

HIGH COUNTRY LOCKUP
Children in Confinement in Colorado

Human Rights Watch Children's Rights Project

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Human Rights Watch Children's Rights Project

The Human Rights Watch Children's Rights Project was established in 1994 to monitor and promote the human rights of children around the world. Lois Whitman is the director; Yodon Thonden is counsel; Rosa Erenreich and Dorothy Davidson are consultants; and Linda Shipley is the associate. Jane Green Schaller is chair of the Advisory committee.

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I. INTRODUCTION

There are no real advocates for children. There is no community outrage when children are sleeping on the floor under sinks and toilets or that kids are locked up with no staff. It is a sad story when the jailers are their only advocates.

—Betty Marler,
Director of Programs,
Colorado Division
of Youth Corrections¹

The summer of 1996 was an appropriate time for the Human Rights Watch Children's Rights Project to examine conditions of confinement for children in Colorado's detention and corrections institutions. Several sensational crimes had created an alarming "summer of violence" in 1993. Public fear triggered a call by Governor Roy Romer for an "iron-fisted" response to gang violence. In September of that year the Colorado State Legislature responded by passing harsher mandatory sentences. It lowered from sixteen to fourteen the age at which a child could be charged, tried and sentenced as an adult and established the Youthful Offender System as a "second last chance" for some children convicted as adults.²

Three years later, the legislature decreed that a twelve-year-old could be tried as an adult for certain offenses and, if convicted, held in a juvenile facility until he or she turned fourteen and then transferred to an adult prison. Even prosecutors who called themselves tough opposed a proposal that would have lowered the age still further, to ten. They also persuaded legislators to require a hearing in juvenile court before a twelve-year-old could be charged as an adult.³

¹ Human Rights Watch interview, Sept. 20, 1996.

² Senate Bill 93S-9, signed Sept. 13, 1993.

³ Human Rights Watch interview with Denver District Attorney Bill Ritter, Denver, Sept. 7, 1996.

In revisions to the Colorado Children's Code, the legislature took other steps to enhance its "tough-on-juvie" image. It changed the name of the Office of Youth Services to the Division of Youth Corrections (although leaving it in the Department of Human Services). It lowered the age from twelve to ten at which a child can be adjudicated delinquent. It struck the word "child" wherever it appeared in the juvenile justice section of the code and replaced it with "juvenile." It virtually eliminated the right to jury trials for juveniles and mandated pre-trial detention without bail for any who possessed a gun at the time of arrest; before the change, judges had the discretion to order pre-trial release. It stated explicitly, in a legislative declaration preceding the revisions, that sanctions against offenders and public safety were "paramount" to "the best interests of the juvenile in providing appropriate treatment. . ."⁴ T.J. Cole, a Boulder County Juvenile Court magistrate, says, "The code reflects a move away from treatment and towards treating kids like adults."⁵

The action in Colorado was part of a national trend that has not abated. At this writing Congress is considering a bill that would use federal aid to encourage states to prosecute youths as adults for serious crimes at age fourteen.⁶ Clearly there has been a shift in the stereotype of the young offender toward that of a dangerous character who can understand only the language of punishment.⁷

Like most stereotypes this one is too simple, interviews with dozens of offenders and their keepers suggest. Human Rights Watch found many young people in institutions who seemed more intelligent and perceptive than sullen and

⁴ House Bill 96-1005, signed June 3, 1996.

⁵ Human Rights Watch interview, Denver, Aug. 29, 1996.

⁶ House Resolution 3, the Juvenile Crime Control Act of 1997.

⁷ In actuality, only a small percent of children who are arrested in the United States are charged with violent crimes. In 1994, according to the FBI, only 7 percent of juvenile arrests were for violent crimes. FBI, *Crime in the United States 1994* (1995). Cited in Snyder, Howard N., Sickmund, Melissa, and Poe-Yamagata, Eileen. (1996) *Juvenile offenders and victims: 1996 update on violence*. Washington DC: Office of Juvenile Justice and Delinquency Prevention.

angry, with a greater appreciation of education—which they were not getting—than many of their counterparts on the outside.

Because of their physical and mental immaturity, children should not be tried as adults in adult courts. Such courts deprive them of the protections and ancillary services available to them in juvenile courts. Children tried in adult courts are tried in public and deprived of their right to privacy. If convicted, they have criminal records that cannot be expunged and make securing work far more difficult on release. Moreover, they are subjected to higher penalties than would be the case in juvenile courts. And children should never be sentenced to adult institutions where they are mixed in with the adult population.

The guiding principle of the United Nations Convention on the Rights of the Child is that “the best interests of the child shall be a primary consideration” in all actions concerning children.⁸ The convention has attained such a degree of universal acceptance that its principles should be taken into account in the United States; the U.S. has signed but not yet ratified the convention. The Convention on the Rights of the Child has been ratified or acceded to by 190 countries; only two countries have not done so: Somalia, which has no internationally recognized government, and the United States.

