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UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

US DISTRICT COURT  
HARTFORD CT

EMILY J., ET AL. : NO. 3:93CV1944 (RNC)  
V. :  
JOHN G. ROWLAND, ET AL : JUNE 24, 2002

*Lip*

STIPULATED AGREEMENT REGARDING  
NON-MENTAL HEALTH ISSUES

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## I DEFINITION SECTION

As used in this Stipulated Agreement, the following terms shall have the  
following meaning unless specifically stated otherwise:

1. "Detention Center(s)": one of the 3 centers located at the following addresses: 920 Broad St., Hartford, CT; 784 Fairfield Ave., Bridgeport, CT, 239 Whalley Ave., New Haven, CT. In the event that the address of any of these centers changes during the period when this Agreement is in effect, the terms of this agreement will apply to the new center, unless otherwise specified herein.

2. "Defendants" for purposes of this Stipulated Agreement are the Governor of the State of Connecticut, the Chief Court Administrator, the Executive Director of the Court Support Services Division, and the Supervisors of the Bridgeport, New Haven, and Hartford Juvenile Detention Centers. This Stipulated Agreement does not include the Defendants Commissioner of the Department of Children and Families or the  
Commissioner of the Department of Education.

3. "LEA" is the Local Educational Authority.

4. "CSSD" is the Court Support Services Division of the Judicial Branch.

5. "Laws of the State of Connecticut" consist of state constitutional provisions, statutes, judicial decisions, Rules of Court as promulgated by or issuing from the State of Connecticut judicial, executive or legislative branches, and regulations of administrative agencies other than those agencies party to this lawsuit.

6. "Genuine Emergency": any special circumstances, or combination thereof, under which it is reasonable to conclude that there is any actual or presumptive threat to either (a) the security and order of a detention center, or (b) the safety of the staff, youth or other person(s) within a detention center or (c) threat to the safety of the community related to activities within the detention center.

7. "Temporary Suspension": 15 consecutive days or less.

8. "Permanent Suspension": more than 15 consecutive days.

9. "ACA" means the American Correctional Association.

10. Effective Date: Except as otherwise provided, the obligations of the state defendants to perform the terms and conditions of this Stipulated Agreement shall become operative upon approval by this Court pursuant to federal rules pertaining to class actions.

## II. BACKGROUND

11. This Stipulated Agreement is made and entered into by the parties in order to resolve issues raised by the party plaintiffs' class in Plaintiffs' Motion for Enforcement, Extension and Modification of the Consent Decree dated December 28, 2001.

12. Plaintiffs filed an Amended Complaint, by and through their next friends, on October 25, 1993 alleging that certain conditions and practices in the Detention Centers were unlawful. The Court certified a class on January 14, 1994 consisting of all youth confined in the Detention Centers at that time and who may in the future be confined in

the Detention Centers.

13. A Consent Judgment (Document #176) was approved by this Court on February 6, 1997 and became effective March 8, 1997. In order to acknowledge that defendants have accomplished many of the original objectives of that Consent Judgment, and in order to allow the defendants to focus on improving five main areas of the original Consent Judgment as outlined below, the plaintiffs and defendants have agreed to substitute this Stipulated Agreement for the original Consent Judgment entered into on February 6, 1997, excluding provisions relating to mental health and the monitoring of those provisions. Throughout the life of the original Consent Judgment, the Judicial Branch, the Monitor, and the plaintiffs have worked cooperatively in an effort to accomplish all of the provisions of the Judgment. Given the magnitude of the original Judgment, the Judicial Branch has made great progress toward improving the Detention Centers. As a result of their efforts, it is now possible to set aside the original Judgment, except as otherwise provided in the Joint Corrective Action Plan and the Court's Order approving such plan. However, the parties recognize that maintaining and furthering these achievements is desirable. This Stipulated Agreement is entered into with the further understanding and cooperation of all parties directed towards further improving conditions and programs within the Judicial Branch's three Juvenile Detention Centers.

14. The parties to this Stipulated Agreement agree and represent that this Stipulated Agreement is fair, reasonable, and adequate to protect the interests of the class in accordance with Rule 23, Fed.R.Civ.P.

