

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

S. W., a minor child, by and through
her next friend Brenda Woods,
and all others similarly situated,
c/o Children’s Law Center, Inc.
104 East Seventh Street
Covington, Kentucky 41011,

D.J., a minor child, by and through
her next friend Vera Johnson,
and all others similarly situated,
c/o Children’s Law Center, Inc.
104 East Seventh Street
Covington, Kentucky 41011,

B. F., a minor child, by and through
his next friend Rod Fuller,
and all others similarly situated,
c/o Children’s Law Center, Inc.
104 East Seventh Street
Covington, Kentucky 41011,

Plaintiffs,

V.

THOMAS STICKRATH,
Director of the Ohio Department
Of Youth Services,
In his official capacity only,
51 North High Street
Columbus, Ohio 43215,

Defendant

Case No. 2:04-cv-1206
Judge Smith

Magistrate Judge
Terence P. Kemp

SECOND AMENDED
CLASS ACTION
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

I. INTRODUCTORY STATEMENT

1. This is a civil rights class action brought by Plaintiffs on behalf of all juveniles who are now or in the future in the custody or under the supervision of the Ohio Department of Youth Services (“ODYS”). Many of these young people are subject to abusive, inhumane, and illegal conditions, policies, and practices. Defendant is deliberately indifferent to Plaintiffs’ constitutional and legal rights and Defendant’s conditions, policies, and practices at ODYS facilities constitute punishment and a substantial departure from accepted professional judgment, practices, and standards.

2. Plaintiffs bring this action to redress violations by the Defendant, acting under color of state law, of the civil and constitutional rights of Plaintiffs. The conditions at ODYS facilities, and the policies and practices of the Defendant, endanger Plaintiffs’ physical health and safety, threaten Plaintiffs’ emotional and psychological well being, deprive Plaintiffs of adequate programming and education, and deprive Plaintiffs of due process of law.

3. Plaintiffs, individually and on behalf of the Plaintiff class, seek declaratory and injunctive relief against Defendant in his official capacity on the grounds that Defendant has deprived Plaintiffs of their rights secured to them by the First and Fourteenth Amendments of the United States Constitution, as enforced by 42 U.S.C. § 1983, and relevant provisions of federal and state law.

II. JURISDICTION

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

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

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.

8. This court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 to review and decide Plaintiffs' state law claims.

III. VENUE

9. The Southern District of Ohio is an appropriate venue for this action pursuant to 28 U.S.C. § 1391(b) as the acts and events giving rise to the claims herein occurred within the boundaries of the Columbus Division of the Southern District of Ohio.

IV. PARTIES

A. Plaintiffs

10. Each of the named Plaintiffs is a citizen of the United States and is currently either incarcerated in an ODYS facility or under parole to ODYS. Each of the named Plaintiffs is personally subjected to Defendant's conditions, policies, and practices, as set forth herein, and each of the named Plaintiffs suffers actual injury as a result of those conditions, policies, and practices.

11. Each of the named Plaintiffs who is a minor sues through his or her Next Friend, who is their parent or other adult citizen of the State of Ohio.

12. Plaintiff S.W. is a minor female from Dayton, Ohio and was incarcerated at Scioto Juvenile Correctional Facility as of July 23, 2004. The conditions, policies, and practices described in this complaint to which she has been subjected include verbal abuse by juvenile correction officers, excessive use of force by juvenile correction officers, failure of the Scioto staff and the chief inspector to respond to her written grievances, and failure to have her claims of abuse reported to the Ohio State Highway Patrol. S.W. has filed grievances regarding these issues, including an appeal to the Chief Inspector's office.

13. Plaintiff D.J. is a minor female from Cleveland, Ohio and has been incarcerated at Scioto Juvenile Correctional Facility since March 7, 2003. The conditions, policies, and practices described in this complaint to which she has been subjected include inappropriate use of isolation and excessive use of force by a juvenile correction officer, physical abuse by juvenile correction officers, failure to provide adequate dental care, and invasion of privacy. D.J. has filed written grievances regarding these issues, including an appeal to the Chief Inspector.

