

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

T.Y., a minor, by her next  
friend, Lynette Petty, B.A.,  
a minor, by his next friend,  
P.C., D.S., a minor by his  
next friends, A.M. and  
Lynette Petty, on behalf of  
themselves and all  
others similarly situated,

Plaintiffs,

v.

Board of County Commissioners  
of the County of Shawnee;  
DONALD J. COOPER, Chairman,  
VICTOR W. MILLER, Vice-  
Chairman, WINIFRED KINGMAN,  
member of the Shawnee  
County Commission  
in their official capacities;

EARL HINDMAN, Director of  
the Shawnee County Department  
of Corrections, in his  
official capacity;

GARY BAYENS, Administrator of  
Shawnee County Youth Center,  
in his official capacity,

Defendants and  
Third-Party  
Plaintiffs,

v.

STATE OF KANSAS, Department  
of Social and Rehabilitation  
Services; and DONNA L.  
WHITEMAN, the Secretary of  
Social and Rehabilitation  
Services, in her official  
capacity;

BOARD OF EDUCATION-UNIFIED  
SCHOOL DISTRICT 501, Shawnee  
County, Kansas,

Third-Party  
Defendants.

T.Y. v. Shawnee Co.



Jl-KS-001-003

Case No. 94-4079-DES



**JOINT STIPULATION OF PARTIAL SETTLEMENT OF  
MOTION FOR PRELIMINARY INJUNCTION**

The Amended Complaint and Class Action was filed on June 3, 1994. A Motion for Preliminary Injunction was filed by plaintiffs on June 23, 1994. The parties have agreed to resolve the issues of isolation, use of restraint, medical care and treatment, and attorney-client confidentiality communication raised in the Motion for Preliminary Injunction. Accordingly, the parties stipulate and agree as follows:

1. The effective date of this agreement shall be from and after August 1, 1994.

2. Defendants agree to comply with the regulations found at Kansas Administrative Regulation 28-4-355b(b) and (c) with respect to the use of isolation for all inhabitants at the Shawnee County Youth Center. In particular, defendants agree to the following:

a. Behavioral isolation shall be used only when a resident is out of control, is a threat to themselves or others. Behavioral isolation shall be used for the shortest interval necessary for the youth to regain control and shall be reviewed by the supervisor immediately with continued placement to be determined by the supervisor.

b. Isolation may be used only when all other less restrictive methods of controlling a child's dangerous behavior have been attempted and have failed.



c. Isolation shall not exceed one hour unless the problem behavior continues.

d. A youth care staff member shall be within visual and auditory distance of any child in isolation at all times.

e. No child in isolation shall be deprived of meals, clothing, medical services, individual exercise, correspondence, parental contact or legal assistance for disciplinary purposes. A child in isolation shall receive all regular meals and snacks normally served and shall be allowed time for individual exercise and to perform necessary bodily functions.

f. A child in isolation during normal school hours shall be provided with school work.

g. All children in isolation shall be given prompt access to drinking water and to the toilet and washroom facilities.

h. A written order by a designated SCYC staff member shall be required each time a child is placed in or released from isolation.

i. A youth care staff member shall make direct, physical observation of a child in isolation at least every 15 minutes, and shall attempt interactive intervention with the child at each observation, unless the child is sleeping.

j. An assessment of the need for continued isolation shall be made at each shift change. If isolation is continued, the reasons therefor shall be documented.



k. No child shall remain in isolation in excess of 24 hours without the approval of the administrator or designee. Written approval of the administrator or designee shall be required for each eight (8) hour period isolation is extended, beyond the first 24 hours.

1. If a child requires more than 48 hours of consecutive isolation or more than 72 cumulative hours of isolation within any seven (7) day period, an emergency staffing shall be held to discuss the appropriateness of the child's continued placement at SCYC and to develop an emergency plan for the child. Participants shall include those persons designated in Kansas Administrative Regulation 28-4-355b(c)(7)(A) & (B).

