreement, they shall move for the voluntary  
24 dismissal of the appeal currently pending. The parties  
25 hereby agree that the Defendants and their successors in  
26 interest shall by written policy adopt and implement within



1 30 days of the signing of this Agreement (to the extent not  
2 already adopted or implemented), and thereafter assure  
3 compliance with each and all of the obligations, practices,  
4 protocols and procedures referred to in this Agreement, and  
5 any additional practices, protocols or procedures necessary  
6 to the performance of the same.

7  
8 I. ATTORNEY ACCESS

9  
10 A. Attorneys will be allowed to visit minors detained  
11 at KYF or Juvenile Hall without prior court approval.

12  
13 B. At the time of the attorney's visit, he/she will  
14 be required to: present a valid State Bar of California  
15 card, a valid California driver's license or another form of  
16 identification, and to fill out and sign an attorney  
17 visitation request form indicating that he or she has  
18 received permission from the minor's parents to visit the  
19 minor or that he/she has not contacted the parents because  
20 to do so would violate the ethical obligations to protect  
21 the client's confidences. The attorney will also indicate  
22 on the form either that he/she is the attorney of record,  
23 that the minor has no attorney of record or that he/she has  
24 informed the attorney of record about the visit.

25  
26 C. When the attorney completes the attorney visit



1 request form, a staff member will call the minor. The minor  
2 will then be asked to sign the attorney visit request form  
3 agreeing to the visit. If the minor signs this form, the  
4 visit will take place.

5  
6 D. No further written or oral consent to visitation  
7 will be required.

8  
9 E. Attorneys who have a written release from either  
10 the minor's parent or the minor will be permitted to review  
11 the minor's records, including disciplinary and medical  
12 records, in Juvenile Hall and Kern Youth Facility. The  
13 facilities may refuse to permit review of confidential  
14 psychological and/or psychiatric records or reports or any  
15 other records or reports the facilities are specifically  
16 required by statute to keep confidential from a minor or  
17 minor's parent, except for any such records or reports which  
18 attorneys for a minor or minor's parent have a right to  
19 inspect under Welfare and Institutions Code § 827.

20  
21 II. MAIL POLICY

22  
23 A. Minors may send and receive an unlimited amount of  
24 mail subject to the provisions of this policy. Postage for  
25 all privileged mail (as defined below) shall be paid by the  
26 Probation Department. With respect to all mail other than





1 privileged mail, a limit of one (1) letter per day may be  
2 sent at county expense.

3  
4 B. It is the general policy of the facility not to  
5 read a minor's incoming or outgoing mail. All mail, except  
6 privileged mail, may be routinely inspected to determine if  
7 it contains physical contraband. All inspection of mail  
8 shall be done by supervisory staff and shall be conducted in  
9 the minor's presence. Inspection of mail shall not result  
10 in the withholding of mail to or from a minor for a period  
11 in excess of 24 hours (excepting legal holidays and  
12 weekends).

13  
14 C. Incoming and outgoing mail, other than privileged  
15 mail, shall not be read or censored unless there is  
16 reasonable cause to believe that one or more of the  
17 following conditions exist:

18 1. The mail contains plans in the direct  
19 furtherance of a specific criminal act, including specific  
20 acts of violence or physical harm to a person or persons or  
21 illegal gang activity.

22 2. The mail contains plans for escape.

23 3. The mail contains obscene material.

24  
25 D. Privileged mail is defined as letters to and from  
26 a federal, state or local court, an attorney, or public



1 officials. Privileged mail shall not be read under any  
2 circumstances. Privileged mail shall not be opened unless  
3 there is reasonable cause to believe that it contains  
4 contraband.

5  
6 E. The facility may withhold or refuse to forward  
7 incoming or outgoing mail in the following circumstances:

8 1. The facility may refuse to send a minor's  
9 outgoing mail if the intended recipient has made a written  
10 request that mail not be sent from the minor.

11 2. The facility may disapprove, on an individual  
12 basis, mail to or from another correctional facility.

13 3. The minor's parent or guardian has requested  
14 in writing that the minor not send mail to, or receive mail  
15 from, a particular individual. This exception shall not  
16 apply to privileged mail.