14. Plaintiff B.F. is a 16 year old male from southern Ohio who has been incarcerated at various ODYS facilities, including Circleville Juvenile Correctional Facility and Ohio River Valley Juvenile Correctional Facility. He is presently housed at Ohio River Valley Correctional Facility. The conditions, policies, and practices described in this complaint to which he has been subjected include excessive use of force by juvenile correction officers, the failure of juvenile correction officers to protect him from physical and sexual abuse by other juvenile inmates, denial of adequate medical care, denial of adequate mental health programming and treatment, denial of adequate educational services, and denial of an adequate grievance process.

B. Defendant

15. Defendant Thomas Stickrath is the director of the Ohio Department of Youth Services. Pursuant to Chapter 121 of the Ohio Revised Code, Defendant Stickrath has full control of all juvenile institutions and programs under The Ohio Department of Youth Services' ("ODYS") administration. ODYS is an agency of the State of Ohio and, pursuant to Ohio Rev. Code § 5130.03, is mandated to control and manage all state institutions or facilities established or created for the training or rehabilitation of delinquent children committed to ODYS. As the director of ODYS, Defendant Stickrath has been personally and directly involved in decisions to establish and maintain the conditions, policies, and practices described in this complaint. Plaintiffs bring this action against this Defendant in his official capacity.

V. CLASS ACTION ALLEGATIONS

16. The named Plaintiffs, pursuant to Federal Rule of Civil Procedure 23(a) and (b)(2), bring this action on behalf of themselves and on behalf of a class of persons defined as:

All persons who are now, or in the future, will be held in the custody or under the supervision of ODYS .

17. The class of Plaintiffs is so numerous that joinder of all members is impracticable, with as many as 1800 youth confined at facilities operated by ODYS on any given day. In addition, there are questions of law and fact common to the members of the Plaintiff class. These include the factual circumstances and the legality and constitutionality of the conditions, policies, and practices under which Defendant confines Plaintiffs at ODYS facilities.

18. Defendant imposed the conditions, policies, and practices challenged in this action on the named Plaintiffs and on the members of the Plaintiff class so that the claims of the named Plaintiffs are typical of those of the class.

19. The named Plaintiffs will fairly and adequately represent the interests of the class. These Plaintiffs possess the requisite personal interest in the subject matter of the lawsuit. They are represented by counsel experienced in class action litigation on behalf of children involving conditions of confinement. Alphonse A. Gerhardstein is currently lead class counsel on three pending class actions and has previously served as class counsel on many civil rights and criminal justice class actions during his thirty year career. The Youth Law Center has litigated on behalf of children confined under abusive and illegal conditions of confinement in federal court in eighteen states over the past twenty-six years. The Children's Law Center has extensive litigation experience in federal and state court on behalf of children. Similarly, Jennifer Kinsley and the firm of Sirkin, Pinales, and Schwartz LLP has extensive experience in civil rights litigation, including class action litigation of behalf of incarcerated juveniles. Finally, the Ohio Justice & Policy Center has also litigated federal class actions relating to conditions of confinement and other civil rights issues arising in state institutions.

20. Defendant has acted and continues to act in a manner generally applicable to the class, thereby making appropriate final injunctive relief and injunctive relief with respect to the class as a whole.

21. The injuries suffered by the named Plaintiffs and the members of the Plaintiff class are capable of repetition, yet may evade review, thereby making class relief appropriate.

VI. FACTUAL ALLEGATIONS

A. Characteristics of the Facilities, System and the Class Population

22. ODYS operates several juvenile correctional institutions, including but not limited to Circleville Youth Center, Cuyahoga Hills Boys School, Indian River School, Marion Juvenile Correctional Center, Mohican Youth Center, Ohio River Valley Youth Center, Scioto

Juvenile Correctional Center, and the Freedom Center. These institutions are state facilities created by the General Assembly under the management and control of ODYS.

