

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

A.A., A.S. B.J., B.W. and D.S., minor juveniles
by and through their Guardian *ad Litem*,
ERNESTINE WILLIAMS; C.B.,
by and through his Tutor, JANICE
SANFORD; and C.C., a major juvenile,
all appearing individually in pseudonym
and on behalf of others similarly situated,

Civil Action No.

CLASS ACTION

Plaintiffs,

v.

WACKENHUT CORRECTIONS CORPORATION;

SALVADOR GODINEZ, in his official capacity as
Warden of the Jena Juvenile Justice Center;

HONORABLE MURPHY “MIKE” FOSTER,
in his official capacity as the Governor of the
State of Louisiana; and

RICHARD STALDER,
as Secretary of the Louisiana Department
of Public Safety and Corrections;

Defendants.

*

COMPLAINT

1. This is a civil rights class action brought by plaintiffs individually and on behalf of other similarly situated juveniles who are now or in the future will be confined at the Jena Juvenile Justice Center (“JJJC”) in Jena, Louisiana, and who are subject to abusive and inhumane conditions. Plaintiffs respectfully challenge, *inter alia*, the malicious and sadistic use of force by staff on youth and other cruel, unconscionable, and illegal conditions of confinement at JJJC. The Defendants use and allow the use of excessive force and unreasonable restraints on Plaintiffs, fail

to protect Plaintiffs from harm, deny basic needs and services to Plaintiffs, fail to provide adequate programming for Plaintiffs, and deny Plaintiffs meaningful access to the courts and to their families, all as set forth below. Plaintiffs suffer physical and emotional harm from each of the conditions, policies, and practices set forth below.

2. Defendants are deliberately indifferent to Plaintiffs' constitutional and legal rights, and Defendants' conditions, policies, and practices at JJJC constitute punishment and substantial departures from accepted professional judgment, standards, and policies. With its genesis as part of a corruption scheme that has resulted in federal indictments, to current state officials at the highest levels insisting that JJJC is a facility specially designed to treat youth with substance abuse problems in the face of experts in adolescent mental health finding that there is constitutionally inadequate treatment - including substance abuse treatment - for all youth the facility, Defendants have consciously neglected to safely house and properly treat the youth at JJJC. From JJJC's inception, Defendants have failed to provide adequate numbers of staff, to adequately train and supervise staff, and to appropriately investigate and respond to serious abuse of youth by staff. Defendants Wackenhut - with the oversight and approval of the state Defendants - have consistently placed profit-making above juvenile rehabilitation and public safety. As a result, the well-being of youth confined at JJJC continues to be endangered.

3. Plaintiffs, individually and on behalf of the Plaintiff class, seek declaratory and injunctive relief against Defendants on the grounds that the conditions, policies, and practices to which they are subjected at JJJC deprive Plaintiffs of the rights secured to them by the First, Fourth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution, as enforced by 42 U.S.C. § 1983; Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§

12131-12133 and regulations promulgated thereunder; and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 and regulations promulgated thereunder ("Section 504").

Jurisdiction

4. This Court has jurisdiction over this action under 28 U.S.C. § 1343(3), this being an action to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States; the Civil Rights Act, 42 U.S.C. § 1983; the ADA; and Section 504.

5. This Court also has jurisdiction over this action under 28 U.S.C. §1343(4), this being an action to secure declaratory, injunctive, and other equitable relief under Acts of Congress providing for the protection of civil rights, specifically the Civil Rights Act, the ADA, and Section 504.

6. This Court also has jurisdiction over this action under 28 U.S.C. § 1331 (a), this being an action in which the matter in controversy arises under the Constitution and laws of the United States.

7. This Court is authorized to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202, and Rules 57 and 65 of the Federal Rules of Civil Procedure.

Venue

8. Venue is proper in the Middle District of Louisiana pursuant to 28 U.S.C. § 1391 because, under § 1391(b), Defendants Foster and Stalder reside in this District. Pursuant to existing court orders, it is appropriate for this case to be before the Hon. Chief Judge Frank J. Polozola for judicial oversight.

Plaintiffs

9. Each of the named Plaintiffs is a citizen of the United States and is currently

incarcerated at JJJC. Each of the named Plaintiffs is personally subjected to Defendants' conditions, policies, and practices at JJJC, as set forth herein, and each of the named Plaintiffs suffers actual injury as a result of those conditions, policies, and practices. The named Plaintiffs are personally subjected to, and suffer actual injury as a result of, all of the violations of Plaintiffs' rights set forth herein.

10. Minor Plaintiffs who are not otherwise represented by a tutor, as specified herein, sue through their Guardian *ad litem*, Mrs. Ernestine Williams, who is an adult citizen of the State of Louisiana and a parent of a juvenile currently in the secure custody of the Department of Public Safety & Corrections. The Plaintiff class requests that Mrs. Williams be appointed Guardian *ad litem*.

11. A.A. is a youth currently incarcerated at JJJC. He is a minor and appears herein through his Guardian *ad litem* Mrs. Ernestine Williams. Some of the conditions, policies, and practices complained of herein which have particularly impacted upon him are excessive force by staff and verbal abuse.

12. A.S. is a youth currently incarcerated at JJJC. He is a major. Some of the conditions, policies, and practices complained of herein to which he is subjected are: lack of programming; lack of substance abuse counseling and treatment; inadequate food; lack of proper sanitation; inadequate clothing; failure to protect from harm, including theft of personal property.

13. B.J. is a youth currently incarcerated at JJJC. He is a minor and appears herein through his Guardian *ad litem* Mrs. Ernestine Williams. Some of the conditions, policies, and practices complained of herein which have particularly impacted him are: failure to protect from harm; abusive and arbitrary disciplinary practices; inadequate investigations of abuse; inadequate

administrative remedy process; inadequate mental health care; excessive force by staff; inadequate clothing; inadequate access to courts; and inadequate medical care.

14. B.W. is a youth currently incarcerated at JJJC. He is a minor and appears herein through his Guardian *ad litem* Mrs. Ernestine Williams. Some of the conditions, policies, and practices complained of herein to which he is subjected are: failure to protect from harm; inadequate food; unsanitary conditions; lack of programming; inadequate access to courts; and verbal abuse.

15. C.B. is a youth currently incarcerated at JJJC. He is a minor and appears herein through his duly authorized tutor Janice Sanford. Some of the conditions, policies, and practices complained of herein which have particularly impacted him are: excessive force by staff; abusive and arbitrary punishment; lack of food; denial of access to courts; lack of programming; lack of recreation; unsanitary conditions; and verbal abuse.

16. C.C. is a youth currently incarcerated at JJJC. He is a major. Some of the conditions, policies, and practices complained of herein which have particularly impacted upon him are: verbal abuse; lack of psychological counseling and treatment; excessive and arbitrary isolation; inadequate access to medical care; inadequate administrative process; denial of access to church services; inadequate food; unsanitary conditions; theft of personal property; and inadequate clothing.

17. D.S. is a youth currently incarcerated at JJJC. He is a minor and appears herein through his Guardian *ad litem* Mrs. Ernestine Williams. Some of the conditions, policies, and practices complained of herein to which he is subjected are: abusive and arbitrary discipline practices; lack of programming; inadequate mental health care; excessive force by staff;

inadequate clothing; inadequate food; inadequate medical care; inadequate administrative remedy process; inadequate dental care; verbal abuse; inadequate access to courts; and unsanitary conditions.

Defendants

18. With respect to all matters alleged herein, each of the Defendants has acted, and continues to act, under color of state law. All of the conditions, policies, and practices described herein are the result of, and pursuant to, specific decisions, official policies, or customs of the Defendants. Each of the Defendants has actual or constructive knowledge, or should have such knowledge, of the conditions, policies, and practices complained of herein.

19. Defendant Murphy “Mike” Foster is the Governor of the State of Louisiana. As chief executive officer of the state he has a duty to faithfully support the constitution and the laws of the state and of the United States and is responsible for ensuring that the laws are faithfully executed in order to protect the federal and statutory rights of juveniles confined in the state’s custody. He is sued in his official capacity. The state of Louisiana receives federal funds.

