

CIVIL TRACK I
JUDGE DIXON

EVERGREEN LEGAL SERVICES

OCT 29 1993

INSTITUTIONS PROJECT

COPY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR KING COUNTY

T.I., a minor, by and through
his mother and next friend,
D.I.; et al.,

Plaintiffs,

vs.

HAROLD DELIA, Director,
DEPARTMENT OF YOUTH
SERVICES, et al.,

Defendants.

NO. 90-2-16125-1

STIPULATION & CONSENT JUDGMENT ON
REMAINING EDUCATION CLAIMS

STIPULATION

The parties, plaintiffs B.I. and S.K. and the class of incarcerated juveniles they represent, through their counsel Patricia J. Arthur and John Phillips, the defendants Seattle School District, and Love Denton and Donald Felder in their official capacities, through their counsel Michael W. Hoge, and the third-party defendant the State of Washington, through its counsel, Robert Patterson and Howard Fischer, hereby agree that the following Stipulation and Consent Judgment shall be entered subject to the approval of the court and notice to the class members. This Stipulation and Consent Judgment is entered to resolve

STIPULATION & CONSENT JUDGMENT ON
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(206) 464-0838

1 all of the remaining education claims raised in the above-entitled class action lawsuit that
2 were not previously resolved by the Stipulation and Order of Partial Settlement entered on
3 November 26, 1990. (The plaintiffs have entered a separate Stipulated Dismissal with
4 respect to all of their remaining claims against the King County defendants.)

5 BACKGROUND AND REPRESENTATIONS

6 1. The Complaint in this action was filed on August 10, 1990, on behalf of named
7 plaintiffs and all others similarly situated against Harold Delia, Director, Department of
8 Youth Services, Tim Hill, King County Executive, Love Denton, Donald Felder, King
9 County, and the Seattle School District No. 1. Defendant Seattle School District filed an
10 Answer to the Complaint on September 26, 1990, and filed a Third-Party Complaint against
11 the State of Washington on the same date. The State of Washington filed an Answer to the
12 Third-Party Complaint on December 17, 1990. Leave was granted twice to plaintiffs to
13 amend their original complaint to substitute additional named plaintiffs.
14

15 2. This case was certified as a class action by order dated December 6, 1990. The
16 case involved a number of claims relating to the conditions of confinement at the King
17 County Detention Facility (KCDF) and the education program there.
18

19 3. Most claims brought by plaintiffs against the County and School District in this
20 action have been resolved by a previous Stipulation and Order dated November 26, 1990,
21 and by Order Granting Preliminary Injunction entered on August 30, 1991. The sole
22 remaining claim is against the Seattle School District and the third-party defendant State of
23 Washington. Plaintiffs allege this claim as their Third Cause of Action in the Second
24 Amended Complaint as follows:
25

26 Defendants have deprived plaintiffs of their right to an education in violation
27 of the due process clause of the Fourteenth Amendment to the United States

28 STIPULATION & CONSENT JUDGMENT ON
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1 Constitution, Article 9, §1 of the Washington Constitution, 42 U.S.C. §1983
2 and RCW 13.04, RCW 13.40 and RCW 28A.

3 This remaining claim is brought by plaintiffs B.I. and S.K. on behalf of a class defined as:

4 All youth of compulsory school age now or in the future incarcerated at the
5 King County Detention Facility (KCDF).

6 Order establishing Plaintiff Class entered December 6, 1990. This claim is hereby resolved
7 by this Stipulation and Judgment.

8 4. The undersigned counsel are authorized by their clients to enter into this
9 Stipulation and to take all steps required pursuant thereto.

10 5. The parties represent to the Court that this Stipulation is fair, reasonable, and
11 adequate to protect the class in accordance with the standards of CR 23(c) of the
12 Washington Civil Rules.

13 6. The Stipulation is not to be construed as an admission of liability or violation of
14 law by any of the defendants. Defendants and third party defendants have entered into the
15 Stipulation for the purpose of settling disputed contentions and controversies arising from
16 this action.

17 7. This Stipulation shall not be effective until it has been signed by counsel on
18 behalf of the parties listed on the signature page, and approved by a Judge of the King
19 County Superior Court. If the Stipulation does not become effective, it will be deemed part
20 of negotiations for settlement purposes only; it will not be admissible to prove or disprove
21 the allegations in the Complaint; and all rights, claims and defenses that existed apart from
22 the Stipulation shall be automatically restored to the parties.

23 JURISDICTION

24 8. This Court has jurisdiction of the subject matter of this action and personal
25

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STIPULATION & CONSENT JUDGMENT ON
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1 jurisdiction over the named defendants and third party defendants to this action.

2 PARTIES AND THE SETTLEMENT CLASS

3
4 9. Plaintiffs in this action are the named plaintiff, B.I., by and through his mother
5 Q.I., and S.K., by and through his mother U.I., and the plaintiff class as defined above in
6 paragraph 3 which includes youth who are educationally handicapped and eligible to receive
7 special education services.

8
9 10. The parties stipulate that this action is properly maintained as a class action
10 under CR 23 of the Washington Civil Rules.

11
12 11. The defendants who are subject to this Stipulation and Consent Judgment are the
13 Seattle School District, Donald Felder and Love Denton in their official capacities. The
14 third party defendant State of Washington by and through the Office of the Superintendent
15 of Public Instruction of the State of Washington (OSPI) is also a party to this Stipulation
16 and Consent Judgment.

17
18 12. When finally executed by the Court, this Stipulation shall be binding on the
19 plaintiffs and these defendants and third party defendants, their agents, employees,
20 assignees, and successors.