15. The parties and the Court acknowledge that the provisions of this Stipulated Agreement are not to be construed as a Consent Judgment nor do the parties intend it to be construed as such. It does not operate as an adjudication of the merits of this litigation.

16. This Stipulated Agreement is binding on all class members and on the defendants, their successors in office, agents, and employees.

### III. GENERAL PROVISIONS

17. Nothing in this Stipulated Agreement shall require or permit the defendants to violate the laws of the State of Connecticut. If there is any conflict between the defendants' obligations under this Stipulated Agreement and the laws of the State of Connecticut, then the defendants may follow the laws of the State of Connecticut. In the event that the defendants do so, the plaintiffs may opt to litigate the claims raised in this lawsuit. If the plaintiffs exercise this option, then the defendants are relieved of all obligations under this Agreement and the Agreement entered pursuant hereto shall be vacated.

18. The provisions of this Stipulated Agreement are the result of lengthy and careful negotiation among all the parties. They have been agreed upon solely as a means to put a reasonable end to the issues raised in the Plaintiffs' Motion for Enforcement, Extension and Modification of the Consent Decree, dated December 28, 2001, and to avoid the costs, time and risks which would be involved for both parties. The Agreement embodies a compromise of the issues involved in this case and, while its provisions are

binding on the parties herein, its provisions are not to be construed to be statements, rulings, or precedents with respect to the constitutional and other legal rights of persons who are parties or nonparties to this litigation in this or any other action.

19. The provisions of this Agreement may be suspended or modified in part or in its entirety if the Executive Director of CSSD determines that a "genuine emergency" exists at a Detention Center. If a "genuine emergency" lasts longer than twelve hours, the Executive Director of CSSD shall report, within forty-eight hours, except for good cause, to plaintiffs' counsel, a) the date of the emergency, b) the nature of the emergency, and c) what provisions of the ~~Judgment~~ <sup>Agreement MSC</sup> were suspended and/or modified and how they were suspended and/or modified. Population increases alone and overcrowding shall not constitute a "genuine emergency".

20. The provisions of this Stipulated Agreement can be "temporarily suspended," "permanently suspended" or modified for a specific youth by defendants when, in the opinion of the Executive Director of CSSD, disciplinary or security reasons require such action. In the event any temporary suspension continues beyond three (3) business days, then the defendants shall report such fact to plaintiffs' counsel. Any "permanent suspension" or modification of the provisions of this Agreement for specific youth must be reported to class counsel.

21. Nothing in this Stipulated Agreement shall be construed so as to affect or limit the authority of Connecticut courts or the Judicial Branch to commit youth to juvenile detention centers.

22. Defendants shall notify all relevant staff of the provisions of this Stipulated Agreement. Counsel for plaintiffs may meet with youth in each detention center to describe its terms. Defendants shall make available copies of this Agreement to appropriate probation staff and, upon request, to counsel for any youth in each detention center.

23. The parties agree that all rights and obligations created by this Stipulated Agreement shall terminate and no longer be enforceable without the need for any further order of the court three years from the effective date of this Agreement, and that after that time, the Court's jurisdiction over this matter shall end, and the Court will have no jurisdiction to enforce the Agreement.

24. The parties will jointly request that the Court enter an Order of Dismissal with prejudice, pursuant to Rule 41(a)(2), Federal Rules of Civil Procedure, and that the terms of this Stipulated Agreement be incorporated into such Order. The parties agree that, after the Court issues this Order and Stipulated Agreement, the Court has inherent authority to enforce the terms of settlements of civil actions that have been incorporated into the court's order. Kokkonen v Guardian Life Ins. Co., 511 U.S. 375; 114 S.Ct. 1673 (1994). The parties also recognize that the Federal Court has jurisdiction to enforce a Stipulated Agreement such as this one, Scelsa v City University of New York, 76 F.3d 37, 40 (2d Cir. 1996), if the dismissal order specifically reserves such authority, as the parties so request in this instance.