20. Defendant Richard Stalder is the Secretary of the Department of Public Safety and Corrections (“DPSC”) and is responsible for the establishment, operation, and maintenance of all secure care facilities for youth in Louisiana, including JJJC. He is sued in his official capacity. On information and belief, DPSC receives federal funds.

21. Defendant Wackenhut Corrections Corporation (hereinafter referred to as “WHC”) is a publicly traded foreign corporation authorized to do and doing business in the State of Louisiana and naming as its agent for service of process, the Prentice-Hall Corporation System, Inc, 701 South Peters Street, Second Floor, New Orleans, La 70130. WHC operates a secure

facility which houses juveniles adjudicated delinquent. WHC operates this facility pursuant to a contract with the Louisiana Department of Public Safety and Corrections (DPSC).

22. Defendant Salvador Godinez is an employee of WHC and is currently the Warden of the Jena Juvenile Justice Center. As Warden he is responsible for daily operations and management of JJJC and its staff, and for the care of youth confined at JJJC. He is sued in his official capacity.

23. Godinez and WHC are not entitled to qualified immunity or to any form of good faith immunity because they are private entities who have consistently undertaken management of this institution, for profit.

24. Unless expressly stated to the contrary, all references in the remainder of this complaint to “WHC” refer to WHC and to all other named Defendants.

Class Certification Requested

25. This matter is a class action maintainable under Federal Rule 23 for the following reasons:

26. There are approximately two hundred seventy six (276) youth currently incarcerated at JJJC, and this population is constantly changing as youth are admitted to and discharged from the facility. The class would be composed of all youth currently confined or to be confined in JJJC. As will be shown hereunder, the conditions of JJJC are so extreme and unconstitutional that all youth confined at this facility are affected.

27. The putative class that plaintiffs seek to represent meets the requirements of FED. R. CIV. P. 23. In accordance with the Uniform Local Rules of the United States District Courts for the Eastern, Middle and Western Districts of Louisiana, LR 23, plaintiffs hereby show the

following:

28. At any given time, more than 270 youth are affected by the conditions and practices complained of herein. Additionally, the continual intake and discharge of youth from JJJC, coupled with the rotation of youth between secure facilities, renders joinder of all plaintiffs impossible. Thus, joinder of all potential plaintiffs is impracticable. See FED. R. CIV. P. 23(a)(1).

29. There are common questions of law applicable to all putative class members, namely the legality and constitutionality of the manner in, and the means by, which youth at JJJC are treated or not treated as the case may be. See FED. R. CIV. P. 23(a)(2). Plaintiffs contend that there are numerous, systemic deficiencies which cause the constitutional violations complained of herein. All youth at JJJC are subject to these deficiencies. These deficiencies are the result of policies, procedures, and practices implemented by DPSC and/or WHC. These policies, procedures, and practices are applicable generally to all youth confined at JJJC.

30. The claims of the representative plaintiffs are typical of the putative class. See FED. R. CIV. P. 23(a)(3). Each named plaintiff has suffered harm from one or more of the unconstitutional conditions which are at issue in this suit, and each has been subjected to the systemic deficiencies which have caused and will continue to cause harm to other members of the plaintiff class.

31. The named plaintiffs fairly and adequately will protect and represent the interests of the class. Further, a number of putative class members – as a result of their mental illnesses, retardation and the exacerbation of such conditions due to constitutionally inadequate treatment – are unable to (i) complete the requisite steps in order to exhaust their administrative remedies, and (ii) sufficiently function as class representatives. Thus, a class action lawsuit is the best procedural vehicle for vindicating the rights of all similarly situated individuals. See FED. R. CIV.

P. 23(a)(4).

32. This class action is maintainable under FED. R. CIV. P. 23(b)(2), because defendants have acted and refused to act on grounds and in ways generally applicable to all members of the putative class, thereby making it appropriate to provide final injunctive relief with respect to the class as a whole. See FED. R. CIV. P. 23(b).

33. This class action is also maintainable under (i) FED. R. CIV. P. 23(b)(1)(A), because the prosecution of separate actions would create a risk of inconsistent or varying adjudications with respect to individual members of the putative class, and might establish incompatible standards of conduct for the defendants; and (ii) FED. R. CIV. P. 23(b)(1)(B), because, as a practical matter, an adjudication with respect to an individual plaintiff would be dispositive of the interests of all other putative class members. See FED. R. CIV. P. 23(b)(1)(A)-(B).

34. Unless otherwise noted, in all following paragraphs the term “Plaintiffs” shall include the named Plaintiffs as well as members of the Plaintiff class.

Exhaustion of Administrative Remedies

35. All of the named Plaintiffs have exhausted administrative remedies to the extent that they are required to do so.

36. A.A. has exhausted his administrative remedies. He has filed ARPs with JJC on incidents of excessive force and verbal abuse. Although the time for responding to these ARPs has passed, he has not received a response and has not been granted effective relief for the issues raised in these ARPs.

37. A.S has exhausted his administrative remedies. He has filed ARPs with JJC on incidents of verbal abuse. Although the time for responding to these ARPs has passed, he has not

received a response and has not been granted effective relief for the issues raised in these ARPs.

38. B.J. has exhausted his administrative remedies. He has filed ARPs with JJC on incidents of excessive force, inadequate investigations, inadequate ARP system, lack of mental health care, unsanitary conditions, lack of clothes, protection from harm, lack of legal assistance, and lack of programming. Although the time for responding to these ARPs has passed, he has not received a response on many of these ARPS and has not been granted effective relief for the issues raised in these ARPs.

39. B.W. has exhausted his administrative remedies. He has filed ARPs with JJC on incidents involving protection from harm; inadequate food and unsanitary conditions; lack of programming; inadequate access to courts; and verbal abuse. Although the time for responding to these ARPs has passed, he has not received a response on many of these ARPs and has not been granted effective relief for the issues raised in these ARPs.

40. C.B. has exhausted his administrative remedies. He has filed ARPs with JJC on incidents involving excessive force; arbitrary punishment; lack of an effective administrative procedure; unsanitary conditions; verbal abuse; lack of food; denial of access to courts; lack of programming, and lack of recreation. Although the time for responding to these ARPs has passed, he has not received a response on many of these ARPS and has not been granted effective relief for the issues raised in these ARPs.

41. C.C. has exhausted his administrative remedies. He has filed ARPs with JJC on incidents of verbal abuse, arbitrary and excessive isolation, and denial of access to church service. Although the time for responding to these ARPs has passed, he has not received a response on many of these ARPs and has not been granted effective relief for the issues raised in these ARPs.

42. D.S. has exhausted his administrative remedies. He has filed ARPs with JJJC on incidents of abusive and arbitrary discipline practices; lack of programming; inadequate mental health care; excessive force; lack of proper clothing; inadequate food; inadequate medical care; inadequate administrative remedy process; inadequate dental care; verbal abuse; inadequate access to courts; and unsanitary conditions. Although the time for responding to these ARPs has passed, he has not received a response on many of these ARPs and has not been granted effective relief for the issues raised in these ARPs.

43. Plaintiffs are not required to exhaust administrative remedies. Defendants failed to adhere to the requirements of their own Administrative Remedy Procedure by not responding to Plaintiffs' requests for administrative remedies within the forty (40) days required by the DPS&C regulations.

44. Exhaustion of administrative remedies would be inadequate and futile because there is no remedy available that can address Plaintiffs' allegations of denial of their civil and constitutional rights by Defendants, as alleged herein, within a reasonable period of time, and no remedy that can provide meaningful relief. This is particularly true where, as here, the claims are brought on behalf of a class of significant size, and Plaintiffs seek class-wide relief.

45. In addition, exhaustion of administrative remedies would be inadequate and futile because it would be futile as a legal and practical matter to use the administrative process; it is improbable that adequate relief can be obtained by pursuing the administrative process; government agencies have adopted policies and pursued practices of general applicability that are contrary to the law; and the agencies have failed to give Plaintiffs adequate notice of their rights under the law.