3. Defendants agree to comply with the regulations found at Kansas Administrative Regulation 28-4-355b(d) with respect to use of restraint for all inhabitants at the Shawnee County Youth Center. In particular, defendants agree to the following:

a. Physical restraint shall be used only when the child is acting in a manner that is assaultive, injurious and dangerous to themselves, peers, staff or property. It shall not be used as a form of discipline or punishment.

b. Physical restraint may be used only when all other less restrictive methods of controlling the child's dangerous behavior were either attempted and failed or diagnostically eliminated.





c. Mechanical restraint equipment may be used within the secure parameters of the SCYC only when required to move a child to locked isolation.

d. The use of mechanical restraints shall not exceed 30 minutes in duration.

e. Any child injured in an incident involving the use of physical restraint shall receive immediate medical examination and treatment.

f. If the child requires the use of mechanical restraints more than four (4) times in any 30 day period, an emergency staffing shall be held to discuss the appropriateness of the child's continued placement at SCYC and to develop an emergency plan for the child. Participants shall include those persons designated in Kansas Administrative Regulation 28-4-355b(d)(3)(A) & (B).

4. Defendants agree to comply with the regulation found at Kansas Administrative Regulation 28-4-356 with respect to required health care for all inhabitants found at Shawnee County Youth Center. In particular, the defendants agree to the following:

a. A health history checklist shall be completed for each child at the time of admission. This checklist shall be completed by the person who admits the juvenile using forms



supplied or approved by the Kansas Department of Health and Environment. Counsel for plaintiff and defendants will meet and discuss revisions to be made to the health history checklist within 30 days of the date of this Stipulation.

b. Within 72 hours of admission, children shall have a review of the health history checklist by a physician or nurse. Based upon health indicators derived from the checklist or in the absence of documentation of a screening within the past 24 months, the physician or nurse shall determine whether a full screening and health assessment are necessary.

c. The screening and health assessment shall be completed within ten (10) days of admission and shall be based upon guidelines provided or approved by the Kansas Department of Health and Environment.

d. Each child shall receive a tuberculin skin test and an appropriate treatment or prophylaxis shall be provided to all positive tuberculin reactors.

e. A dental screening shall be conducted upon each child at admission and follow-up emergency dental care shall be provided as needed.

f. SCYC's physician shall be contacted for any child who is taking a prescribed medication at the time of admission so that treatment is not interrupted.



g. All medication including non-prescription medication shall be given only in accordance with label directions, including time of administration, unless ordered differently by a licensed physician. The type of medication prescribed for children at SCYC and the reason for its use is confidential information and its confidentiality shall be preserved by SCYC staff at all times.

h. SCYC's physician shall be contacted for any child who has acute symptoms of illness or who has a chronic illness.

i. Chronic care, convalescent care and preventive care shall be provided when medically indicated.

j. SCYC shall obtain a written consent from each child's parent or legal guardian for medical and dental care.

k. Each staff member who will have contact with the children at SCYC shall receive a health examination within one year before employment, which shall include a tuberculin skin test. If there is a positive reaction, proof of proper treatment or prophylaxis, according to current Kansas Department of Health and Environment guidelines, shall be required.

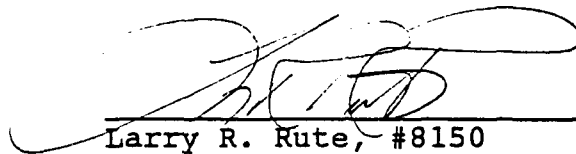
l. Professional consultant services, including those of physicians, dentists, nurses, psychologists and psychiatrists shall be available as required to meet the needs of children at SCYC.



attorneys with a copy of all new or amended Policies and Procedures issued to comply with this provision.

7. This Joint Stipulation and Partial Settlement shall be submitted to the Court for final approval and incorporation into the Court's preliminary orders.

THIS AGREEMENT is executed this 26<sup>th</sup> day of July, 1994.



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