#### IV. RECREATION AND PROGRAMMING

25. Each detention center supervisor will staff each activity shift (day and evening -- excluding midnight -- shifts) at a level which provides a minimum of one direct care staff position (JDOs, CPOs or assistant shift supervisor) on duty for every eight youth. Staff positions whose primary duties are not direct care and supervision (i.e. transportation, court escort, control center) shall not be included in this staffing. For purposes of this paragraph, occasional deviations for legitimate purposes shall not constitute noncompliance with this Settlement Agreement. The defendants' obligations under this paragraph shall cease and no longer be enforceable as to each center at such time as any of the detention centers receives accreditation from the ACA or when this Agreement terminates in accordance with the provisions of paragraph 23, whichever occurs earlier.

26. The Recreation Program shall include activities which are varied and appropriate to the ages and interests of the youth, and activities for youth who for medical or mental health reasons require individualized attention in accordance with National Commission on Correctional Health Care (NCCHC) standards.

27. Except for "special management youth," defendants shall provide each detained youth with the opportunity for at least one hour of large muscle activity Monday through Friday and at least two hours of large muscle exercise on Saturdays, Sundays, holidays and during days when school is not in session. This shall take place outdoors unless prevented by inclement weather, in which case the exercise shall take place

indoors and the reason documented. Special management youth shall receive one hour of recreation consistent with the discipline code.

## V. HOUSING

28. The defendants shall maintain each facility in a safe and sanitary condition and agree that any cited violations of the State health, fire, or building codes as noted by appropriate state inspectors will be corrected to the extent that such correction is required.

29. A bunk or bed for each youth shall be provided so that no youth is required to sleep on the floor.

30. Prior to the completion of the expansions of the Hartford and Bridgeport Detention Centers, the defendants shall operate the Detention Centers with a population goal at each facility as follows:

Bridgeport	24
Hartford	38
New Haven	38

In the event that the expansion of the Hartford and Bridgeport Detention Centers is completed prior to the termination of this Agreement, as set forth in paragraph 23, the provisions of this paragraph shall end as to the center(s) affected by the expansion. The parties acknowledge that, in that event, the plaintiffs are not precluded from bringing a new action to challenge the population at those centers.

31. The defendants shall make reasonable efforts to maintain these goals consistent with the safety and security of the youth in these Centers. The population goals identified for the detention centers enumerated in paragraph 30, are goals only and

the plaintiffs have no remedy if these goals are exceeded.

32. Defendants shall establish the following procedures that create an internal mechanism to attempt to keep the population at the three detention centers consonant with the goals specified in paragraph 30 above:

A. On a daily basis, the CSSD Central Office Detention Expediter will review the populations at all State and contracted secure detention centers and, if appropriate, facilitate the transfer of detainees among centers when reasonably necessary to equalize the population in an effort to meet the population goals as stated in paragraph 30 above.

B. When the total population of the three state run detention centers reaches 120 or each center reaches 25% <sup>in excess of</sup> its capacity goal, the Central Office Detention Expediter will ensure that each Detention Supervisor convenes its Population Review Team. Such team should consist of, but not necessarily be limited to, Probation Supervisor(s), the Detention Supervisor, the Facility Detention Expediter and the Probation Liaison to Detention. This team shall:

- (i) Review the list of detainees in the center;
- (ii) Identify detainees appropriate for release within the next 24-48 hours;
- (iii) Identify programmatic options or other conditions necessary for the detainee to be released; and
- (iv) Prepare written recommendations for submission to the Superior Court for

Juvenile Matters.

Either the Detention Expediter or Probation Supervisor will ensure that said

recommendations are made to the Court on the next date when the Court is in session.

33. The defendants and the Consultant shall revisit the recommendations of the Detention Crowding Oversight Committee dated May 16, 2000. Defendants agree to implement such recommendations where the defendants deem appropriate.

34. The plaintiffs, the defendants and the Consultant shall meet quarterly to (a) review population trends, (b) discuss the development of strategies or interventions when goals are exceeded, (c) discuss best detention practices, and (d) compare information relating to crowding reduction.

35. The defendants shall give monthly reports to the Consultant regarding the building progress of the new Bridgeport Juvenile Detention Center.

36. Defendants, with the assistance of the Consultant, shall establish a system to monitor and assess the return rates of youth from the Alternative Detention Programs and the community detention centers back to the detention centers.