46. Administrative remedies are not effectively available to Plaintiffs. Defendants' Administrative Remedy Procedure ("ARP") is too complex for Plaintiffs not represented by counsel, given the low maturity and educational level of members of the Plaintiff Class. Moreover, Defendants do not provide posted notice of the ARP's existence in a manner readily accessible to youth, as required by the ARP. Defendants do not provide any assistance from a "classification officer" or "inmate counsel substitute."

47. WHC often rejects ARPs for hyper technical and unfair reasons. For example, a youth's ARP was recently rejected (and thus exhausted) because he did not place the words "This is a request for administrative remedy" at the top of the paper. Other ARPs are not answered responsively or are "rubber stamped" at the higher levels of review.

48. Most ARPs are summarily rejected or relief is denied based on the officer's version of events without giving the youth's ARP any real review or credence.

49. Even if an ARP manages to reach the DPSC level of review, the ARP is neither independently reviewed nor fairly answered. The most common response is that the lower decision was correct. This response is given even when no supporting documentation or investigation accompanies the ARP to DPSC.

50. Administrative remedies are also not effectively available to Plaintiffs because Plaintiffs have a well-founded fear of retaliation by guards at JJJC if they file any administrative action. As alleged herein, guards physically and verbally abuse Plaintiffs, and many incidents of abuse go unreported due to a legitimate fear of retaliation.

51. Administrative remedies are also unavailable because the majority of Plaintiffs are under the age of seventeen (17) and do not, under Louisiana law, have the legal capacity to seek

redress.

Factual Allegations:
The Facility

52. JJJC is located near Jena, Louisiana. JJJC opened in early December 1998 with assurances by Defendants that it would specialize in the treatment of youth with substance abuse needs.

53. The facility was built by WHC and WHC is the current owner. WHC purports to presently be one of the largest private providers of young offender management facilities to provide opportunities for self improvement, with an emphasis on general and special education, vocational training and work skills.

54. WHC is in business to make a profit yet only receives a per diem of about seventy (\$70.00) dollars per youth. This per diem is expected to feed the youth, clothe them, provide mental health treatment and medical care, make programming available and pay for all of the various staff that are required to run such a facility. Additionally, the facility in which youth are housed was built by WHC and must be paid for together with amortization of the various fees and expenses that were required to obtain the contract.

55. WHC claims that youth programs in WHC facilities typically include group and individual substance abuse counseling, family counseling, and in many cases, draw upon the resources of the community for additional programs.

56. WHC further purports that it is uniquely qualified to provide comprehensive correction and detention facility services claiming an enlightened approach to employee relations. The company claims to offer employees a level of training, benefits and compensation that promotes pride, professionalism, and staff retention.

57. WHC claims that it assumes a greater responsibility for prisoners than just “housing” them and that all Wackenhut Corrections facilities provide basic education, job and life skills training and rehabilitation programs. WHC further asserts that in every case and in all ways, Wackenhut Corrections adheres to standards equal or higher than government run facilities.

58. As will be illustrated below, the location of JJJC, like the Tallulah facility, contributes to the major problems that exist at the facility. For example, the remoteness hinders visitation by parents and loved ones and inhibits maintenance of a stable, qualified work force.

59. JJJC’s physical plant is inadequate to serve the needs of the plaintiff class. Despite its location in a rural area with considerable surrounding forest land, WHC has squeezed the JJJC facility onto a small plot of bare land surrounded with a metal fence and razor wire. There is currently a shortage of school space; there is no enclosed grassy exercise area; and there is insufficient space and privacy for mental health programming.

Population & Density

60. There are a total of 276 beds in the facility. The facility is made up of two buildings, commonly referred to as “Eagle” and “Falcon”, with four dormitories (sections “A” through “D”) in each building. Falcon-A is made up of twelve (12) individual cells; Falcon-B is made up of twelve (12) 2-man cells; Falcon-C and Falcon-D each have 24 bunks (for a total of 48 beds in each section). Eagle-A and Eagle-B each have twelve (12) 2-man cells; and Eagle-C and Eagle-D each have 24 bunk (for a total of 48 beds in each section).

61. Almost every bed in JJJC is occupied, including the facility’s 84 cells. Because of this fact, as many as 84 youth will likely be incarcerated in a cell, rather than an open dormitory, even if they have committed no infraction and have a perfect disciplinary record. It is wrong and

contrary to law to confine a youth under these restrictive conditions simply because there is no place for him in the dorm.

62. There are no available beds in which to transfer youths, for example, to reward them for positive behavior or to remove them from especially hazardous situations. A youth can be moved only if another youth is displaced.

63. State Defendants and Plaintiffs entered into an Education Settlement Agreement (“Education Agreement”) on November 1, 1999, which was acknowledged by WHC. This Agreement specified numerous requirements for Defendants, including: providing adequate education, special education and related and transition services, and vocational education and programming; conducting appropriate screening and evaluation for special education; extending the length of the school day; developing and implementing appropriate curriculum; hiring certain numbers of qualified educational staff; building additional classrooms; and providing necessary instructional materials. Should WHC fail to fulfill its obligations under the Education Agreement Plaintiffs will seek appropriate judicial relief.

Staffing

64. Defendants fail to maintain a stable, qualified workforce demonstrating deliberate indifference to the safety of Plaintiffs. Personnel issues plaguing JJC include: high staff turnover, low pay, excessive overtime, recurrent hiring of known abusive guards and staff shortages.

65. In the 14 months JJC has been warehousing youth, there have been five wardens. Upon information and belief, there has been a 300% annualized turnover of security staff since the facility opened. With this omnipresent staff shortages, many staff are required to work excessive overtime hours leading to high fatigue levels and shortened tempers. Plaintiffs allege that many

incidents of guard on youth abuse can be directly related to the extreme staff shortages at JJJC.

66. Looking at the first year of operation, 125 (almost the total number of security positions) were involuntarily terminated from JJJC. This represents an excess of 100% turnover of the security workforce of this facility.

67. Although WHC claims to “have turned the corner” on the staffing issue, facts prove otherwise. In the ten week period prior to a United States expert tour in January, 55 security staff (guards) either quit or were terminated. This number of terminations is equal to 44% of the security workforce of the facility and on an annualized basis equals a loss of 264 security staff.

68. Upon information and belief, an assistant warden was rehired at JJJC notwithstanding at least eight (8) prior allegations of abuse of youth. Further, this same assistant warden had been implicated in interfering with the investigative process.

69. Upon information and belief, as recent as January 10, 2000, JJJC hired a captain that was released from JJJC for abusing youth. Other guards have been retained at the facility even though they have substantiated claims of abuse against them.

70. Yet other guards are hired and retained for long periods of time when these same guards have convictions for offenses that should preclude them from working around youth.

71. Further, shortages also exist in non-security staff, and these shortages translate into detrimental conditions for those incarcerated at JJJC: services not provided, programming unavailable and the general sense of disorder at the facility.

72. The staff is neither adequately trained nor supervised to provide proper care and custody of the youth confined at JJJC further demonstrating WHC’s deliberate indifference to the safety needs of the Plaintiffs.

73. One of the major consequences of the high turnover rate is inexperienced staff working with the youth at the facility. According to one United States expert, over one third of the staff had been employed less than three months while only 21 staff had a year of experience.

74. The shortage of staff has led to shortcuts in the hiring process and lapses in good judgment. For example, according to a United States expert's review of personnel files: 32 employee files were missing required psychological screening, 28 employee files did not contain part of the required criminal background checks, at least six files were missing the required drug screening, and at least 23 files indicated new hires were not checked for contagious diseases.

The Interim Agreement

75. On November 6, 1998 an interim agreement (hereinafter "IA") was approved and was agreed to by WHC and the state of Louisiana. The IA constituted a private settlement agreement as defined in the Prison Litigation Reform Act, 18 U.S.C. § 3626 (g)(6).

76. The IA imposed certain minimum requirements for the operation of JJJC in such areas as security staffing, use of chemical agents, use of isolation, use of mechanical restraints, intake of juveniles, structural modifications, provision of health services, health care staffing, mental health care, education, access to counsel, and abuse investigations. The IA also specifically prohibits any retaliation on juveniles or employees for reporting abuse or speaking to Plaintiffs' counsel, the United States or the Court Expert.