23. ODYS Also contracts with a private operator for the management of the Paint Creek youth center. After custody, juveniles are often placed on parole for a period to insure adjustment during reentry to the community.

24. Juveniles who are adjudicated delinquent for committing acts that if committed by an adult would constitute felonies may be committed to ODYS for an indefinite period of time up to and until the child turns 21.

25. Juveniles who have been adjudicated felony delinquents are eligible for placement at juvenile corrections facilities. A felony delinquent is a child at least 12 and less than 18 who has been adjudicated a delinquent child for committing an act that if committed by an adult would be a felony offense. A felony delinquent can also be an adult between the ages of 18 and 21 who is in the legal custody of ODYS and has committed a felonious act while in custody.

26. Juveniles committed to ODYS range in age from 12 to 21. Placement in an institution or community corrections facility may be from several months for as long as several years. The average age of admission in Ohio is 15.9 years.

27. Committed juveniles, by virtue of their age, lack of maturity, and education levels, are often unfamiliar with their legal rights and remedies. In addition, they are often unaware of how to obtain access to the courts or challenge the legality of their commitments, their continued confinement, and institutional practices and conditions that may violate their civil rights.

B. Use of Excessive Force

28. With Defendant's knowledge, and pursuant to official policy and custom, staff at facilities operated by ODYS use physical force on Plaintiffs when such force is excessive, unreasonable, and unnecessary to protect Plaintiffs from injury to themselves or to prevent injury to others.

29. Staff uses physical force in such a way to cause physical pain, emotional harm, and physical injury to Plaintiffs by hitting, choking, gripping, grabbing, twisting, bending, and applying other applications of force on youth when they do not present a danger to themselves or others. Staff invite and heighten confrontation by approaching youth in an argumentative, threatening, and abusive manner.

30. Staff use mechanical restraints, applying 4-point restraints to youth in isolation when the youth are fully in control and compliant and do not pose an imminent threat to themselves or others.

31. In other instances where force may be warranted, ODYS staff unnecessarily apply excessive amounts of force resulting in physical injury and emotional harm to Plaintiffs.

C. Arbitrary and Excessive Use of Isolation and Seclusion

32. Defendant regularly places Plaintiffs in lockdown and isolation for arbitrary reasons and for grossly excessive periods. Defendant routinely places Plaintiffs in isolation for several hours to several days as a disciplinary measure. Defendant also places Plaintiffs in special "isolation" cells, often as an informal disciplinary measure for arbitrary reasons and without providing due process. Some ODYS facilities maintain units that are locked down for 23 hours a day and select youth often spend several months in these units.

33. As a result of continuing policies and practices, Defendant regularly places Plaintiffs in isolation as punishment, for the convenience of staff, or in some instances, instead of therapeutic programming. Defendant does not have a procedure by which qualified professionals determine the need for isolation or the amount of time necessary for isolation. Defendant fails to use isolation only for instances where Plaintiffs pose an immediate threat to the health or safety of themselves or others. Defendant fails to release Plaintiffs from isolation when they have demonstrated that they are in control of themselves. Defendant fails to adequately monitor Plaintiffs in isolation. Defendant fails to provide adequate education, counseling, recreation, or other rehabilitative treatment to Plaintiffs in isolation.

34. Although Defendant has written policies for procedural due process on discipline, in practice Defendant often fails to provide minimum procedural due process protections to Plaintiffs accused of violating institutional rules and facing substantial periods of isolation.

35. Plaintiffs held in isolation experience extreme loneliness, anxiety, rage, and depression, among other potentially debilitating emotional and psychological problems. Defendant fails to ensure that prolonged use of isolation does not have adverse psychological consequences on isolated youth. As a result of Defendant's continuing policies and practices of prolonged isolation, girls suffer from physical injuries, including self inflicted injuries and emotional harm.

D. Arbitrary and Excessive Discipline

36. Defendant subjects Plaintiffs to an arbitrary and punitive disciplinary system.

37. ODYS staff arbitrarily punish Plaintiffs for behavior such as "being argumentative," mopping incorrectly, horse-playing with other children, and "rapping."