21 NOTICE TO THE CLASS

22 13. Pursuant to CR 23(e) and the approval of King County, the defendants shall,
23 within fourteen (14) days after the Court's approval of the proposed notice attached as
24 Exhibit A, post that notice at the KCDF, in conspicuous places which the youth frequent.
25 The defendants shall also mail said notice to the last known address of all the parents or
26 guardians of youth incarcerated at the KCDF on the date of posting there. Members of the
27 class shall have thirty (30) days after such mailing and posting within which to submit to
28

1 counsel for the plaintiffs any inquiries or objections they may have. Counsel for plaintiffs
2 shall promptly forward copies of any such inquiries or objections to counsel for the
3 defendants and to the Court. On the copies to be submitted to the defendants, the names of
4 the youth will be deleted if the youth so request. Following the expiration of the time for
5 submitting any objections, the Court will approve the Stipulation as submitted or schedule a
6 hearing for the purposes of considering approval of the Stipulation
7

8 DEFINITIONS

9
10 14. All terms herein are used as defined in RCW 28A.155, RCW 28A.190 as
11 modified by RCW 13.04.145, WAC 392-171 and WAC 392-122.

12 OBLIGATIONS OF THE DEFENDANT SEATTLE SCHOOL DISTRICT

13 15. The District agrees at all times in the future to employ no fewer than two full-
14 time certified special education teachers to provide special education and related services at
15 the KCDF. During the 1993-1994 school year, the District will employ six full-time
16 teachers in the general education program at the KCDF in addition to two full-time certified
17 special education teachers.
18

19 16. In addition to employing the certified special education teachers as provided in
20 the preceding paragraph, the Seattle School District agrees at all times in the future to
21 encourage existing general education teachers employed at the KCDF to obtain special
22 education certification. The District further agrees to take all reasonable steps to fill future
23 teacher vacancies at the KCDF with adequate certified special education teachers. For five
24 years from the date of entry of this Consent Judgment, the District will notify plaintiffs'
25 counsel of any such vacancy as soon as it occurs and inform them of the steps taken to fill
26 the vacancy with an adequate certified special education teacher.
27
28

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1 17. The District agrees that sufficient clerical staff support will be provided to the
2 special education teachers at the KCDF and that it will make its best efforts to reduce the
3 clerical duties and functions that special education teachers are required to perform.
4

5 18. The District agrees that for any of the pull-out classes or self-contained
6 classrooms that may be established, the two full-time special education teachers referred to
7 in Paragraph 15 above will teach only those students who are disabled under either federal
8 or state law and eligible for special education services. These two special education
9 teachers will not be assigned to general education program activities unless the population of
10 students who may receive special education services under this agreement decreases or
11 consultative special education services pursuant to WAC 392-171-315(1) have been
12 effectively implemented, to a point where two full-time special education teachers are
13 unnecessary to adequately provide special education services.
14

15 19. The District will provide appropriate placement options and individualized
16 special education services in detention including: a self-contained classroom, pull-out
17 classes and consultative special education services pursuant to WAC 392-171-315(1) as
18 necessary to accommodate the individual special education needs of students while in
19 detention.
20

21 20. The District will make reasonable efforts to employ an education assistant at the
22 KCDF to assist in the delivery of special education. The District will immediately attempt
23 to fill this position by recruiting and advertising in the manner most likely to result in the
24 most applicants for the position.
25

26 21. The District agrees to employ no less than a .2 FTE psychologist at the KCDF
27 to assist with the identification and assessment of eligible students.
28

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1 22. The District agrees to implement as is practicable within the detention facility
2 any existing individualized education program (IEP) developed outside of detention that is
3 current. The District will not use interim IEPs for detained youth whenever youth have a
4 current IEP. The District may continue using an interim IEP process for diagnostic
5 purposes for special education eligible youth without current IEPs subject to the guidelines
6 established in paragraph 23 below.
7

8 23. In consultation with plaintiffs' expert Ken Howell and a mutually acceptable
9 independent expert, the District will take reasonable action within 30 days from the date all
10 parties sign this Stipulation to develop substantive criteria and a procedure for determining
11 how: (1) current IEPs will be implemented at the KCDF; (2) educational objectives and
12 goals specified in current IEPs will be prioritized for implementation in detention, and (3)
13 how the special education needs of students without current IEPs will be met.
14

15 24. The Seattle School District agrees to pay the costs of the independent expert's
16 fees incurred during this 30 day consultative process. These costs shall not exceed \$3,000.
17

18 25. The District agrees to implement the criteria and procedures developed pursuant
19 to the process set forth in paragraph 23 which will become part of the School District's
20 obligations under this Stipulation and Consent Judgment.

21 26. The District will provide on-going training to education staff and available
22 correctional and probation staff at the KCDF to assure the proper identification of
23 handicapped students and the provision of needed special education services.
24

25 OBLIGATIONS OF THE THIRD-PARTY DEFENDANT, OSPI

26 27. The Office of the Superintendent of Public Instruction of the State of
27 Washington agrees to provide technical assistance to the Seattle School District to help
28

1 insure that eligible students at the KCDF receive appropriate accommodation of their
2 individual special education and related service needs while they are in detention.
3

4 28. OSPI will monitor the implementation of the procedures developed as set forth
5 in paragraph 23 during the 93-94 school year and provide technical assistance as necessary.
6 Thereafter, OSPI will monitor KCDF in accordance with the statewide compliance
7 monitoring criteria and schedule.