17 Whenever mail is withheld or not sent pursuant to  
18 subsection E of the policy, the mail shall not be read.

19  
20 F. Incoming mail may be temporarily withheld but not  
21 read, for a period not to exceed 24 hours (in addition to  
22 the time period in section B of this policy), whenever it is  
23 suspected that the contents of the mail may be disruptive to  
24 the treatment and guidance objectives of the facility. It  
25 is the intent of this provision to allow the facility  
26 sufficient time to arrange for special counselling or other



1 services which may be of benefit to the minor.

2  
3 G. Whenever incoming or outgoing mail is read or  
4 withheld pursuant to this policy, a record shall be kept of  
5 the action taken and the reason for it. The minor and/or  
6 the correspondent shall also be notified of the action taken  
7 and the reason for it. If the minor or other correspondent  
8 wishes to appeal the application of this policy, they may  
9 use the facility's existing grievance procedure.

10  
11 H. The minor shall be advised of this mail policy  
12 upon intake.

13  
14 III. ISOLATION

15  
16 A. Definition. Involuntary removal of a juvenile  
17 from contact with other juveniles by confinement in a room,  
18 other than the juvenile's own room, when the room is locked  
19 or the juvenile is otherwise restrained from leaving.  
20 Confinement in the juvenile's own room is referred to as  
21 "room restriction" and is not included in the term  
22 "isolation."

23  
24 B. Procedure. The use of isolation is a very serious  
25 measure to be used only under the following circumstances  
26 and conditions:



1           1.   Isolation shall not be used as treatment or  
2 punishment. Isolation is not a method or technique of  
3 treatment or punishment. It shall be used only in cases in  
4 which the juvenile presents a serious and immediate physical  
5 threat to him/ herself, other detainees or staff members,  
6 where prescribed by a psychiatrist, or at the request of the  
7 minor. Isolation shall only be used after all other less  
8 restrictive methods of control have been considered and  
9 rejected or have been tried and failed.

10           2.   Isolation period. The period of isolation  
11 shall be structured so that the juvenile can be placed in,  
12 or returned to, a group setting as soon as the objective of  
13 the isolation has been accomplished. When a juvenile is  
14 placed in isolation, the facility will immediately notify an  
15 on-duty staff mental health professional or nurse who will  
16 examine the juvenile as soon as possible. At the current  
17 time, the facility has on staff a qualified mental health  
18 professional eight hours a day for five days each week, and  
19 a trained nurse 12 hours a day for seven days each week. In  
20 the event that a staff mental health professional or nurse  
21 is not on duty and the facility determines that a child  
22 should not be released from isolation after three hours,  
23 then the facility shall be required to consult with a  
24 psychiatrist, psychologist, psychiatric aide, or other  
25 mental health professional and appropriate treatment begun.