## VI. DISCIPLINE

37. The Judicial Branch with the assistance of the Consultant shall adopt a new Discipline Policy within 90 days of the signing of this Stipulated Agreement, this policy to be consistent with national standards. An important goal of the new policy is to achieve and/or maintain a reduction in room time.

37. No detained youth shall be given a misconduct report, disciplined, or otherwise punished solely for refusing to participate in recreational activities, and the

opportunity for large muscle exercise one hour per day shall not be withheld from youth receiving room time as provided for in the discipline code unless an imminent threat of violence exists as determined by the Center supervisor and documented accordingly.

## VII. EDUCATION

38. The defendants shall arrange for a Correctional Education Evaluation at each of the three centers to be conducted by Peter Leone or another contractor mutually agreed to by the parties and the Consultant, and at no cost to the defendants, except that the defendants agree to pay the reasonable expenses of the contractor in an amount not to exceed \$2,000.00. The evaluation shall include a review of, among other issues, a) access to educational services; b) reasons for absences from school; c) presence, quality and implementation of individual education plans (ieps); d) demographics and measure of students' abilities and impediments to learning.

39. The defendants agree to meet with the appropriate LEAs and the Consultant to review and advocate for the appropriate educational improvements contained in the Evaluation. It is recognized, and the parties agree, that the duties, responsibilities, and costs of providing educational services rest with the identified LEA for each of the detention centers.

40. The defendants shall make detainees available to the identified LEA so detainees can attend classes within 48 hours of admission, for 5 1/2 hours per day, and for 220 days per year. Defendants shall make space available for additional classrooms as

needed, within the confines and resources of each facility, in order that youth may attend school during this time period and for this duration. This provision is not intended to limit the school to one shift per classroom.

#### **VIII. STAFFING AND STAFF TRAINING**

41. The defendants agree to maintain a training program for all Juvenile Detention Officers and Classification Program Officers that is in compliance with ACA and NCCHC Standards. Prior to being assigned independent direct care duties, all JDOs CPOs and long-term substitute care staff shall be provided with training in signs of suicide risk, suicide precautions, suicide prevention, youth rules of behavior and conduct including discipline and behavior management, physical intervention and use of force, social and cultural lifestyles of youth population, communication skills, first aid/CPR, counseling techniques, gang culture, leadership and conflict management, crisis intervention, recognition of signs and symptoms of severe emotional distress, recognition of signs and symptoms of drug and alcohol intoxication and/or dependency, child and adolescent physical and cognitive development.

42. All line staff shall be provided appropriate training on an annual basis that is applicable to their job duties and responsibilities.

#### **IX. CONSULTANT**

43. The Judicial Branch shall contract with Donald DeVore ("Consultant") to

provide consulting services pertaining to this Stipulated Agreement, as the defendants deem appropriate. In the event he is unable to continue, the parties shall mutually select his replacement.

44. The Consultant shall conduct general inspections and program reviews not more than twice a year based on nationally accepted standards. He shall document such findings in a written report within 30 days of such inspections and reviews. The parties shall confer with the Consultant within 30 days of receipt of his report to review any recommendations generated from such inspections and reviews. The defendants will seriously consider any recommendations made by the Consultant, but such recommendations shall be non-binding on the defendants. In addition, the Consultant shall participate in the quarterly meetings referred to in paragraph 34 above.

45. The Consultant shall be compensated for his reasonable costs and fees incurred in negotiations leading to the completion of this Stipulated Agreement.

46. The defendants or the State of Connecticut shall pay the expenses, costs and fees of the Consultant, and those with whom the Consultant may consult, contract or incur costs, for those obligations which are attributed to the state defendants as follows:

\$100.00 per hour for the Consultant and not more than \$125.00 per hour for any professional consultant performing services for the Consultant.

47. In no event shall the defendants be responsible for consulting fees either by the Consultant or anyone performing services for the Consultant in excess of \$25,000.00 per year (a year shall be each 12 month period following the effective date of this

Stipulated Agreement) unless such fees are related to court proceedings and are ordered by the court pursuant to federal law. In addition to these consulting fees, the defendants shall reimburse the Consultant(s) for reasonable expenses incurred in connection with their duties under this decree but only to the extent, and in such amounts, that these expenses would be authorized under the Standard State Travel Regulations, (§§ 5-141c-1, et seq., Regulations of Connecticut State Agencies).