8 29. The OSPI will continue to fund through the 1993-1994 academic year a special
9 grant to assist in the further development and refinement of special education program
10 processes at the KCDF. Thereafter, OSPI agrees to, at a minimum, administer funding to
11 the Seattle School District for education services in detention according to then existing
12 statutes, rules and appropriation acts.
13

14 30. Within available resources, OSPI will encourage and help other school districts
15 around the state to provide special education programs within juvenile detention centers
16 consistent with the principles of this agreement.
17

18 REPORTING REQUIREMENTS

19 31. For the purpose of monitoring compliance with this Order, the Seattle School
20 District agrees to provide plaintiffs' counsel with a report for a period of five years.
21 During the first two years, the District will report on a semi-annual basis. Thereafter, the
22 District will report annually. The report will contain the following information:

23 (a) the number of youth at the KCDF during the quarter who received any special
24 education service including a description of the types of services provided;
25

26 (b) the number of youth who had current IEPs;

27 (c) the number of youth who did not have current IEPs;
28

1 (d) the number of youth for whom a psychological assessment was initiated during
2 the reporting period;

3 (e) a description and the number of staff positions at the KCDF providing special
4 education services.
5

6 32. The District will annually for a period of five years permit plaintiffs' counsel
7 and/or their designated expert(s) to have access to a reasonable statistically significant
8 number of randomly selected special education student files after appropriate notice to
9 selected students and their parents or guardians.
10

11 33. Plaintiffs' attorneys and/or expert(s), after reasonable notice to the Seattle
12 School District and its attorneys, will be permitted to make on-site inspections at the
13 KCDF, interview school staff and youth as needed in order to evaluate compliance with this
14 Stipulation, provided that not more than one compliance evaluation will be conducted in any
15 12-month calendar period following entry of this Stipulation.
16

17 34. This Stipulation resolves all of plaintiffs' remaining claims in this case.
18 However, the parties reserve the right to modify the terms of this decree if there are
19 changed circumstances which justify modification. The parties agree that any reduction in
20 the number of regular education staff at the KCDF below the levels agreed to herein for the
21 1993-1994 school year without a corresponding reduction in the number of students
22 constitutes sufficient changed circumstances to justify the modification of this decree if the
23 reduction precludes the delivery of special education services.
24

25 35. Nothing in this agreement shall be construed to preclude or resolve claims by
26 individuals brought in the future as allowed by WAC 392-171-531 that specific special
27 education or related services have not been provided.
28

1 CONTINUING JURISDICTION AND DISPUTE RESOLUTION

2
3 36. Upon final approval by the Court, this Stipulation and any modifications thereto
4 shall be incorporated into a Judgment.

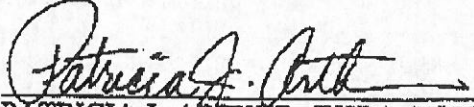
5 37. The parties will use all reasonable means to resolve disputes that arise under
6 this agreement prior to seeking the involvement of this Court. In the event that the parties
7 are unable to resolve a dispute informally, plaintiffs' counsel shall notify defendants in
8 writing of the alleged violation of the Stipulation and the remedial action demanded.
9 Defendants shall have 30 days to respond in writing. The defendants' response shall
10 describe the corrective action that will be taken and the timetable for implementation, or
11 shall explain why defendants believe that no remedial action is warranted. The parties will
12 also attempt to meet in good faith to resolve any disputes. Only if the parties are unable to
13 resolve a dispute through this process shall the matter be submitted to the Court for further
14 orders as may be appropriate.
15

16 38. Within twenty days of the filing of the Stipulation with the Court, the District
17 shall post copies of this Stipulation in housing and school areas of the KCDF. Upon
18 approval from King County, the District will also post copies in the housing areas of the
19 KCDF. Thereafter, school staff will make reasonable, good faith efforts to maintain the
20 posting of the Stipulation in those areas.
21

22 39. Plaintiffs agree to waive costs and attorneys fees incurred as of the date of the
23 entry of this Stipulation and Consent Judgment.
24

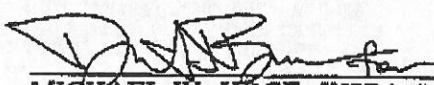
25 IT IS SO STIPULATED.

26 DATED: October 8, 1993

27 
PATRICIA J. ARTHUR, WSBA #13769
JOHN PHILLIPS, WSBA #12185
Attorneys for Plaintiffs
28


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REMAINING EDUCATION CLAIMS-
Page 10

1
2 DATED: October 4, 1993


MICHAEL W. HOGE, WSBA #6180
Attorney for Defendant Seattle School
District No. 1, Love Denton, and

Donald Felder

3
4
5
6 DATED: Oct. 7, 1993


ROBERT PATTERSON, WSBA #644
W. HOWARD FISCHER, WSBA #6142
Attorneys for Third-Party
Defendant State of Washington

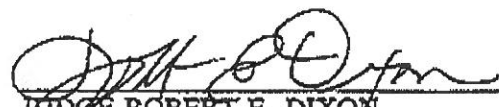
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10 CONSENT JUDGMENT

11 The Court, having reviewed the Stipulation of the parties for the resolution of the
12 above-encaptioned lawsuit, and having reviewed all the objections made by class members
13 (if any), and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED
14 AND DECREED that Judgment is entered incorporating the terms of the parties' Stipulation
15 which the Court incorporates herein as if set forth in full.
16

17 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that the
18 court retains jurisdiction to monitor and enforce the terms of the Stipulation and Judgment.