In Colorado, between July 1996 and January 1997, Human Rights Watch interviewed children and staff at seven state-operated institutions and one private contract facility.⁹ Children talked about their experiences in their present circumstances and, in many cases, at other institutions that they had gone through.

The staff at every level of responsibility was accessible, open and helpful. The Division of Youth Services made no attempt to gloss over or conceal human rights abuses cited by the children or observed by Human Rights Watch, including the use of restraints and punitive segregation. The Youthful Offender System under the Department of Corrections also gave Human Rights Watch access to staff, most residents and all of the buildings and grounds.

There was one limitation: Human Rights Watch was asked not to talk with any juveniles wearing yellow jumpsuits in the Intake, Diagnostic and Orientation Unit in Denver. These were either new “recruits” going through the regimented boot camp or errant inmates who had been returned to boot camp for “remediation.”

⁸ United Nations Convention on the Rights of the Child (U.N. C.R.C.) G.A. Res. 44/25, November 20, 1989; entered into force September 2, 1990. Article 3.

⁹ Due to time constraints, Human Rights Watch was not able to visit all of the Colorado institutions. This report contains information on two institutions that we did not visit, High Plains Youth Center and the Philip D. Gilliam Youth Services Center, because of the quality and quantity of information available on each.

That restriction was not a significant barrier because all inmates in the Youth Offender System had been through the program and could describe it. Human Rights Watch was permitted to observe the treatment of the “yellows” including the first day of orientation, aptly called “Hell Day.” Except for the “yellows,” all interviewees were selected at random by Human Rights Watch from daily population lists. The Department of Corrections arranged for interviews with juvenile inmates incarcerated in its adult penal institutions.

Division of Youth Corrections officials granted Human Rights Watch permission to conduct the interviews with children on condition that the interviewer comply with the state law mandating the reporting of child abuse. Therefore, we told all children that the information they provided would be used in this report with their identities concealed unless they reported assaults by staff or other inmates. Perhaps as a result, residents would talk about assaults on others, whom they declined to name, but not on themselves. With few exceptions, however, inmates reported they felt unsafe. Even those who boasted, “I can take care of myself,” or, “I have my people here so nobody messes with me,” said they had to “watch their backs” and that *nobody* was safe. The exceptions to this rule were residents at the Adams Youth Services Center and the Youthful Offender System.

Besides conducting interviews, Human Rights Watch reviewed statutes, state documents, and newspaper and magazine articles. Public defenders, private attorneys, prosecutors, juvenile court judges and magistrates, legislators and child advocates familiar with the system all offered their time.

About 16,000 children in Colorado were in detention during 1995. In 1996 the number was 17,500. The latter figure was more than double the number of juveniles in detention ten years earlier.¹⁰ Of those passing through the system, more than half are released within forty-eight hours. The rest are held for further action. Some eventually go to community-based programs. Others are detained for trial, held for assessment or kept waiting in detention for a placement.¹¹

About 330 were sentenced to the adult Department of Corrections in 1996. Another 700 were committed to the Division of Youth Corrections. To keep the latter group, the state operates six detention centers, three assessment centers, two intensive secure residential programs and two medium-care residential programs. It contracts with private entities to operate two detention facilities and fourteen residential programs. Except for detention facilities, there are no state-operated

¹⁰ Bill Scanlon, “Headline,” *Rocky Mountain News*, Dec 27, 1996.

¹¹ Interview with Betty Marler, Director of Programs, Colorado Division of Youth Corrections, Sept. 20, 1996.

juvenile facilities for girls. Some judges place juvenile offenders under the guardianship of local social service and welfare offices.

This report is limited to conditions of confinement and does not discuss community-based programs. It specifically looks at conditions against the background of United Nations standards for the treatment of children,¹² such as the United Nations Convention on the Rights of the Child, the U.N. Rules for the Protection of Juveniles Deprived of their Liberty, the U.N. Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), and the U.N. Guidelines for the Prevention of Juvenile Delinquency (“The Riyadh Guidelines”). These documents are included as appendices to this report. However, it is worth highlighting a few of their provisions:

¹² The U.N. C.R.C. defines a child as “ every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” Article 1.

- No child should be subjected to torture or other cruel, inhuman or degrading treatment or punishment.¹³
- Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time.¹⁴
- All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.¹⁵
- No juvenile [in custody] should be disciplinarily sanctioned except in strict accordance with the terms of the law and regulations in force.¹⁶
- The number of juveniles detained in closed facilities should be small enough to enable individualized treatment.¹⁷
- Every detention facility shall ensure that every juvenile receives food that is suitably prepared . . . and of a quality and quantity to satisfy the standards of dietetics, hygiene and health . . .¹⁸

¹³ U. N. C.R.C. Article 37(a).

¹⁴ United Nations Rules for the Protection of Juveniles Deprived of their Liberty (U.N. Rules). Rule 64. G.A. Res. 45/113, April 2, 1991.

¹⁵ U.N. Rules, Rule 67.