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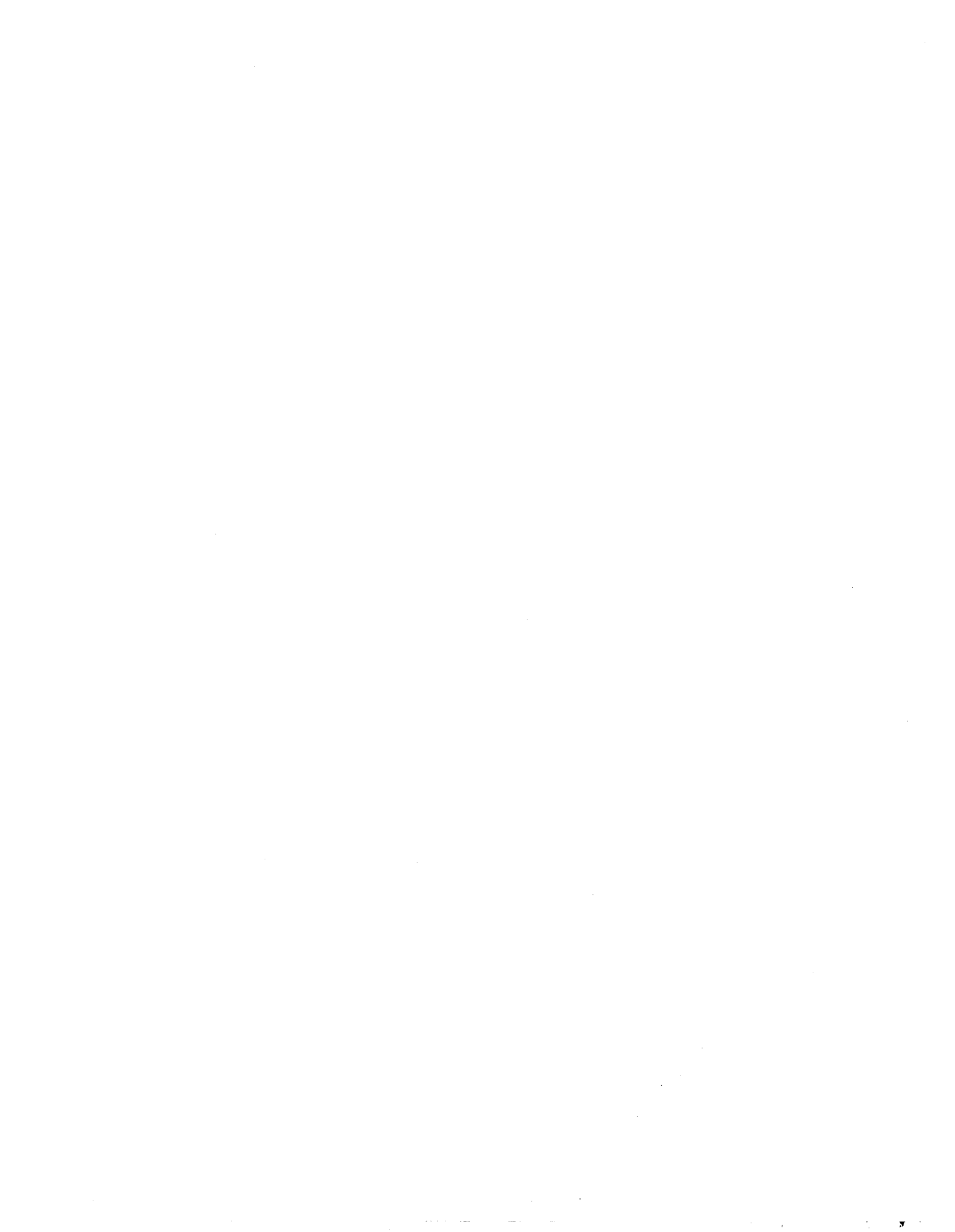


1           3.    Place of confinement--environmental needs.

2   Any place of isolation within the institution shall be so  
3   designated by the Director or his/her assignees. The place  
4   of isolation shall be adequately lighted, heated, and  
5   ventilated.

6           4.    Use of mechanical restraints. Juveniles in

7   isolation shall not be placed in mechanical restraints  
8   except that mechanical restraints may be used for purposes  
9   of transporting the juvenile to or from isolation when the  
10  juvenile is out of control or as a temporary emergency  
11  measure when the minor is physically out of control. All  
12  restraints shall be removed immediately upon the minor  
13  regaining self-control. Except in transportation  
14  situations, restraints shall be used solely for the  
15  protection of the minor. Restraints shall never be used for  
16  punishment, discipline or treatment. If restraints must be  
17  used, the facility shall use only soft restraints, except in  
18  extraordinary situations where the child's symptoms dictate  
19  that some other form of restraint is necessary to protect  
20  the child from self-injury. Only staff that has been  
21  appropriately trained on the use of restraints shall be  
22  permitted to place a child in restraints. The use of  
23  restraints shall be limited to as short a time-period as  
24  possible. If, in unusual circumstances, it is necessary to  
25  keep a child in restraints more than 45 minutes, the  
26  facility shall consult with an appropriate mental health



1 care professional. The facility shall keep a record of each  
2 use of restraints and its duration.

3 5. Authorization of isolation. Isolation may be  
4 authorized only by the Administrator of the Facility, the  
5 Acting Administrator, or the officer in charge.

6 Authorization shall be immediately obtained upon placement  
7 in isolation. When a determination is made to place a  
8 juvenile in isolation, the Administrator, Acting  
9 Administrator, or officer in charge, whichever the case may  
10 be, shall immediately record in writing the time, date, and  
11 reason for such determination.

12 6. Monitoring of detainees in isolation.  
13 Juveniles in isolation shall be checked by a staff member  
14 every fifteen minutes. A record of their condition shall be  
15 entered in the log maintained at the facility. Special  
16 attention shall be given to hygienic and physical or mental  
17 health needs of the juveniles. Trained staff shall be  
18 available to counsel juveniles throughout the period of  
19 isolation.