77. WHC has continually and intentionally violated this agreement, as set forth in more detail below. Because of the blatant continued violation of this agreement, plaintiffs seek court enforceable agreements as a remedy in this matter.

78. Experts for the Civil Rights Division, United States Department of Justice (USDOJ)

toured the JJJC facility from January 3, 2000 through January 7, 2000 and January 19 through January 21, 2000. Reports were rendered on or about February 24, 2000. Each of those reports has been filed of record in *Williams v. McKeithen*, Number 71-98, *United States Of America v. State of Louisiana*, Number 98-947-B-1 and *Brian B. et al. v. Stalder*, et al. Number 98-886-B-1, all on the Docket of the United States District Court for the Middle District, State of Louisiana and are incorporated herein.

79. WHC has not complied with the staffing mandates of the IA. For extensive periods, WHC did not have a training director or a chief of security. Throughout the entire period of time that the IA was in effect, there have been staffing shortages and unwarranted use of overtime. A United States Department of Justice expert found numerous examples of staff shortages. For example, the report cites observations of Lt. "S", indicating that staffing ratios in the dorms are not maintained. On just these two nights, the observer related staff shortages. Further, documents reveal that staff are terminated for leaving their posts, suggesting that the post is -- for some period of time -- not filled. WHC is the entity creating and maintaining this documentation and, therefore, has actual knowledge of these violations of the IA.

80. WHC has also violated the IA provisions on the use of chemical agents. In addition to the sheer number of uses of gas, the incident of November 1999 is a clear violation of the IA. During this incident, not only did WHC employees gas an entire dorm with a dangerous potentially lethal gas bomb, but these employees also used gas on youth who were compliant and lying on cold concrete. Such gassings are nothing more than a deliberate and intentional infliction of pain for the very purpose of causing harm. Moreover, the investigator at JJJC found that this was appropriate correctional behavior by the WHC personnel.

81. Other examples of IA violations by WHC include the improper use of isolation; the improper use mechanical restraints; and the failure to ensure non-retaliation on youth for reporting abuse and/or speaking to counsel.

82. Because of the numerous violations of the IA and the flagrant non-reporting of violations, plaintiffs have no reason to believe that WHC would comply with any agreement not enforceable by the contempt powers of this court.

Violations of Plaintiffs' Rights:
Excessive Force

83. Upon information and belief, the injuries to the youth complained of herein are documented in WHC records and are well known to WHC and all other defendants. WHC has not protected the youth in its custody and are thus indifferent to the security, medical, programming and other needs of these youth.

84. Defendants have failed, and continue to fail, to provide Plaintiffs with reasonably safe conditions by, *inter alia*, subjecting them to malicious and sadistic abuse and excessive use of force by staff. Defendants demonstrate conscious and callous indifference to the safety of Plaintiffs by permitting the use of excessive force to cause physical and emotional harm to Plaintiffs.

85. With Defendants knowledge and pursuant to official policy or custom, security staff at JJJC routinely use excessive force and abuse against youth by slamming youth against the cement walls or to the ground for little or no reason, by twisting youths' arms, by kicking youth in the face and kicking youth after already being compliant, and by shoving, slapping, hitting, and "hacking" youths. The term "hacked" is a term used by the youth at JJJC to include any unnecessary roughness by officers or handling by officers. It is common for guards at JJJC to

grab a youth and jerk him for the sole purpose of adjusting his place in a line.

86. Upon information and belief, guard-on-youth violence has escalated in the weeks following November 27, 1999. An average of six (6) uses of force reports per day have been filed compared to less than an average of two (2) per day for November, 1999.

87. The welfare of Plaintiffs is in constant jeopardy where staff at JJJC use excessive force maliciously and sadistically to cause physical and emotional harm to Plaintiffs.

Unreasonable & Punitive Use of Bodily Restraints

88. With Defendants knowledge and pursuant to official policy or custom, Defendants have subjected, and continue to subject, Plaintiffs to excessive and unreasonable bodily restraints that are unnecessary to protect Plaintiffs from injury to themselves or to prevent injury to others, including isolation, mechanical, medical and chemical restraints.

89. For example, WHC uses 4-point, and occasionally 5-point, restraints on mentally ill youth. These youth may be kept in such restraints for hours.

90. A United States expert review of records in February, 2000, showed several examples of youth who were restrained with no evidence in the files of a physician's order for such restraints, without a professional assessment of the need for restraints, and with no evidence that the children were monitored while in restraint or after their release. Restraints are often inappropriately initiated by security staff.

Excessive and Harmful Use of Chemical Gas

91. Defendants have subjected, and continue to subject, Plaintiffs to unreasonable and unjustified uses of chemical restraints causing Plaintiffs to suffer physical and emotional harm.

92. WHC has knowingly and pursuant to official policy and custom used teargas and

pepper spray, which are dangerous chemicals, to punish and threaten youth at JJJC. Defendants' use of such chemicals is excessive, punitive, painful, malicious, and sadistic.

93. In November, 1999, there was a documented incident in which an entire enclosed dormitory was gassed pursuant to official policy and practice. No precautions were taken to protect youths who may be unusually sensitive (e.g. asthmatics) to such substances. Despite the fact that one of the chemicals used in this incident was manufactured for outside use only and was not recommended for indoor use because of its hazards, WHC knowingly and maliciously used this chemical indoors. Youth were also gassed outside, even though they were lying on the ground. Some youth were left lying on the ground, outside for hours in cold weather and without adequate clothing. Others were required to return inside the dorm before the gas had dissipated. Following this gassing, youth were not adequately monitored for side effects, and youth were not given the opportunity to wash after the gassing to avoid injuries (e.g. to their eyes).

94. Upon information and belief, at least one child in the November, 1999 incident was gassed directly in his face with a chemical which can cause severe breathing problems, burns, and scarring of the eyes. His records show that he did suffer burns and eye problems lasting for at least 24 hours after the incident.

95. Both on the November 1999 date and subsequently, Defendants have failed to provide youth with adequate medical assessment and/or treatment for the effects of the gas, including follow-up for vision problems suffered by the youth described above and measurements of lung functioning among youth with lung problems who were gassed.

Arbitrary and Punitive Use of Isolation

96. As a result of continuing policies and practices, Defendants regularly place Plaintiffs in

isolation for arbitrary reasons, as punishment, and for the convenience of staff. Defendants fail to use isolation only for instances where Plaintiffs pose an immediate threat to the health or safety of themselves or others. Defendants fail to release Plaintiffs from isolation when they have demonstrated that they are in control of themselves. Defendants fail to adequately monitor Plaintiffs in isolation.

97. Plaintiffs held in isolation experience extreme loneliness, anxiety, rage, and depression, among other potentially debilitating emotional and psychological problems. Defendants fail to ensure that prolonged isolation does not have adverse psychological effects on Plaintiffs. As a result of their continuing policies and practices of excessive isolation, Defendants subject Plaintiffs to endure seemingly endless hours of mind-numbing solitude.

Protection from Harm

98. Defendants have failed, and continue to fail, to provide Plaintiffs with reasonably safe conditions by, *inter alia*, subjecting them to a substantial risk of serious harm resulting from youth-on-youth assaults. Defendants demonstrate conscious and callous indifference to the safety of Plaintiffs by failing to provide adequate staffing, supervision and training to protect Plaintiffs from harm.

99. A practice known as “kicking out” exists with the full knowledge of WHC. Kicking out consists of a larger youth forcing a younger or more fragile child to give up food items or other personal belongings under threat of violence. JJJC staff fail to intervene and Plaintiffs suffer physical and emotional harm as a result.

100. Because WHC fails to protect youth, some youth self-mutilate and injure themselves in hopes of being placed on “PC” (“protective custody”). Although the conditions of

PC are very harsh and consist of one person cells with nothing to keep the mind occupied, the threat and reality of severe harm forces these children to request PC. If the request is not honored, children go to great lengths - including slicing their arms and bodies and attempts at suicide - to avoid further assaults by other youth.