19 IT IS SO ORDERED.

20
21 DATED: Oct 27, 1993


JUDGE ROBERT E. DIXON
King County Superior Court Judge

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(206) 464-0838

CIVIL TRACK I
JUDGE DIXON

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

T.I., a minor, by and through
his mother and next friend,
D.I.; et al.,

Plaintiffs,

vs.

HAROLD DELIA, Director,
DEPARTMENT OF YOUTH
SERVICES, et al.,

Defendants.

NO. 90-2-16125-1

NOTICE OF PROPOSED SETTLEMENT OF
CLASS ACTION LAWSUIT AND
OPPORTUNITY TO PRESENT OBJECTIONS

IMPORTANT NOTICE TO ALL YOUTH AT THE KING COUNTY DETENTION
FACILITY (KCDF):

On August 10, 1990, a lawsuit was filed in King County Superior Court on behalf of youth of compulsory school age confined at the KCDF. Among other things, the lawsuit claimed that the Seattle School District did not provide eligible youth with special education services.

On, Oct 27, 1993, a proposed settlement of this lawsuit was filed with the Court. The Court is going to decide whether this proposed settlement should become a

NOTICE OF PROPOSED SETTLEMENT-
Page 1

EXHIBIT A

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SEATTLE, WASHINGTON 98104
(206) 484-0538

1 final order of the Court. The settlement will not become final until youth and guardians or
2 parents of youth at the KCDF have a chance to object in writing. The purpose of this
3 notice is to summarize the proposed settlement and to explain how you may let the Court
4 know if you have any objections to it.
5

6 SUMMARY OF THE SETTLEMENT

7 A full copy of the proposed settlement is available at the KCDF or through
8 plaintiffs' counsel. Generally, the proposed settlement includes the following terms:

9 1. The settlement applies to all youth of compulsory school age. In general, if you
10 are a resident of KCDF and you have a learning disability, a serious emotional problem, a
11 speech or vision problem, a health impairment, a physical or mental handicap, or some
12 other similar problem that hinders your ability to learn, then you are probably part of the
13 group of youth this settlement will particularly affect. This group of KCDF residents is
14 called a "class" in the settlement. The word "class" will be used in the rest of this notice.
15

16 2. For all class members who have current individualized education programs
17 (IEPs) when they enter detention, the District agrees to provide, as practicable and
18 appropriate within the confines of the detention facility, the special education and related
19 services described in the IEP.
20

21 3. For eligible special education students who do not have current IEPs, the District
22 will develop and implement in consultation with plaintiffs' expert a procedure to develop
23 special education plans for youth.
24

25 4. The District agrees to employ no fewer than two certified special education
26 teachers at the KCDF and to take reasonable steps to fill all future teaching vacancies there
27 with adequate special education teachers. The District will make good faith efforts to
28 employ at all times a full-time education assistant for the special education program.

5. The District agrees to employ a .2 FTE psychologist to assist with the identification and assessment of eligible students.

6. The District will provide special education services in detention including consultative services, pullout classes and a self-contained classroom as the District determines to be necessary to accommodate the individual special education needs of students while in detention.

7. The Office of the Superintendent of Public Instruction of the State of Washington agrees to monitor the detention school program, to administer funding to the District in accordance with existing statutes, rules and appropriation acts and to provide technical assistance to the Seattle School District at the KCDF.

8. The settlement sets up a system to make sure that the parties do everything they agreed to.

9. If you have any questions about this settlement you may ask to see a copy of the full settlement at the KCDF or you may write to the attorneys who brought this lawsuit.

You should contact: Patricia J. Arthur, Project Director, Evergreen Legal Services,
Institutional Legal Services Project, 101 Yesler Way, Suite 301, Seattle, WA 98104; (206)
464-0838.

II. HOW TO FILE OBJECTIONS

Any resident of the KCDF may file objections to the proposed settlement. Any objections must be in writing. You may mail your objections to the attorneys for the plaintiffs at the following address:

Patricia J. Arthur, Project Director
Evergreen Legal Services
Institutional Legal Services Project
101 Yesler Way, Suite 301
Seattle, WA 98104

NOTICE OF PROPOSED SETTLEMENT-
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 (206) 454-0838

1 These objections must be mailed no later than Dec 1, 1993. The
2 lawyers for the plaintiffs will collect any such objections and give them to the Court and to
3 the lawyers for the defendants. If, for any reason, you do not want the defendants to know
4 about all or part of your letter, you must clearly say this in your letter, and your identity
5 will not be revealed to them.
6

7 The Court will review all objections made to the proposed settlement. The Court
8 will then decide whether the proposed settlement should become a final order.
9

10 DATED: Oct 5 1993

11
12 /s/ Robert E Dixon
13 JUDGE ROBERT E. DIXON
14 King County Superior Court Judge
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1 **RECEIVED**
KING COUNTY, WASHINGTON

2 **AUG 30 1991**

3 DEPARTMENT OF
JUDICIAL ADMINISTRATION

CIVIL TRACK 1
JUDGE DIXON

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6
7 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
8 **FOR KING COUNTY**

9 T.I., a minor, by and through)
his mother and next friend,)
10 D.I.; W.F., a minor, by and)
through his mother and next)
11 friend, O.T.; D.I., a minor,)
by and through his mother and)
12 next friend, C.I., On Behalf)
Of Themselves And Others)
13 similarly situated,)

NO. 90-2-16125-1

ORDER GRANTING
PRELIMINARY INJUNCTION

14 Plaintiffs,)

15 vs.)