20  
21 IV. ROOM RESTRICTION

22  
23 A. Definition.

24 1. Room restriction refers to separation of a  
25 juvenile from the other juveniles in his/her unit by  
26 confining the juvenile in his/her own room.



1           2.    Juveniles confined to their rooms shall be  
2 checked by staff and a record of their condition entered  
3 into the log maintained at the facility every 20 minutes.  
4 Trained staff shall be available to counsel juveniles  
5 throughout the period of room confinement.

6           3.    For the purposes of computing time on room  
7 restriction, regularly scheduled sleeping hours shall be  
8 excluded therefrom.

9  
10           B.   Limitations on sanctions.

11           1.    In no instance shall room restriction involve  
12 the denial or reduction of the following basic rights: A  
13 place to sleep, e.g., a bed, a pillow, blankets and sheets;  
14 full meals; adequate and appropriate clean clothes; reading  
15 materials; health care services; personal hygiene items,  
16 e.g., toothpaste, soap, tooth-brush, comb, etc., and  
17 opportunities for personal hygiene including showers; at  
18 least an hour of large muscle exercise per day; education;  
19 sending or receiving mail; attending religious services;  
20 telephone contacts and visits with parents and attorneys.  
21 This provision does not prohibit the temporary denial of an  
22 activity or the removal of an object when it constitutes a  
23 danger to the safety of the minor or staff when the minor  
24 has persisted in destroying or attempting to destroy the  
25 object(s) or similar objects.

26           2.    The period of room restriction shall be



1 structured so that the juvenile can be placed in, or  
2 returned to, a group setting as soon as the objective of the  
3 room restriction has been accomplished. While on room  
4 restriction, a juvenile shall be allowed out of his/her room  
5 as much as possible during the period of room restriction,  
6 and every juvenile shall be allowed out of his/her room for  
7 a minimum of one hour during the period 8:00 a.m. to 8:00  
8 p.m., except in those extraordinary circumstances where  
9 releasing the minor from his or her room would pose a danger  
10 to the minor or other persons. In general, no juvenile  
11 shall be placed on room restriction in excess of 48 hours,  
12 excluding sleeping hours. If, however, it appears that a  
13 juvenile will not be able to safely return to regular  
14 programming within this time period, the facility will  
15 contact an appropriate mental health professional as soon as  
16 this determination is made and, in no event, later than the  
17 expiration of the 48-hour time period (excluding sleeping  
18 hours). As soon thereafter as possible, the mental health  
19 professional and the facility staff will develop an  
20 appropriate written individualized treatment plan designed  
21 to reintegrate the juvenile into the regular program. A  
22 written record of this plan and the minor's performance  
23 pursuant to this plan will be maintained by the institution.

24 3. Juveniles shall not be placed on room  
25 restriction or otherwise disciplined for behaviors that are  
26 beyond their control.





1           V.    DISCIPLINE AND DISCIPLINARY PROCEDURES

2  
3           A.    Development of Rules and Policies.    The facility  
4 shall maintain and follow a comprehensive set of rules of  
5 conduct and policies, violation or application of which may  
6 result in the imposition of one or more program sanctions.  
7 These sanctions shall be clearly and specifically set out in  
8 these rules.

9  
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11           B.   Notice of Rules and Polices.    At the time of  
12 admission to the facility, each juvenile shall be provided  
13 with an individual written copy of all rules of conduct and  
14 policies of the facility, violations or applications of  
15 which may result in one or more program sanctions.  
16 Juveniles who cannot read or who have difficulty reading  
17 shall be provided with an oral explanation of these rules  
18 and policies.

19           Copies of written rules and procedures shall be  
20 prominently posted throughout the facility in locations  
21 reasonably accessible to viewing by all juveniles.

22           In addition to the above provisions, staff of the  
23 facility shall respond to any request by a juvenile for  
24 information concerning these rules and procedures.

25  
26           C.    Any juvenile who is subject to punishment which



1 affects the length of time that the juvenile will spend in  
2 either the juvenile detention facility or in KYF shall be  
3 entitled to the following procedural rights.

4 1. A written notice of the charges against the  
5 juvenile.