101. Defendants fail to take appropriate actions such as investigation or removing the youth from the environment when allegations of youth assaults or threats are made, thereby further endangering the safety of Plaintiffs.

102. Confirming the youth reports of exceptional violence, infirmary logs document over 100 serious traumatic injuries in the period between November 28, 1999 and January 20, 2000. Injuries to youth included fractures and suspected fractures, eye injuries and serious lacerations requiring sutures.

103. A United States expert found that 26% of the youth at JJJC had been traumatically injured in the ten-week period immediately preceding the expert tour in January, 2000, and 21 youth had suffered two or more injuries in this period.

104. JJJC staff place “hits” on Plaintiffs whom staff want to punish or threaten for reporting abuse. Staff “hire” other youth by providing them with contraband and/or privileges and by creating other incentives for youth to beat up or intimidate other youth.

Abusive and Arbitrary Disciplinary Practices: Summary Punishment

105. Defendants have knowingly subjected, and continue to subject, Plaintiffs to an arbitrary and punitive disciplinary system and demonstrate deliberate indifference to the harm suffered by Plaintiffs as a result of these abusive and demeaning practices.

106. Defendants knowingly permit staff to engage in a series of abusive and demeaning

disciplinary practices which include: ordering youth to lie on the ground with their hands behind their back, feet in the air and heads up for extended periods; forcing youth to wiggle across the cold concrete on their bellies; forcing youth to squat naked with their buttocks apart for long periods of time during the conduct of searches; removing clothing and mattresses as punishment; and, placing painful arm bars on youth in order to make them stand in the corner. Yet other children have been placed face down in their cells totally naked, while suffering the indignity of being photographed. This painful and degrading summary punishment is unconstitutional as applied and causes Plaintiffs to suffer physical, emotional and psychological harm.

107. Defendants knowingly deprive the youth of the due process disciplinary hearings to which they are entitled by employing these abusive and arbitrary practices as means of summary punishment.

108. Defendants use write-ups or disciplinary reports in an unfair and arbitrary manner and fail to conduct constitutional disciplinary hearings. Upon information and belief, the vast majority, over 90%, of hearings resulted in youth being found guilty.

109. Where hearings are conducted, they are sometimes held far beyond the 24 hour delay that is set forth in the IA and DPSC regulations. As a result, Plaintiffs suffer unnecessary and excessive periods of lockdown.

110. Defendants knowing and arbitrary disciplinary practices, such as over-ticketing, lead to excessive punishment for Plaintiffs, including lockdown and isolation. These practices are especially harmful for youth with mental illnesses or developmental disabilities.

Inadequate Investigations of Allegations of Abuse and Violence

111. Defendants fail to adequately investigate complaints of abuse and violence by

guards and demonstrate deliberate indifference to Plaintiffs' safety and well-being. Consequently, youth are threatened with retaliation and have no faith in the system of investigation and continue to be at risk of further harm.

112. Defendants have knowingly maintained inoperative telephone lines for PZT for periods of time and failed to list the proper phone numbers of class counsel thereby thwarting efforts by Plaintiffs to report abuse and impeding their access to courts.

113. The DPSC Project Zero Tolerance ("PZT") is so ineffective that many incidents of abuse go unreported. When reports are made, the perception by many youth is that the only reason for the PZT program is to charge the youth with "adult charges" and to "send them to parish" (i.e. refer them to the local District Attorney for criminal prosecution). While there have been over 500 PZT and documented allegations of staff on youth abuse in the fourteen months that the JJJC has been open, it is unlikely that many of the actual incidents have been reported due to inadequacies in the reporting system.

114. Where Defendants have conducted PZT investigations, there is evidence of bias in the investigations. Upon information and belief, since the opening of the facility, over 350 staff-on-youth investigations were completed with only 22 substantiated abuse allegations; however, of the approximately 150 youth-on-staff investigations, 90% were substantiated.

115. The November, 1999 mass gassing at JJJC illustrates the bias of the investigator. The PZT investigator was in the actual chain of events leading to the gassing and, upon information and belief, even ordered the gassing of a dormitory. Notwithstanding the obvious and inescapable conflict, this same investigator found no problems in the events and not surprisingly found no fault in the actions that night. This same investigator failed to address the fact that

juveniles had been without clean clothes for an extended period of time and had been subjected to group punishment prior to the gassing. This same investigator also found no fault in a major gassing of five youth in the face when the youth were lying compliant, with little or no clothing, on the cold concrete floor.

Inadequate Mental Health Care

116. Defendants have failed, and continue to fail, to provide Plaintiffs with adequate mental health care demonstrating deliberate indifference to Plaintiffs' mental well-being.

117. WHC fails to adequately assess and to identify mental health problems among the plaintiff class. This is particularly true with respect to attention deficit hyperactivity disorder which, upon information and belief, affects as many as 40-50% of the plaintiff class. As a result, Plaintiffs who are mentally ill, developmentally disabled, mentally retarded or otherwise mentally disabled suffer physical, psychological and emotional harm.

118. WHC does not routinely coordinate with agencies which had previously dealt with plaintiffs (e.g. schools) to obtain information on problems and treatment received in the past.

119. This failure to properly identify youth with mental illness harms these youth by preventing them from getting adequate care, exacerbating their symptoms, increasing the chance of getting disciplinary tickets for misbehavior and potentially increasing the length of time they remain in custody. Mentally ill youth are also frequent victims of violence, strong-arming, sexual abuse, and use of excessive force by staff.

120. Defendants fail to provide adequate treatment and programming for mentally ill, developmentally disabled, mentally retarded or otherwise mentally disabled youth. Such programs as exist are not individualized and have been in place for only a short time. Idleness and lack of

recreation are still common experiences for Plaintiffs.

121. WHC has failed to implement programs to train staff in the signs and symptoms of mental illness, suicidal behavior, retardation or other developmental disabilities. WHC has also failed to train and implement other procedures to ensure that security officers use non-physical techniques to de-escalate confrontations.

122. Defendants' fail to ensure proper management of medications as prescribed. Several members of the plaintiff class are receiving psychotropic medication for treatment of mental illness. WHC fails to adequately monitor these medications and fails to provide related tests (e.g. liver functioning) to monitor the effects of these drugs. As a result Plaintiffs suffer physical and psychological harm.

123. Defendants' selection of medications to be given to youth is not designed to provide optimal treatment. WHC does not use up-to-date medications that can effectively control symptoms without the risk of side effects or abuse. As a result, medications are sometimes not prescribed due to fear of abuse, or youth are given drugs that have a significant potential for serious side effects.

124. Self-mutilation and suicide attempts/gestures are symptoms evidenced by mentally ill youth in the plaintiff class. In some instances youth have mutilated themselves or made suicide gestures in order to be transferred to the medical unit and escape from the dangers of their housing units at JJJC.

125. WHC fails to adequately prevent and treat self-mutilating behavior and has no systematic program in place to care for youth who exhibit this behavior. In fact, WHC knowingly permits punishments for self-mutilating behavior. These punishments include being gassed with

chemical spray, receiving disciplinary tickets, being required to pay for alleged property damage, forcing youth to pose for humiliating and degrading photographs, and/or losing privileges (e.g. use of mattresses, use of the canteen, telephone calls). As a result, Plaintiffs suffer physical and psychological harm.

126. WHC does not adequately supervise youth who have exhibited self-injurious behavior and has not removed known suicide hazards (e.g bars on windows, open electrical outlets, metal shafts in beds) from areas where these youth live, demonstrating deliberate indifference to the safety and well-being of Plaintiffs.

Inadequate Care of and Discrimination Against Mentally Ill & Disabled Youth

127. As a result of Defendants' failure to conduct or provide adequate psychological assessments of Plaintiffs upon admission to JJJC, Plaintiffs who are mentally ill, developmentally disabled, mentally retarded, or otherwise disabled, are incarcerated at JJJC with inadequate mental health care.

128. WHC does not use professionally recognized tools to properly assess a youth's degree of mental retardation and does not routinely maintain a roster that identifies those youth with mental retardation, despite evidence that a significant percentage of the plaintiff class has IQ levels in the retardation range.