16 HAROLD DELIA, Director,)
DEPARTMENT OF YOUTH SERVICES,)
17 et al.,)

18 Defendants.)

19
20 THE PLAINTIFFS brought this motion for an injunction seeking
21 to limit the population of the Alder building and to require the
22 defendants King County, Tim Hill and Harold Delia ("the County
23 defendants") not to place more than two youths in any multiple
24 person cell. Plaintiffs' motion also sought to enjoin the County
25 defendants from using holding rooms for sleeping cells or to
26 punish youths, to require the County defendants to adequately
27 staff the King County Juvenile Detention Facility and to require

28 ORDER GRANTING
PRELIMINARY INJUNCTION - 1

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1 the defendants to provide detainees at the facility with
2 opportunities for reasonable exercise, outdoor weather
3 permitting.

4 This Court having reviewed all of the evidence, including
5 all the pleadings and evidence filed by the plaintiffs in support
6 of their motion, the pleadings and evidence filed by the
7 defendants in opposition to the motion, and the pleadings and
8 evidence filed by the plaintiffs on reply, and having heard
9 testimony of a number of witnesses and received additional
10 documentary evidence at a hearing on this motion from August 12
11 through August 14, 1991, this Court rules as follows:

12 The plaintiffs' motion is GRANTED in the following respects:

13 1. The defendants are hereby enjoined from placing more
14 than two youths in any sleeping cell in the King County Juvenile
15 Detention Facility.

16 2. The defendants may use the holding cells located behind
17 the courtrooms on an emergency basis for temporary residential
18 purposes, but when they are used in this fashion, youths placed
19 in these holding cells must have instant access to staff for
20 purposes of using toilets and other needed services. Whenever
21 youths are placed in the holding cells ^{as an overnight facility} appropriate bedding shall
22 be provided for those youths. The holding cells shall not be
23 used for punitive purposes, although the Court by this order does
24 not prohibit use of those holding cells for temporary placement
25 of youths who are unduly disruptive to their living units. In
26 addition, the defendants are required by this order to maintain
27 written documentation of the use of and staff to supervise youth

28 ORDER GRANTING
PRELIMINARY INJUNCTION - 2

1 temporarily placed in the holding cells and to make the
2 documentation available to plaintiffs' counsel.

3 3. Pursuant to the attached stipulation of the parties,
4 this court hereby orders the County defendants to comply with the
5 terms of this order by no later than September 15, 1991.


6 4. Plaintiffs may seek reasonable attorneys fees and costs
7 by separate motion. Nothing contained in this order shall
8 prejudice or preclude plaintiffs from filing a separate motion
9 for fees and costs.

10 The plaintiffs' motion is DENIED in the following respects:

11 5. The motion is denied to the extent it seeks to require
12 the defendants to employ additional staff or conduct additional
13 training of staff.

14 6. The motion is denied with respect to the plaintiffs'
15 request that all youth be permitted to exercise outdoors, weather
16 permitting.

17 DONE IN OPEN COURT this 30th day of August, 1991.

18
19
20 
21 The Honorable Robert E. Dixon
22 King County Superior Court Judge

23 Presented by:

24 HELLER, EHRMAN, WHITE & MCAULIFFE

25
26 By: John W. Phillips (by P.M.)
27 John W. Phillips
28 WSBA # 12185
Attorneys for Plaintiffs

ORDER GRANTING
PRELIMINARY INJUNCTION - 3

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AUG 23 1991

DEPARTMENT OF
JUDICIAL ADMINISTRATION

CIVIL TRACK I
Judge Dixon

EVERGREEN LEGAL SERVICES

AUG 27 1991

INSTITUTIONS PROJECT
SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

T. I., a minor, et al.,

Plaintiffs,

vs.

HAROLD DELIA, Director, et
al.,

Defendant.

NO. 90-2-16125-1

STIPULATION AND ORDER

STIPULATION

THE PARTIES hereby stipulate as follows:

The County defendants (King County, Tim Hill and Harold Delia) hereby agree they will not appeal the following aspects of any Order Granting Preliminary Injunction based on Judge Dixon's oral opinion of August 16, 1991 which orders the following relief:

1. No more than two youths may be placed in any sleeping unit in the King County Juvenile Detention Facility;
2. Youth who are placed in holding cells must have instant means of communication with staff; have prompt escort to toilet

STIPULATION AND ORDER - 1
E:\... \XIRK\DT\STIP.ORD

Norm Maleng
Prosecuting Attorney
CIVIL DIVISION
2550 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9015
FAX (206) 296-0191

1 facilities or other needed services; and must have appropriate
2 bedding when used as an overnight sleeping facility.

3 3. Holding cells shall not be used punitively.

4 4. Use of holding cells shall be well documented.

5 The County's agreement not to appeal such an order is condi-
6 tioned on the Court granting the County twenty additional days
7 (until September 15, 1991) to comply with the order. In exchange,
8 the plaintiffs agree not to oppose the County's requested order
9 granting twenty additional days (until September 15, 1991) to comply
10 with said Order Granting Preliminary Injunction.

11 DATED this 22nd day of August, 1991.

12 EVERGREEN LEGAL SERVICES

13 NORM MALENG, King County
Prosecuting Attorney

14
15 By: 

16 Patricia J. Arthur
WSBA #13769
17 Attorneys for Plaintiffs

18 By: 

19 Robert I. Stier #18192
20 WSBA# 2885
21 Senior Deputy
22 Prosecuting Attorney
23 Attorneys for Defendants

24 ORDER

25 THIS MATTER having come on regularly for hearing upon the
foregoing stipulation of the parties, it appearing to the court that
the parties agree to a 20 day extension of time to comply with the
Order Granting Preliminary Injunction, and the court being fully
advised in the premises, now, therefore, it is hereby

STIPULATION AND ORDER - 2

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Norm Maleng
Prosecuting Attorney
CIVIL DIVISION
2550 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9015
FAX (206) 296-0191

1 ORDERED, ADJUDGED and DECREED that the defendants be granted an
2 additional 20 days to comply with the terms of the Order Granting
3 Preliminary Injunction.