48. When conducting the semi-annual general inspections referred to in paragraph 44, the Consultant shall confer with the plaintiffs and the defendants at the Consultant's initiative or at the party's initiative in order to promote efforts to facilitate such inspections.

49. In performing his duties, the Consultant shall have reasonable access to the detention facilities presently located at Fairfield Avenue in Bridgeport, CT, Broad Street in Hartford, CT, and Whalley Avenue in New Haven, CT, to detainees confined in these facilities and to files, reports and documents pertaining to such detainees which are relevant to the Consultant's responsibilities.

50. If the Consultant wishes to communicate with staff of the defendants, then the Consultant must a) identify him/herself and b) explain the reason for the communication. No staff member shall be required to speak to the Consultant.

51. The Consultant may make unannounced visits to any detention facility so long as the Consultant shall provide the CSSD Central Office with at least two (2) hours advance notice which shall identify the detention facility involved. To the extent

possible, the Consultant shall notify the defendants of the types of documents, if any he/she wishes to review.

52. Upon reasonable notice, the defendants shall provide plaintiffs' counsel access to members of the plaintiff class and access to review and copy the confidential records and information of plaintiff class relating to their claims in this case.

#### X. COSTS AND ATTORNEYS' FEES

53. Defendants shall pay to the plaintiffs costs and attorneys' fees incurred in the amount of \$23,575.00 for negotiations leading to the approval of this Stipulated Agreement. The defendants shall not be obligated to pay any additional costs and attorneys' fees unless such fees or costs are related to court proceedings and are ordered by the Court pursuant to federal law or are related to plaintiffs' counsel's attendance at the quarterly meetings referred to in paragraph 34 above. The payment of this amount shall be a full, final and complete satisfaction of any claims by all plaintiffs and all counsel for plaintiffs for all attorneys' fees and costs, with the exception of any claims relating to the mental health issues raised in the plaintiffs' motion, which are the subject of a separate proceeding.

#### XI. MISCELLANEOUS

54. Each detention center shall provide a daily list to DCF of all youth admitted to detention.

55. Plaintiffs agree that this Stipulated Agreement replaces the original Consent Judgment dated December, 1996 (Doc. #176) and that the provisions of that original Consent Judgment are no longer in effect as they apply to the defendants defined herein, with the exception of the provisions regarding mental health services and the monitoring of those provisions, which are the subject of separate proceedings. Nothing in this Stipulated Agreement will be construed to prohibit the plaintiffs from bringing a new lawsuit to challenge the conditions covered by those provisions or other matters not covered by this Stipulated Agreement.

This Stipulated Agreement shall be a complete defense as to the defendants defined herein to any claim, suit or action in any forum with regard to any matter covered by this Agreement.

56. The parties and the Court acknowledge that the provisions of this Stipulated Agreement are narrowly drawn and extend no further than what is necessary and are the least intrusive means to address the constitutional and federal claims of the plaintiff class members. The purpose of the foregoing sentence is to address the parties' concern regarding the applicability of the Prison Litigation Reform Act (18 U.S.C. §3627(a)(1), (2)) and is not meant to contradict or modify the statement of the parties and finding of the court provided in paragraph 18 above.

57. The parties agree that nothing in this Stipulated Agreement may be construed to prejudice the rights of any parties in the remaining part of this case relating to mental health issues, to modify or otherwise affect the provisions of the Joint Corrective Action

Plan or the Order entered by the Court on June 24, 2002 in this case, or to authorize the Court to extend this Agreement beyond the termination date referred to in paragraph 23.

Respectfully submitted,

FOR THE PLAINTIFFS

BY: Martha Stone

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SO ORDERED AND APPROVED; <sup>after</sup> ~~subject to~~ a fairness hearing <sup>on August 12, 2002.</sup> ~~to be held by~~  
~~the Court, this 24th day of June, 2002.~~

Richard Blumenthal  
UNITED STATES DISTRICT JUDGE