129. Defendants failure to provide adequate training and supervision to staff regarding proper handling of Plaintiffs who are mentally ill, developmentally disabled or otherwise disabled impedes Plaintiffs' ability to participate fully in treatment and behavior modification programs.

130. WHC has not adapted its programs and rules to accommodate these youths' level of functioning. For example, WHC does not take a youth's level of retardation into account in

making housing assignments. Program materials and disciplinary procedures are not adapted to youth with limited intellectual and educational abilities.

131. Plaintiffs with mental illnesses or other disabilities are less capable than non-disabled Plaintiffs of responding to Defendants' disciplinary practices and policies in ways acceptable to Defendants. Defendants subject such disabled Plaintiffs to particular injury by repeatedly sending them to lockdown and isolation. Defendants fail to exclude Plaintiffs with mental illness, developmental disabilities and other disorders from the prolonged use of isolation, even when such Plaintiffs are unable to comply with Defendants' demands. Defendants' excessive use of isolation and arbitrary and punitive use of chemical and mechanical restraints are particularly harmful to Plaintiffs with mental illnesses and developmental disabilities and cause unnecessary and wanton infliction of pain on these Plaintiffs.

Inadequate Medical Care

132. Defendants have knowingly failed, and continue to fail, to provide Plaintiffs with adequate medical care and demonstrate deliberate indifference to the medical needs of Plaintiffs.

133. WHC does not adequately assess the medical problems, including immunization status, of youth upon intake at JJJC and, in many instances, fails to secure necessary medical histories and records in order to provide prompt and adequate medical attention. WHC routinely fails to ensure youths' charts are updated with current immunization data.

134. WHC fails to provide basic vaccines (i.e. MMR, varicella, tetanus-diphtheria or polio vaccines) to youth at JJJC.

135. WHC fails to provide adequate medical treatment by ignoring laboratory reports and routinely not referring abnormal findings to physicians for follow-up. For example, upon

information and belief, a youth with a clotting disorder was never checked by the medical authorities at JJJC for this problem.

136. WHC fails to provide sufficient medical staff to ensure adequate treatment.

137. The WHC health care system restricts access to medical care and health services. The nurses' sick call management of serious problems does not meet current accepted standards of clinical care. Upon information and belief, nurses fail to recognize conditions needing urgent evaluation and referral to a physician. Examples of failure to refer youth include: a youth with acute testicular pain, a youth with hypertension, a youth complaining of painful urination, and juveniles exposed to chemical gassing.

138. WHC fails to properly treat and care for youth with chronic conditions demonstrating deliberate indifference to Plaintiffs' medical needs and overall well-being.

139. WHC fails to adequately train and supervise staff in the handling of youth with chronic and/or serious medical conditions thereby causing Plaintiffs with such conditions to suffer physical and psychological pain. For example, a youth with a colostomy had his intestines pushed through the colostomy hole causing significant risk of infection and trauma. Yet another youth with a significant bleeding disorder was bruised by a staff use of force. Blunt trauma is very dangerous to these youths as there is a greater risk of internal bleeding than for other youth.

140. WHC fails to utilize adequate management plans for care and treatment of abnormalities, such as asthma, hypertension, syphilis and ulcers; as a result of defendants' medical failings, youth are not aggressively treated and, in some case, their medical conditions worsen.

141. Defendants provide substandard treatment for ulcers causing Plaintiffs with such conditions to suffer harm. The standard of care requires treatment for H. pylori bacteria with

three or more drugs. Upon information and belief, the physician at JJJC has treated a youth with only one drug for this infection in violation of the standard of care. There has also been a failure to refer these ulcer patients to an appropriate specialist. Bleeding ulcers are a life threatening condition and need aggressive and appropriate care.

142. Defendants provide substandard medical care for asthmatic youth at JJJC causing Plaintiffs with such conditions to suffer harm. Upon information and belief, peak flow meters are not used to monitor disease activity even though the devices are available at JJJC and oral steroids are prescribed instead of inhaled steroids, which is not the standard of care for asthma. Obsolete medical management of asthma is further indicated by the continued use of theophylline as a chronic maintenance drug; theophylline drug levels are not monitored to prevent toxicity.

143. WHC fails to distribute medications as prescribed. For example, upon information and belief, antibiotics are given for too short of a time to be effective and some medications that should be prescribed three or four times a day are given only twice a day. Chronic medication orders are not routinely renewed before they run out and some medications are being dispensed at the convenience of staff, rather than the proper times for the type of medication. Upon information and belief, the JJJC physician has used antibiotics in situations where there is not evidence of treatable bacterial infections.

144. Defendants fail to provide adequate health care to youth in lock down and isolation. In lock down areas, security staff control access to medical care. Upon information and belief, in Falcon-A and -B lockdown units, no mechanism for confidential requests exists as sick calls must go through security staff. Youth must ask for pencil and paper to write their requests and then must turn in the requests to the security staff to be placed in the sick call box. Any

officer can thwart the sick call process merely by denying pencil or paper or by refusing to place the slip in the box.

145. Defendants' disciplinary customs and policies prevent Plaintiffs from receiving adequate medical care by discouraging Plaintiffs from reporting illnesses. Youth can be written up and punished for merely seeking sick call. Contrary to medical ethics, a nurse may punish a youth for seeking emergency sick call if the nurse decides that the problem was "not serious enough." Consequently, Plaintiffs are reluctant to seek treatment, and often do not seek medical assistance until a condition has worsened, to their physical and psychological detriment.

Inadequate Vision and Hearing Treatment

146. WHC fails to provide adequate vision screening or follow-up care for those youth that exhibit abnormal screens at the Juvenile Reception and Diagnostic Center (JRDC). Upon information and belief, only youth with 20/50 or worse vision are referred for further evaluation; only about six youth per year have been referred for further vision evaluation; and, few or no youth received necessary prescriptive glasses. As a result, Plaintiffs with vision impairments have suffered harm.

147. WHC fails to provide hearing screening or adequate hearing examinations for Plaintiffs. Youth that fail the JRDC hearing screen are supposedly referred to the JJJC physician for additional testing. However, upon information and belief, the physician has not referred any youth for further evaluation. As a result, Plaintiffs with hearing impairments have suffered harm.

Inadequate Dental Care

148. Defendants have failed, and continue to fail, to provide Plaintiffs with constitutionally adequate dental care and demonstrate deliberate indifference to Plaintiff's medical

and dental needs.

149. Existing dental treatment needs are not adequately identified by WHC, consequently, Plaintiffs' dental needs go uncorrected. WHC fails to provide Plaintiffs with preventative dental treatment, routine dental services and restorative care. WHC further fails to provide an effective system of follow-up treatment causing Plaintiffs to suffer harm.

Inadequate Substance Abuse Treatment

150. JJJC was envisioned as a substance abuse treatment facility; however, WHC fails to provide Plaintiffs with adequate substance abuse treatment and demonstrate deliberate indifference to the serious medical and psychological needs of Plaintiffs. Many members of the plaintiff class have a history of substance abuse and, in some instances, the courts that committed them to DPSC have recommended that they receive treatment for substance abuse problems.

151. WHC has failed to acquire sufficient staff to provide adequate substance abuse treatment. Currently, there is only one certified substance abuse counselor for the population of 276 youth. There is no active assessment program to identify youth in need of substance abuse treatment or to identify and monitor drug usage within the facility.

152. Only a fraction of the youth who are in need of substance abuse treatment actually participate in any sort of programming. The limited substance abuse groups that may exist are held infrequently, use materials that are unsuited for the educational level for this population, and are too large for effective results to occur. Youth are often unable to attend the group sessions because the sessions are scheduled at times that conflict with other events (e.g. meals) or because staff fail to transport them to the meeting site. Other forms of substance abuse treatment (e.g. self-help groups) are non-existent.

153. Youth who are near their release date do not receive release planning; WHC does not coordinate with community services to establish after-care plans for substance abuse treatment.