4
5 DONE IN OPEN COURT this 23 day of August, 1991.

6
7 
8 JUDGE ROBERT DIXON

9 Presented by:

10 NORM MALENG
11 King County Prosecuting Attorney

12
13 By: Virginia Kirk #18192
14 Robert I. Stier, WSBA #2885
15 Senior Deputy Prosecuting Attorney
16 Attorneys for Defendant

17 Copy received; approved as to form;
18 Notice of presentation Waived:

19 EVERGREEN LEGAL SERVICES

20 By: Patricia Arthur
21 Patricia Arthur, WSBA #13769
22 Attorney for Plaintiffs.

23
24
25
STIPULATION AND ORDER - 3
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Norm Maleng
Prosecuting Attorney
CIVIL DIVISION
E550 King County Courthouse
Seattle, Washington 98104-2312
(206) 296-9015
FAX (206) 296-0191

1
2 EVERGREEN LEGAL SERVICES

3
4 By: 

Patricia J. Arthur

WSBA # 13769

Attorneys for Plaintiffs

6
7 NORM MALENG, King County
Prosecuting Attorney

8
9 By: 

Dennis McMahon

WSBA # 15838

Attorneys for Defendants King County

Harold Delia and Tim Hill

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ORDER GRANTING
PRELIMINARY INJUNCTION - 4

EVERGREEN LEGAL SERVICES
INSTITUTIONAL LEGAL SERVICES PROJECT
101 YESLER WAY, SUITE 301
SEATTLE, WASHINGTON 98104
(206) 464-0935

RECEIVED
KING COUNTY, WASHINGTON

FEB 15 1991
DEPARTMENT OF
JUDICIAL ADMINISTRATION

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

T.I., et al.,

Plaintiffs,

NO. 90-2-16125-1

v. ~~PLAINTIFFS~~

STIPULATION AND ORDER OF
PARTIAL SETTLEMENT

HAROLD DELIA, et al.,

Defendants.

This Stipulation and Order of Partial Settlement, made and entered into this 26TH day of November, 1990, ~~among T.I., a minor, by and through his mother and next friend, D.L., W.F., a minor, by and through his mother and next friend, O.T., D.I., a minor, by and through his mother and next friend, C.T.,~~ ^{AMONG} on behalf of themselves and all others similarly situated as current or potential detainees of the King County Detention Facility (collectively referred to as "plaintiffs" hereafter) and Harold Delia, Director of the Department of Youth Services, in his personal and official capacity, Tim Hill, King County Executive, in his personal and official capacity, and King County (collectively referred to as "King County Defendants" hereafter) and Love Denton, in his official capacity, Donald Felder, in his official capacity, and the Seattle School District No. 1, (collectively referred to as "School Defendants" hereafter).

STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 1

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WITNESSETH:

WHEREAS plaintiffs commenced this action against the King County and School Defendants alleging, among other things, violation of state and federal law associated with the conditions in the King County Juvenile Detention Facility, all as set forth in the First Amended Complaint for Injunctive Relief, Declaratory Relief and Damages herein; and

WHEREAS plaintiffs have brought a Motion for Preliminary Injunction Re: Dorm School and Mid School, all as set forth in the Motion for Preliminary Injunction Re Dorm School and Mid School and Memorandum in Support of Plaintiffs' Motion for Preliminary Injunction Re: Dorm School and Mid School filed on October 17, 1990; and

WHEREAS the King County and School Defendants, although denying any liability or any violation whatever on their part, and specifically denying that any provision of this agreement, although enforceable in the manner set forth below, is required by any law or principle of law, recognize that substantial expense will be incurred in defense of plaintiffs' claims with respect to the pending preliminary injunction motion and therefore are desirous of having the claims relating to that motion resolved for the consideration set forth below; and

WHEREAS plaintiffs, for good and valuable consideration, desire and by this instrument agree to stipulate to an order resolving their pending preliminary injunction motion and their claims that youth may not be removed from a regular school program (a) due to the lack of space or teachers, (b) for non-school

STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 2

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related conduct; and (c) without adequate procedural safeguards, and only those claims, as discussed below; and

WHEREAS the parties hereto agree this Stipulation and Order shall become effective only upon entry by the Court, and that entry shall occur only if the plaintiff class is certified and notified of the terms of this Stipulation and Order according to procedures established by the Court; NOW THEREFORE

1. Lack of Space/Regular School Program. Defendants agree that no youth in the detention facility shall be excluded from regular school programs because of lack of space or teachers.