6 2. A hearing before a neutral fact-finder. The  
7 neutral fact-finder shall not be a staff member who imposed  
8 the punishment or that staff member's direct supervisor. At  
9 this hearing, the juvenile shall be entitled to present  
10 his/her explanation of events and to call witnesses in  
11 support of his position. This hearing shall take place  
12 before the penalty is imposed and within 72 hours of the  
13 incident which gives rise to the penalty.

14 3. The juvenile shall have the opportunity to  
15 appeal the decision of the neutral fact-finder to the  
16 administrator of the facility.

17  
18 VI. MONITORING

19 For a period of one year following the entry of this  
20 agreement, the defendants agree to provide plaintiffs  
21 counsel with information regarding compliance with this  
22 agreement. Particularly, defendants agree to provide  
23 quarterly summaries regarding:

24 1. The numbers of juvenile placed in isolation  
25 and the duration of the isolation;

26 2. The numbers of juveniles in isolation placed



1 in mechanical restraints and the duration of the use of  
2 restraints;

3 3. The numbers of juveniles kept on room  
4 restriction in excess of 48 hours (excluding sleep time).

5 Plaintiffs' counsel agree to promptly notify  
6 defendants' counsel if, in the judgment of plaintiffs'  
7 counsel, information contained in these summaries or other  
8 information indicates that defendants' practices or policies  
9 may be inconsistent with the terms of this agreement. Upon  
10 a satisfactory showing from plaintiffs, defendants agree to  
11 provided appropriate additional documentation to demonstrate  
12 that defendants are in compliance with the terms of this  
13 agreement.

14  
15 VII. COMPLIANCE AND ENFORCEMENT

16 Should any dispute arise as to the interpretation or  
17 application of, or any party's compliance with, this  
18 Agreement, the parties shall first attempt to resolve the  
19 dispute among themselves. In the event that they are  
20 unsuccessful, counsel for the plaintiffs or any juvenile  
21 aggrieved by a violation of this Agreement, may enforce this  
22 Agreement in the state courts of California. For purposes  
23 of initiating or participating in any action seeking  
24 enforcement or interpretation of this Agreement, a juvenile  
25 confined at Juvenile Hall or KYF is authorized to proceed as  
26 a third party beneficiary. The parties agree that this



1 Agreement imposes mandatory duties on the part of the  
2 Defendants which may be enforced by a writ of mandate under  
3 California Civil Code Sections 1084 et seq. If a court  
4 finds the Defendants to be in violation of this Agreement,  
5 the court may enter an order mandating compliance with its  
6 terms.

7 In the event that any individuals, other than the  
8 Defendants, prevail in litigation regarding the enforcement  
9 or interpretation of this Agreement, they shall be awarded a  
10 reasonable amount for attorneys' fees and expenses. This  
11 provision shall not preclude defendants from obtaining  
12 attorneys' fees and costs if a court determines that an  
13 action brought against them was frivolous or in bad faith.  
14 Any attorneys' fees awards shall be determined by the court  
15 in which such litigation is pending in accord with the same  
16 standards and principles governing the award of fees and  
17 expenses under 42 U.S.C. Section 1988.

18 This Agreement resolves all of the outstanding issues  
19 before the Court in Steven L. v. Kern County and contains  
20 the entire agreement between the parties with the exception  
21 of an outstanding claim for payment of attorneys fees and  
22 expenses for the work of plaintiffs' counsel on the lawsuit.  
23 This Agreement does not constitute a waiver of this claim.  
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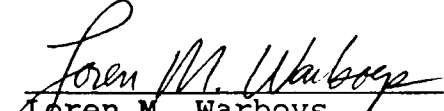


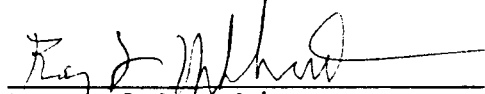


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NOW THEREFORE, in mutual consideration of all of the foregoing terms and conditions the parties enter into this Agreement.

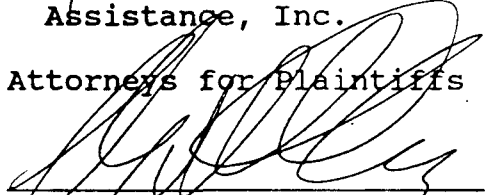
Dated: March 7, 1991

  
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Dated: March 18, 1991

  
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