38. Defendant's arbitrary practices lead to excessive punishment for Plaintiffs, including increased lockdown and isolation. These practices are especially detrimental for Plaintiffs with mental health problems including mental illnesses. Defendant has failed to adequately train and supervise staff to respond in appropriate ways to Plaintiffs with mental health issues. Excessive and arbitrary isolation are particularly harmful for Plaintiffs with mental health issues, and cause the unnecessary and wanton infliction of pain on these Plaintiffs.

39. Defendant's arbitrary policies and practices also result in additional and extended incarceration.

E. Abusive Violation of Privacy

40. With Defendant's knowledge, and pursuant to official policy and custom, ODYS staff conduct strip searches of youth in their facilities. This practice is abusive and demeaning to Plaintiffs.

F. Inadequate Mental Health Care

41. Defendant is deliberately indifferent to the serious mental health needs of Plaintiffs. A significant number of youth in ODYS have a mental health diagnosis and many of these youth take psychotropic medications. However, other than the provision of crisis intervention services and the dispensing of psychotropic medication, Defendant fails to provide any regular individualized psychiatric treatment, counseling, or psychotherapy to Plaintiffs in need of such services.

42. Defendant fails to provide a continuum of mental health services to meet the needs of Plaintiffs. Defendant fails to maintain adequate mental health records for Plaintiffs. Defendant fails to employ a sufficient number of qualified mental health professionals to counsel and treat Plaintiffs with mental health treatment needs. Defendant also fails to provide adequate

or effective group counseling by trained staff. Defendant fails to adequately train and supervise staff to care for youth with mental health needs.

43. As a result of these failures, Plaintiffs do not receive counseling or other necessary mental health treatment, and their mental condition deteriorates. The result is that Plaintiffs with mental health treatment needs are incarcerated at ODYS facilities without access to adequate mental health care.

G. Inadequate Health Care

44. Defendant is deliberately indifferent to the health needs of the Plaintiffs. Defendant provides medical assessments to Plaintiffs upon admittance, but fails to provide timely access to qualified health professionals when Plaintiffs are in need of health services - and Defendant fails to deliver adequate healthcare services, when those services are provided. Defendant also fails to provide a continuity of medical care and adequate documentation for the care that is provided. Defendant has a history of failing to respond to medical needs in a timely and adequate manner.

45. As a result of Defendant's deliberate indifference, Plaintiffs with health care needs do not receive adequate treatment and suffer physical and emotional harm.

H. Failure to Provide Access to Adequate Education Services

46. Defendant has failed to develop and implement policies and procedures to assure that all Plaintiffs have access to educational services mandated by state and federal law. Defendant's deficiencies include the failure to meet the classroom instructional mandates of state law, to provide an adequate number of teachers to prevent regular cancellation of classes, to provide access to guidance services necessary to Plaintiffs achievement of educational and career planning goals required as a part of their rehabilitation and treatment, and to provide disabled

students with a free and appropriate education, including related and transition services, in accordance with the IDEA and state statutory requirements.

47. As a result of Defendant's failures, Plaintiffs are denied their right to education, are subject to having their incarceration time extended for failure to meet treatment goals, and are denied the opportunity to meaningfully participate in the facility's "level system" and receive the benefits associated therewith.

I. Inadequate Programming

48. Defendant has failed to provide Plaintiffs with adequate programming. Defendant fails to provide any regular structured indoor or outdoor recreation. Furthermore, Defendant fails to provide access to regular large muscle exercise activities. As a result, Plaintiffs suffer from extended periods of force idleness.

J. Failure to Adequately Train and Supervise Staff

49. Defendant has failed to adequately train and supervise staff at ODYS facilities for the usual and recurring situations that they face and Plaintiffs are injured as a direct consequence. The need for more and different staff training is so obvious that Defendant's failure to provide such training amounts to deliberate indifference.