2. Classroom Space. To fulfill the requirements of paragraph 1, the King County Defendants agree to make available immediately two additional rooms, each capable of accommodating seventeen youth, a teacher, and teaching equipment. The addition of these two rooms will increase the physical plant for the regular school program to six rooms, each capable of accommodating seventeen youth, a teacher, and teaching equipment. The addition of these classrooms will increase regular school program capacity to 102 students, not including youths in the detention facility but not enrolled in regular school due to facility orientation (for no more than 48 hours), school orientation (for no more than one day), or because the student is in "Dorm School". The King County Defendants agree to make available at least this amount of space for regular school programs. If regular school enrollment exceeds 102 persons, the King County Defendants will, if

necessary, provide additional temporary space for regular school programs to meet the requirements of paragraph 1. The King County

STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 3

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Defendants also agree that by adding two rooms to regular school programs, they will not reduce the current level of programming and recreational activities for youth in the detention facility; rooms or spaces used for other programs and recreational activities may be used for school purposes on off hours or on a temporary basis. After the 1990-91 school year, the King County Defendants will continue to be obligated to meet their obligations under this Stipulated Order to ensure that youth are not excluded from regular school programs because of lack of space but may utilize different space for meeting their obligations.

3. Elimination of Mid School and Expansion of Teaching

Staff. To fulfill the requirements of paragraph 1, the School Defendants agree to terminate within ten days of the effective date of this Order the "Mid School" program. The School Defendants also agree to increase the school staff for the detention facility to six teachers, a part-time special education teacher, a program manager, a site coordinator, and clerical staff. The School Defendants will commence hiring of the additional permanent staff immediately and shall fill these staff positions with qualified candidates as soon as reasonably possible. The Defendant Seattle School District will assure that the detention school has access to substitutes or other temporary staff comparable to that of other schools in the Seattle School District. When the population in regular school programs exceeds 102 students, the School Defendants will increase the class size in rooms where that is possible. If the King County Defendants provide additional temporary space when regular school enrollment

STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 4

1 exceeds 102 students, the School Defendants will provide temporary
2 staffing for the additional space. The School Defendants shall
3 not be in violation of their obligations not to keep youth out of
4 a regular school program because of lack of space or teachers if
5 they employ their best efforts to comply with the provisions of
6 this Stipulation and as long as the noncomplying condition does
7 not last more than three school days. The School Defendants will
8 not offer a 1991 summer school program unless supplemental or
9 increased funding is obtained from some source other than the
10 Seattle School District by that time. After the 1990-91 school
11 year, the School Defendants may employ staffing and means
12 different than those set forth in this paragraph 3 to meet their
13 obligations in paragraph 1.

14 4. Dorm School and Conditions for Placement. A youth shall
15 be considered in Dorm School if the youth is excluded from a
16 regular school program. As long as the Defendants provide Dorm
17 School, the provisions of this paragraph 4 and paragraph 5 below
18 shall apply. Defendants and plaintiffs agree to designate an
19 independent expert, and if agreement is not reached within 10 days
20 of execution of this stipulation the Court shall appoint an
21 independent expert. The expert shall consult with all parties
22 and, within 30 days of his appointment or the Court's preliminary
23 approval of this Stipulation (subject to notification of the
24 class), which ever is longer, establish the minimum criteria for
25 instruction (limited to minimum instruction time and time
26 allocated to perform school assignments in the dormitory day room
27 or other location) in the Dorm School, by which the defendants

28 STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 5

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1 will thereafter be bound. Any party may ask the court to review
2 the expert's recommendation and to modify it if it is unreasonable
3 or contrary to law. The School and King County Defendants agree
4 that youth shall not be automatically assigned to Dorm School for
5 fighting, threatening, unsuccessful behavior contracts, for
6 receiving dorm confinement two or more times in one week or a
7 total of 16 hours in one week, or for any other reason. Other
8 than as required by court order or upon the written and signed
9 request of a youth, youth may be placed in Dorm School solely
10 because the student's presence in a regular school program poses
11 an immediate and continuing danger to the student, other students,
12 or school personnel or an immediate continuing threat of escape or
13 substantial disruption of the class, subject, activity, or
14 educational process. Youth shall be removed from Dorm School and
15 placed in a regular school program as soon as the conditions
16 justifying placement in Dorm School are no longer present.
17 Placement in Dorm School shall not be recorded in the youth's
18 school record as a suspension or expulsion of any kind, and
19 students in Dorm School shall have opportunities to earn school
20 credit equivalent to students in a regular detention school
21 program. In addition, the School District will maintain the right
22 in ~~Dorm School~~ to invoke the same disciplinary standards,
23 sanctions and procedures as are employed generally within the
24 Seattle School District.

25 5. Dorm School Procedures. Other than placement in Dorm
26 School upon the written and signed request of a youth, the
27 exclusive procedures for placement of a youth in the Dorm School
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STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 6

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1 shall be as follows: (a) The decision to place a youth in Dorm
2 School shall be made by the program manager or his designee and
3 the detention unit supervisor or his designee. (b) As soon as
4 reasonably possible following the decision to place a youth in
5 Dorm School (but in any event before the commencement of the next
6 school day), the youth shall be given a concise written notice
7 indicating the reason for and length of the Dorm School placement
8 and an informal hearing in which the school and detention staff
9 shall meet with the student to examine the reasons for placing the
10 youth in Dorm School and to permit the youth to offer opposition
11 to that decision. A summary written memorandum shall be prepared
12 stating the reasons why the youth was placed in Dorm School, that
13 the youth was afforded the foregoing informal hearing, and the
14 results of the hearing, and shall be signed by the members of the
15 school and detention staff who attended the informal hearing. (c)
16 If a youth remains in Dorm School for more than three days, the
17 Defendants shall notify the youth's probation officer and send by
18 letter deposited in the United States mail a written notice to the
19 parent(s) or guardian(s) of the youth, to their last known
20 address. The notice shall state the reason(s) for the youth's
21 placement in Dorm School and shall also inform the parent or
22 guardian of the right to an informal school conference and that
23 continued enrollment in Dorm School may possibly be reduced as a
24 result of such conference. (d) If the youth remains in Dorm
25 School for five days, the King County Defendants shall direct the
26 mental health staff to meet with the youth at the detention
27 facility for an evaluation by that staff and appropriate
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STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 7

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1 treatment. The above procedures do not replace and shall not be
2 construed as a waiver by youth, their parents or their guardians
3 of their procedural rights with respect to provision of special
4 educational services that may be required by law.

