



JI-NY-002-001

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOAN DARATSAKIS, PAULETTE CLECKLEY, :
 THERESA HORTON and VIRGIL REGIS by :
 their next friend and attorney CHARLES :
 SCHINITSKY, on behalf of themselves :
 and all others similarly situated, :
 :
 Plaintiffs, : 76 Civ. 3218
 (IBW)
 -against- :

J. HENRY SMITH individually and as : INTERIM CONSENT
 Administrator of the Human Resources : ORDER
 Administration and as Commissioner of :
 the Department of Social Services of the :
 City of New York; CAROL PARRY, individu- :
 ally and as Assistant Commissioner of :
 Special Services for Children for the :
 Department of Social Services of the :
 City of New York; ROBERT K. DAVIS, in- :
 dividually and as Director of the :
 Bureau of Institutions and Facilities :
 for the Department of Social Services :
 of the City of New York; PAULINE PHILLIPS :
 individually and as Director of Children's :
 Center, :
 Defendants. :

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Upon the motions of the plaintiffs for a preliminary injunction and class action certification and upon the consent of the plaintiffs and defendants, it is hereby ordered that:

(A) This action may and hereby shall be maintained by plaintiffs as a class action on behalf of all children who are in placement at or remanded to or are subject to placement at or remand to Children's Center as "Neglected children", "Abused children", "Voluntarily Placed children", or "Persons In Need of Supervision", as defined by the Family Court Act of the State of New York.

(B) Defendants shall be preliminarily enjoined to:

(1) close Children's Center on or before July 31, 1977.

(2) use their best efforts to place all present and future residents as expeditiously as possible in their own homes or in suitable alternate facilities and homes.

(3) refer to placement any mentally retarded resident to suitable "off-city-bill" facilities within two weeks of the date of entry of this order, and to refer any mentally retarded children placed at or remanded to Children's Center subsequent to the date of this order to appropriate facilities including "city-bill" and "off-city-bill" agencies within two weeks of their admission to Children's Center.

(4) maintain a population at Children's Center not to exceed 50.

(5) make any and all changes in staff necessary to protect plaintiffs from violation of their constitutional right to be free from harm and cruel and unusual punishment.

(6) have at least one staff member present in all spaces at Children's Center at any time when more than one resident is present including but not limited to rest areas wherein such staff member or members shall be awake at all times while on duty.

(7) affix doors to all toilet stalls, and curtains to all showers and bathtubs at Children's Center on or before August 6, 1976.

(8) have no more than six children and no more than six beds in a dormitory or room with beds not less than three feet apart.

(9) upon notice to a person designated by defendants The Legal Aid Society or its duly authorized representatives shall have immediate access to the facility of Children's Center. This access shall include the opportunity to talk briefly with individual staff and children in a free and unhampered manner. Such access shall also

include all records concerning the children residing in Children's Center, including those which concern referrals and placements made, to all incident, accident and behavior reports concerning the children, and to the vacancy reports on facilities operated by defendants and the voluntary child care agencies. On notice the Legal Aid Society or its duly authorized representatives shall be permitted to interview any children designated by the Legal Aid Society.

(10) all records concerning the children residing in Children's Center which may be seen or examined by the Legal Aid Society or its duly authorized representative, pursuant to Paragraph 9 herein, and all information contained therein, shall be maintained as strictly confidential by them, and shall not be shown or divulged to any person (with the exception noted below) unless application is made to the Court for an order permitting them to show or divulge said documents or information, or any part thereof, and such order is granted by the Court.

Such documents and the information contained therein may be used by said counsel solely for the purpose of the instant litigation only with the consent of the Court after notice to the defendants, and shall in no event be used for any other purpose, including but not limited to any commercial or political purposes.

Defendants shall not be required to furnish copies of any document to which access is available pursuant to Paragraph 9, unless ordered to do so by the Court and for the purposes specified in such order.

the Legal Aid Society

(C) Either plaintiffs, or defendants may make applications to the Court concerning the implementation and/or modification of the terms of this order.

William C. Cooney

UNITED STATES DISTRICT COURT JUDGE

Dated: July 30, 1976
New York, New York