50. As a result of Defendant's failure to adequately train and supervise staff, Plaintiffs suffer from physical and emotional harm and fail to receive treatment consistent with the purposes of their confinement.

K. Failure to Protect from Harm

51. Defendant has endangered Plaintiffs by inadequately training staff for their custody duties, by focusing on the use of force and unreasonable bodily restraints as methods of controlling Plaintiffs, by inadequately supervising staff, by failing to investigate and abate

dangerous conditions, by failing to develop and follow an effective internal review process for reporting policy violations, and by failing to discipline staff appropriately. Defendant fails to protect youth from injury by staff and other youth.

52. Defendant has failed to employ an adequate classification system for housing unit assignments and fail to provide adequate staffing in living areas, thereby endangering the safety and security of Plaintiffs. Staff regularly fail to monitor Plaintiffs who are placed in seclusion, fail to monitor and prevent Plaintiffs from engaging in self-mutilation or other self-injurious behavior, and fail to protect vulnerable girls from injury from other residents.

53. As a result of Defendant's failure to protect youth confined in ODYS facilities from harm, Plaintiffs suffer repeated physical and emotional injuries at the hands of staff and other youth.

L. Failure to Provide Adequate Grievance System

54. Defendant has failed to provide meaningful access to and maintain an adequate grievance system. The grievance policies are not clear and the policies are inconsistent with the grievance forms provided to youth. Grievance forms are not always available and staff interferes with Plaintiffs' access to the grievance system through acts of intimidation and retaliation. Defendant does not timely, if at all, respond to grievances and fails to keep adequate records of grievances filed. Investigations of grievances are inadequate and when responses are provided they rarely are adequately resolved.

55. Grievances alleging use of excessive force or other improprieties by staff are often left in interminable limbo as they are investigated by the Chief Inspector from ODYS' central office. Investigations completed by the Chief Inspector's Office varied widely in quality and accuracy.

56. Plaintiffs are routinely subjected to retaliation from staff for filing grievances or participating as a witness in grievances filed by other youth. Staff retaliate by imposing unjustified discipline, denying earned privileges, denying access to services, and threatening and intimidating youth.

M. Failure to Provide Equal Access to Placements and Services

57. Defendant has failed to provide female Plaintiffs with equal access and services provided to boys committed to the custody of ODYS. Defendant fails to maintain any community correction beds for girls and thus female Plaintiffs are subjected to confinement in more restrictive, more punitive settings than their male counterparts.

VII. EXHAUSTION OF ADMINISTRATIVE REMEDIES

58. Plaintiffs have exhausted all available administrative remedies for the deprivations complained of herein.

**VIII. NECESSITY FOR INJUNCTIVE RELIEF;
NO ADEQUATE REMEDY AT LAW**

59. Defendant has acted and continues 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 Defendant, 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. Defendant has acted and continue to act in violation of the law, and Plaintiffs will continue to suffer irreparable injuries from the conditions of confinement at ODYS facilities and Defendant's policies, practices, acts, and omissions.

IX. KNOWLEDGE OF THE DEFENDANT

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

X. CAUSES OF ACTION

61. Plaintiffs hereby incorporate by reference all of the above factual allegations in paragraphs 12 to 75 to support the following claims:

COUNT I

62. The conditions of confinement ODYS facilities and Defendant's 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

63. The conditions of confinement at ODYS facilities and Defendant's policies, practices, acts, and omissions complained of herein are a substantial departure from accepted professional judgment, standards, and practices, 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, and related sections of the Ohio Constitution.

COUNT III

64. The conditions of confinement at ODYS facilities and Defendant's policies, practices, acts, and omissions complained of herein violate Plaintiffs' right to privacy under the

First and Fourteenth Amendments to the United States Constitution and related sections of the Ohio Constitution.

COUNT IV

65. Defendant's policies, practices, acts, and omissions complained of herein, and in particular Defendant's failure to provide adequate educational services, deprive Plaintiffs of their rights under the Individuals with Disabilities Education Act, and regulations promulgated hereunder, and state law.