Inadequate Rehabilitative Programming & Denial of Access to Families

154. Defendants have failed, and continue to fail, to provide Plaintiffs with adequate rehabilitative services, including unreasonably restricting access to families, and demonstrates deliberate indifference to the treatment needs of Plaintiffs.

155. Despite a high incidence of specific rehabilitative needs among Plaintiffs, Defendants fail to provide individualized counseling services, therapeutic substance abuse treatment, family counseling, sexual victimization or sexual offender treatment, or transitional services or after-care. When youth are not in school, there is often nothing planned or programmed for the youth at JJJC. There is not any vocational training or other systematic programming to occupy the youth. Upon information and belief, lack of programming and idleness is a contributing factor to the violence at the facility.

156. Little or no recreational items exist in the dormitories or on the cell blocks. Some of the youth can not read and thus are deprived of even this diversion. Often home-made gambling paraphernalia constitutes the only way of breaking the boredom. Upon information and belief, gambling is often a cause of “kicking out” or strong-arming.

157. Defendants fail to provide a rehabilitative living environment for youth confined in cell blocks at JJJC. When living in a cell block, youth spend much of their day locked down behind locked cell doors. Youth in these cell blocks eat their meals in the cells and spend large amounts of time in lockdown or isolation conditions. Excessive isolation is detrimental to the

mental health of youth demonstrating WHC's deliberate indifference to the psychological and emotional needs of Plaintiffs.

158. Defendants unreasonably restrict Plaintiffs' ability to maintain contact with their families. The remote location of JJJC places unreasonable and unnecessary burdens on Plaintiffs and their families, particularly in terms of expense of telephone calls (which must be made collect) and the difficulty of visitation. Defendants make no provisions to assist families to visit regularly. When Plaintiffs' families are able to visit, Defendants unreasonably limit the number of visitors Plaintiffs may have and the hours during which visits may occur.

Denial of Basic Needs: Nutrition, Privacy, Clothing and Laundry

159. Defendants fail to ensure that Plaintiffs receive an adequate diet with sufficient nutritional value to preserve health. The lack of sufficient nutritional meals is particularly injurious for the physical and mental development of adolescents such as Plaintiffs.

160. Defendants fail to provide Plaintiffs with privacy during use of the bathroom facilities. Most of these youth are in their developmental years and many of the youth are mentally ill or have developmental disabilities. An expert for the United States found that it was inappropriate and harmful to force these youth to be unclothed in front of each other and in front of numerous female staff.

161. Defendants fail to provide adequate clothing, shoes, and linens. Consequently, Plaintiffs must regularly wear dirty, worn and/or ill-fitting clothes, sometimes for several days at a time. Children were observed by experts for the United States without shirts and without shoes, in dirty clothing and wearing clothes that did not fit.

162. WHC policies and practices fail to protect the clothing or property of the youth

who are taken to lockdown; as a result the youth's clothing and/or property is frequently stolen by other youth. Upon information and belief, youth without clothing often do not leave their housing area and therefore are not attending school. This failure is directly attributable to the indifference of WHC to provide for the basic needs of the youth in their custody.

163. Bed linens are filthy and in short supply. Often children struggle over the laundry in an attempt to get a sheet from the mass of laundry. Upon information and belief, the laundry facility is of insufficient size to support a facility of 276 youth.

164. Defendants are deliberately indifferent to the physical and psychological harm that results when Plaintiffs are subjected to fights due to lack of clothing. Clothing becomes a prized asset and stealing of clothes becomes the only method of obtaining this basic human need. The smaller and more fragile children are often at greater risk of harm under these circumstances.

Lack of Access to Counsel and Courts

165. Defendants fail to provide youth at JJJC with resources to allow them adequate access to the courts for legal redress. By denying meaningful access to the courts to Plaintiffs, Defendants subject them to excessively lengthy periods of incarceration and foreclose any means of legal redress of the extensive harm caused by their stay at JJJC.

166. Defendants improperly restrict Plaintiffs' access to the courts and interfere with the attorney-client relationship by unreasonably restricting communication between Plaintiffs and their counsel. For example, Defendants do not permit a youth to call an attorney unless the attorney's phone number is on the youth's calling list. Defendants unreasonably delay or otherwise impede the placement of attorneys' numbers on Plaintiff's calling lists, thereby depriving access to counsel. JJJC staff also interferes with Plaintiffs' access to courts by improperly questioning

Plaintiffs when Plaintiffs meet with their counsel.

167. Defendants knowingly harass, intimidate and retaliate against youth who wish to exercise their constitutional right to access to courts and counsel by meeting and communicating with their attorney.

Necessity for Injunctive Relief; No Adequate Remedy at Law

168. Defendants have acted and continue to act in violation of the law, as described herein. Plaintiffs do not have an adequate remedy at law. As a proximate result of the policies, practices, acts, and omissions of Defendants, Plaintiffs have suffered and continue to suffer serious and irreparable physical, psychological, mental, and emotional injuries. Plaintiffs have no plain, adequate, or complete remedy at law to redress the wrongs described herein. Defendants have acted and continue to act in violation of the law, and Plaintiffs will continue to suffer irreparable injuries from the conditions of confinement at JJJC and Defendants' policies, practices, acts, and omissions unless this Court grants the injunctive relief requested by Plaintiffs.

Knowledge of Defendants: Deliberate Indifference

169. Defendants have actual knowledge of the unconstitutional conditions at JJJC conditions and the risks of irreparable harm to Plaintiffs through, for example, personal observation of these conditions, documents produced by JJJC employees and available to defendants, participation in and knowledge of the IA, reports generated by USDOJ, reports by the Court expert in *Williams v. McKeithen*, correspondence to defendants and/or their counsel, and by ARP's filed by members of plaintiff class. WHC are and were well aware of all of the facts asserted by USDOJ experts and much of the factual material comes directly from WHC files.

170. Defendants are deliberately indifferent to the constitutional rights of plaintiff class

and the risk of irreparable harm in that despite repeatedly being informed of the ongoing conditions at JJJC, defendants persistently fail to rectify these conditions.

171. At all times pertinent hereto WHC was acting under color of state law in that it was operating JJJC under contract with DPSC. The individual defendants were similarly acting under color of state law in that all were employees of WHC acting within the course and scope of their employment at JJJC.

Causes of Action

172. Plaintiffs hereby incorporate by reference all of the above factual allegations in paragraphs 1 to 171 to support the following claims:

Count I

173. The conditions of confinement at JJJC and Defendants' policies, practices, acts, and omissions complained of herein, constitute punishment and subject Plaintiffs to denial of due process of law, in violation of Plaintiffs' constitutional rights under the Fourteenth Amendment to the United States Constitution.

Count II

174. The conditions of confinement at JJJC and Defendants' policies, practices, acts, and omissions complained of herein, are a substantial departure from accepted professional judgment, standards, and policies, and thereby subject Plaintiffs to denial of due process of law, in violation of Plaintiffs' constitutional rights under the Fourteenth Amendment to the United States Constitution.

Count III

175. The conditions of confinement at JJJC and Defendants' policies, practices, acts,

and omissions complained of herein, violate Plaintiffs rights to freedom of speech and association, privacy, and meaningful access to the courts and counsel, in violation of Plaintiffs' rights under the First, Fourth, Sixth, and Fourteenth Amendments to the United States Constitution.

Count IV

176. The conditions of confinement at JJJC and Defendants' policies, practices, acts, and omissions complained of herein, and Defendants' deliberate indifference to those conditions and their effect on plaintiff class, constitute cruel and unusual punishment in violation of Plaintiffs' constitutional rights under the Eighth and Fourteenth Amendments to the United States Constitution.

Count VI

177. Defendants' policies, practices, acts, and omissions complained of herein, and in particular Defendants' failure to provide adequate psychological assessments, care, and treatment to Plaintiffs with mental illness, mental retardation, and other disabilities, discriminates against Plaintiffs and punishes them solely by reason of their disability, in violation of the Eighth Amendment and Fourteenth Amendments to the United States Constitution, Section 504, and the ADA.