5 6. This Stipulation and Order resolves finally only
6 plaintiffs' pending Motion for Preliminary Injunction re Dorm
7 School and Mid School and their claims that youth should not be
8 removed from a regular school program (a) due to lack of space or
9 staff; (b) for non-school related conduct; and (c) without
10 adequate procedural safeguards. To the extent plaintiffs have
11 raised issues regarding inadequate resources, evaluation of
12 students, and tailoring of educational materials to the needs of
13 the students in Dorm and regular school programs, those claims are
14 not resolved by this Stipulated Order and are specifically
15 reserved for adjudication at a later time. Plaintiffs also
16 specifically reserve all other claims in this lawsuit not subject
17 to the preliminary injunction motion.

18 7. This Stipulation and Order shall not be construed as an
19 admission of liability on any issue. This Stipulation and Order
20 does not resolve any issue between and among the defendants or
21 between any defendant and the State of Washington or any other
22 party as to responsibility for the cost of the resources and
23 services made available pursuant to this Stipulation and Order.
24 The School Defendants specifically reserve their contentions that
25 they have no legal responsibility for services at the detention
26 center and that their responsibilities extend no farther than the
27 funding provided by the State, and that the State or County are

28 STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 8

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1 responsible for providing and funding any additional services,
2 including any services provided under this Stipulated Order.

3 8. The parties shall bear their own costs and attorneys'
4 fees with respect to all claims subject to this Stipulation and
5 Order. Plaintiffs reserve the right to seek recovery of
6 attorneys' fees and costs associated with all other claims in the
7 lawsuit that are not resolved by this order, and with respect to
8 any action to enforce this Stipulation and Order of Partial
9 Settlement.

10 9. To monitor compliance with the Stipulation and Order of
11 Partial Settlement, the defendants shall on a weekly basis (for
12 one year from the date of this Order and thereafter at the request
13 of plaintiffs' counsel) send to plaintiffs' counsel the daily
14 population sheets and regular school/dorm school enrollment sheets
15 for the detention facility. Upon reasonable notice by plaintiffs'
16 counsel, plaintiffs shall be given access to all records regarding
17 placement in dorm school, including notice and summary memoranda
18 required by paragraph 5 above. In the event that apparent
19 violations of this Stipulation and Order of Partial Settlement
20 have occurred, plaintiffs' counsel or their designees will contact
21 counsel for the defendants in writing to seek resolution of the
22 apparent violations. The parties shall make every effort to
23 remedy problems and resolve differences relating to this
24 Stipulation and Order by negotiation and cooperative action.
25 Plaintiffs may move the court to enforce this Stipulation and
26 Order of Partial Settlement in the event that issues are not
27 resolved within 30 days following written notice to defendants or
28

STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 9

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7 2. Plaintiffs' claims regarding the Mid School and Dorm
8 School are hereby finally resolved as set forth in paragraph 6 of
9 the stipulation (above) and without costs or attorneys' fees to
10 any party;

11 3. This Stipulation and Order of Partial Settlement shall
12 remain in full force and effect and shall not be modified unless

13 (s) a material change in state law is demonstrated (h) the motion
14 DONE IN OPEN COURT this 1st day of February, 1998.

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THE HONORABLE ROBERT E. DIXON
SUPERIOR COURT JUDGE

Presented by:

EVERGREEN LEGAL SERVICES

BY: *Patricia J. Arthur*
Patricia J. Arthur WSBA #13769
John Midgley WSBA #6511

STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 11

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1 earlier in emergency circumstances.

2 10. This Stipulation may be executed in counterpart
3 originals.

4 DATED this 26th day of November, 1998.

5 ON BEHALF OF THE KING COUNTY DEFENDANTS

6
7 By [Signature]

Harold Delia

8 Prosecuting Attorney

9
10 By [Signature]

Dennis McMahon WSBA # 15838

11
12 ON BEHALF OF THE SCHOOL DEFENDANTS

13
14 By [Signature]

For the Seattle School District No. 1

15 Perkins Coie

16
17 By [Signature]

David Burman WSBA #10611

18
19 ON BEHALF OF PLAINTIFFS T.I. AND D.I. pgk

20 Evergreen Legal Services

21
22 By [Signature]

Patricia J. Arthur WSBA #13769

23 ON BEHALF OF PLAINTIFF W.F.

24 Heller Ehrman White & McAuliffe

25
26 By [Signature]

John W. Phillips WSBA #12185.

27 Cooperating Attorneys for the Washington
28 Chapter of the American Civil Liberties
Union

STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 10

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1 HELLER EHRMAN WHITE & MCAULIFFE

2
3 By

John W. Phillips WSBA #12185
Blair C. Stope WSBA #
Cooperating Attorneys for the
Washington Chapter of the
American Civil Liberties Union
on Behalf of Plaintiff W.F.

7 PERKINS COLE

8
9 By

David Burman WSBA #10611
On behalf of the School
Defendants

12 PROSECUTING ATTORNEY

13
14 By

Dennis McMahon WSBA #15838
On behalf of the County Defendants

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STIPULATION AND ORDER OF
PARTIAL SETTLEMENT - 12

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