XI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

- A. Assume jurisdiction over this action;
- B. Permit the named Plaintiffs to proceed in pseudonym;
- C. Certify this case as a class action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure;
- D. Issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure, that the conditions of confinement at ODYS facilities, 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 right to privacy in violation of Plaintiffs' rights under the First and Fourteenth Amendments to the United States Constitution; and
 - (4) deprive Plaintiffs of their rights under IDEA and state education law;

E. Issue preliminary and permanent injunctions restraining and prohibiting Defendant from confining any Plaintiffs at ODYS facilities unless and until Defendant provides all of the following:

- (1) adequate and effective policies and practices that ensure that Plaintiffs will not be subjected to unreasonable mechanical restraints and use of excessive force by staff;
- (2) adequate and effective means for Plaintiffs to report incidents of use of excessive force, unreasonable restraint or other improprieties by staff, without fear of retaliation by staff or anyone else;
- (3) an adequate and effective monitoring system to ensure supervision and accountability of staff with respect to the use of excessive force, unreasonable restraint, and seclusion;
- (4) adequate and effective measures to protect Plaintiffs who report staff abuse;
- (5) adequate and effective policies and practices to prohibit staff from using handcuffs, shackles, and other mechanical restraints except in extraordinary circumstances, i.e., 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;
- (6) adequate and effective policies and practices to ensure that staff use isolation or seclusion 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 or seclusion only so long as the individual Plaintiffs are out of control; that any Plaintiff held in isolation or seclusion in response to out of control behavior cannot be held longer than one hour without approval from a supervisor; that any Plaintiff held in isolation or seclusion in response to out of control behavior be monitored by medical personnel or health-trained staff every fifteen minutes throughout time in isolation or seclusion; that any Plaintiff held in isolation or seclusion for more than thirty minutes in response to out of control behavior be monitored by a qualified mental health professional, and thereafter once an hour; that any Plaintiff may not be held in isolation or seclusion in response to out of control behavior for longer than four hours;
- (7) an adequate and effective disciplinary system that includes full due process protections for Plaintiffs prior to receiving sanctions for rule violations;

- (8) adequate staffing levels and procedures in the living areas sufficient to protect Plaintiffs from risk of harm;
- (9) a system to adequately classify Plaintiffs according to legitimate security and safety needs;
- (10) adequate pre-hiring screening, pre-service and in-service training, and supervision of staff;
- (11) adequate mental health services for Plaintiffs, including adequate assessments upon admission, sufficient numbers of qualified mental health professionals at the facility; individual counseling by mental health professionals, group counseling by adequately trained staff, adequate consultation for Plaintiffs who are suicidal or who are held for extended periods in isolation or seclusion, adequate training for staff to care for Plaintiffs with mental health needs;
- (12) adequate medical services for Plaintiffs, including adequate assessments upon admission, sufficient number of qualified medical professionals at the facility, adequate consultation and treatment of medical conditions, and adequate training of staff who care for Plaintiffs with medical conditions;
- (13) adequate programming to meet the needs of the class;
- (14) a free and appropriate public education, including, for Plaintiffs with educational disabilities, related and transition services, including identification, screening and assessment at admission, development and full implementation of Individual Education Programs and other records; sufficient numbers of qualified and appropriately trained special education, related services, and transition services personnel; effective methods to assure parental involvement or appointment of surrogate parents; and appropriate notification of parents of their rights and the rights of Plaintiffs; and
- (15) equal access and services for girls as is provided to boys in ODYS custody, including an adequate number of community correction beds;

F. Order Defendant 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 the Plaintiffs for review;

- G. Retain jurisdiction over Defendant until such time as the Court is satisfied that Defendant's unlawful policies, practices, acts and omissions complained of herein no longer exist and will not recur;
- H. Award Plaintiffs the costs of this lawsuit and reasonable attorney's fees; and
- I. Order such additional relief as this Court may deem just and proper.

Respectfully submitted,

s/ Alphonse A. Gerhardstein
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