Count VII

178. As a result of the policies, practices, acts and omissions of defendants as described above, the plaintiff class has and will continue to suffer serious and irreparable physical, mental and emotional injuries and disabilities. The conditions described herein are so serious, harmful, persistent and pervasive as to violate these rights and to warrant relief from this Court.

Prayer For Relief

WHEREFORE, Plaintiffs respectfully pray that this Court:

1. Assume jurisdiction over this action.
2. Permit the named Plaintiffs to proceed in pseudonym.
3. Appoint Mrs. Ernestine Williams as Guardian ad litem for Minor Plaintiffs.
4. Certify this case as a class action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure.
5. Declare that Plaintiffs have exhausted available administrative remedies or that there is no available administrative remedy.
6. Issue a declaratory judgment pursuant to 28 U.S.C. Sections 2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure, that the conditions of confinement at JJJC, and the policies, practices, acts, and omissions complained of herein:
 - (1) constitute punishment and subject Plaintiffs to denial of due process of law, in violation of Plaintiffs' constitutional rights under the Fourteenth Amendment to the United States Constitution;
 - (2) are a substantial departure from accepted professional judgment, standards, and policies, and thereby subject Plaintiffs to denial of due process of law, in violation of Plaintiffs' constitutional rights under the Fourteenth Amendment to the United States Constitution;
 - (3) violate Plaintiffs rights to freedom of speech and association, privacy, and meaningful access to the courts and counsel, in violation of Plaintiffs' rights under the First, Fourth, Sixth, and Fourteenth Amendments to the United States Constitution;
 - (4) constitute cruel and unusual punishment in violation of Plaintiffs' constitutional rights

under the Eighth and Fourteenth Amendments to the United States Constitution;

(5) discriminate against Plaintiffs with mental illness, mental retardation, and other disabilities, and punish them solely by reason of their disability, in violation of the Eighth Amendment and Fourteenth Amendments to the United States Constitution, Section 504, and the ADA.

7. Issue preliminary and permanent injunctions restraining and prohibiting Defendants from confining any Plaintiffs in JJJC unless and until Defendants provide all of the following:
 - (1) adequate and effective policies and practices that ensure that Plaintiffs will not be subjected to use of excessive force by staff;
 - (2) adequate and effective means for Plaintiffs to report incidents of use of excessive force by staff, without fear of retaliation by JJJC staff or anyone else;
 - (3) adequate and effective investigations of reports of use of excessive force by staff, including investigations by adequately experienced, knowledgeable, and trained individuals; follow-up on all reports of use of excessive force by staff; and discipline and other sanctions for staff who use excessive force on Plaintiffs, coerce witnesses, or file false reports in connection with allegations of abuse;
 - (4) an adequate and effective monitoring system to ensure supervision and accountability of staff with respect to the use of excessive force, including an adequate and effective video monitoring system;
 - (5) adequate and effective measures to protect Plaintiffs who report staff abuse;
 - (6) termination of the use of mace, pepper spray, and any other chemical restraints at JJJC;
 - (7) adequate and effective policies and practices to ensure that staff at JJJC use handcuffs,

shackles, and other mechanical restraints only in extraordinary circumstances, when individual Plaintiffs are completely out of control and a physical danger to themselves, other Plaintiffs, or staff, and staff have exhausted all other means to bring Plaintiffs back under control; that staff use such mechanical restraints only so long as the individual Plaintiffs are out of control, and staff remove the restraints as soon as the individual Plaintiffs are back in control or are returned to their rooms; that staff may use mechanical restraints for security purposes in moving individual Plaintiffs to locations outside of JJJC such as hospitals; and that all incidents in which staff use mechanical restraints are documented by the staff directly involved and reviewed by the Superintendent;

(8) adequate and effective policies and practices to ensure that staff at JJJC use isolation to control behavior only when individual Plaintiffs are out of control and a physical danger to themselves, other Plaintiffs, or staff, and staff have exhausted all other means to bring Plaintiffs back under control; that staff use isolation only so long as the individual Plaintiffs are out of control, and staff release Plaintiffs from isolation as soon as the individual Plaintiffs are back in control; that any Plaintiff held in room isolation for more than two hours will be interviewed by medical or mental health staff; that staff may use room confinement as a sanction as part of an adequate disciplinary system that includes full due process protections for Plaintiffs; and that all incidents in which staff use isolation are documented by the staff directly involved and reviewed by the Superintendent;

(9) an adequate and effective disciplinary system that includes full due process protections for Plaintiffs prior to receiving sanctions for conduct;

(10) adequate and effective policies and practices to ensure that staff do not engage in

abusive and demeaning practices toward Plaintiffs, including yelling, cursing, using racial epithets, requiring Plaintiffs to perform abusive and demeaning physical acts, and requiring Plaintiffs to perform tasks to benefit staff such as washing staff cars;

(11) adequate and effective policies and practices to ensure that staff do not engage in sexual activities with Plaintiffs or otherwise sexually abuse Plaintiffs;

(12) adequate and effective policies and practices to ensure that staff conduct strip searches on Plaintiffs only when justified by legitimate security concerns;

(13) adequate staffing levels in the living areas at JJJC sufficient to protect Plaintiffs from risk of harm;

(14) a system to adequately classify Plaintiffs according to legitimate security and safety needs;

(15) adequate pre-hiring screening, monetary compensation, pre-service and in-service training, and supervision of staff at JJJC;

(16) adequate mental health services for Plaintiffs, including adequate assessments upon admission, sufficient numbers of qualified mental health professionals at the facility, treatment plans for youth with mental health needs, individual counseling by mental health professionals, group counseling by adequately trained staff, adequate consultation for Plaintiffs who are suicidal or homicidal or who are held for extended periods in isolation, adequate training for staff to care for Plaintiffs with mental health needs, and preventive measures to remove dangers to Plaintiffs with mental health needs from JJJC's physical structures;

(17) adequate medical services for Plaintiffs, including sufficient numbers of qualified

medical professionals and other staff at the facility to provide timely medical treatment to Plaintiffs with medical needs, adequate monitoring of Plaintiffs who take medications, adequate training for JJC staff to recognize and respond to health problems of Plaintiffs, elimination of penalties such as “tickets” for Plaintiffs who report illnesses or injuries, adequate vision and hearing examinations and treatment, adequate dental examinations and appropriate treatment;

(18) a nutritionally adequate diet for Plaintiffs, including sufficient quantities of food for adolescent males, availability of milk at each meal, and availability of fresh fruit and vegetables on a regular basis;

(19) physical changes in Phase I dormitories to provide Plaintiffs with privacy in showers and when using toilets;

(20) effective means of controlling temperature in the dormitories and keeping it at a reasonably comfortable level, particularly during the summer months;

(21) adequate and effective sanitation in the facility and availability of basic hygiene supplies, adequate clothing and shoes, and adequate laundry services;

(22) adequate exercise and recreation, particularly on weekends;

(23) adequate rehabilitative treatment, including therapeutic substance abuse treatment, family counseling or intervention to promote the stability of the family and transition back to communities, sexual victimization and sexual offender treatment, and transitional services or aftercare;

(24) meaningful confidential access to attorneys or other persons trained in the law and an accessible and meaningful administrative remedy procedure;

- (25) facilitation of telephone calls to, and visits from, Plaintiff's families.
8. Order Defendants to develop and implement a comprehensive plan for the correction of the unlawful policies, practices, acts and omissions complained of herein and to submit this plan to the Court and to the attorneys for Plaintiffs for review.
 9. Appoint a Special Officer to review and insure implementation of the plan to be submitted by Defendants and to protect the rights of Plaintiffs during the pendency of this action.
 10. Retain jurisdiction over Defendants until such time as the Court is satisfied that their unlawful policies, practices, acts and omissions complained of herein no longer exist and will not recur and all orders of this Court have been fully implemented.
 11. Grant an award of attorneys' fees and costs, in an amount to be determined by the Court in accordance with Local Rules, under 42 USC 1988, together with legal interest thereon from the date of judgment until paid.
 12. Order such other general and equitable relief as allowed by law, and that Defendants be taxed with all costs of these proceedings.

Respectfully submitted this 3rd day of April, 2000.

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