¹⁶ U.N. Rules, Rule 70.

¹⁷ U.N. Rules, Rule 30.

- While in custody, juveniles shall receive care, protection and all necessary assistance-- social, educational, vocational, psychological, medical and physical -- that they may require in view of their age, sex, and personality.¹⁹

¹⁸ U.N. Rules, Rule 37.

¹⁹ U.N. Minimum Rules for the Administration of Juvenile Justice (Beijing Rules). Rule 13.5. G.A. Res. 40/33, November 29, 1985.

- Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society.²⁰
- The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile.²¹
- Every child deprived of liberty shall be treated with humanity and respect . . . and in a manner which takes into account the needs of persons of his or her age.²²
- Every child deprived of liberty shall be separated from adults unless it is considered in the child's best interests not to do so.²³

The impact that the state's get-tough policy has had on crime is the subject of continuing debate. Its impact on conditions of confinement for children is indisputable. Virtually every institution is overcrowded and unsafe—the exceptions result from a court order and caps on numbers at small, specialized units like boot camps. Holding cells for youngsters waiting for court appearances in the City and County building are so overcrowded that handcuffed children have been detained for several hours on the buses the sheriff uses to transport them. A Denver newspaper photo showed several juveniles handcuffed to their seats when the outside temperature was more than eighty degrees. The buses are not air-conditioned.²⁴

Fights are frequent, and many assaults go unreported. Children sleep on floors, crammed two, three and even four at a time into rooms designed for one. There is not enough staff for adequate supervision. In one facility Human Rights

²⁰ U.N. Rules, Rule 38.

²¹ U.N. Rules, Rule 35.

²² U.N. C.R.C., Article 37(c).

²³ Ibid.

²⁴ *Rocky Mountain News*, Sept. 1, 1996.

Watch visited, Mount View Youth Services Center, a single staff member was sometimes responsible for as many as forty children.²⁵

The committed children repeatedly described the staff as indifferent, verbally abusive and sometimes physically abusive. The Colorado Director of Youth Corrections Programs, Betty Marler, said that the staff is frustrated by the overcrowded conditions. "The system brutalizes everyone," she told us. "It leads to burnout and negative attitudes."

²⁵ Human Rights Watch interview with Roger Johnson, director, Mount View Youth Services Center, Aug. 26, 1996.

One institution, the Gilliam Youth Services Center in Denver, is under a federal court order to cap its population and to keep its residents safe. A new center, the Dahlia Street Youth Center, opened to relieve overcrowding, was full after just two months and Gilliam was again over its capacity despite monitoring by the court.²⁶ Other facilities visited by Human Rights Watch were as overcrowded and understaffed as Gilliam had been before the lawsuit was filed. Lawsuits and subsequent court orders directed at one institution put pressure on other parts of the system. There are not enough beds available in the other facilities. Sixty-five to 70 percent of the children, including all committed females, are in private contract facilities. One hundred of them are out of state, away from their families.

Stephen Bates, director of the Lookout Mountain Youth Services Center, said overcrowding is the result of the public's attitude about child offenders. "Public support for increasing the number of secure facilities is driven by fear and misinformation," he said.²⁷ He told the *Christian Science Monitor* that delinquent youths are a product of environments characterized by abuse and neglect. "We're dealing with poverty, single-parent families and both parents out of the home," he said. "We have to look at how we're raising kids and all the systems society has in place. I don't think it's as simple as locking up the end result—the kid—and thinking that's going to solve the problem. Tough consequences don't change what causes this in the first place."²⁸ A lawsuit has been filed on behalf of children denied an adequate education at Mount View Youth Services Center.

Several people working within and outside of the juvenile justice system told Human Rights Watch that many of the committed children need not be locked up. Some, these critics say, need supervision and services that could be provided at home or in community-based programs. Many state officials at various levels spoke candidly about the system but requested anonymity. One official in the system said, "There is a terrible cost drain in locking kids up. Each bed in a new facility costs \$120,000 to build and \$140 per day to maintain. The money has to come from

²⁶Sue Lindsay, "Juvenile Jails Crammed Beyond Capacity," *Rocky Mountain News*, Sept. 1, 1996.

²⁷Human Rights Watch interview with Stephen Bates, director, Lookout Mountain Youth Services Center, Sept. 12, 1996.

²⁸*Christian Science Monitor*, July 29, 1996.

education and other state services." Another official agreed, saying, "Putting money into hardware is a bankrupt policy. People will eventually realize the real cost."

A persistent critic of the juvenile justice system is Denver Juvenile Court Judge David Ramirez. He is a controversial figure, criticized for leniency toward juveniles and his unremitting condemnation of the state's treatment of children. Human Rights Watch found his analysis, especially of how the system traps and holds many harmless young people, to be thoughtful. Ramirez said he was dismayed by a current state proposal to build a new 500-bed facility. He told Human Rights Watch that more beds would simply increase the number of unnecessary commitments. "If you build it, they will come," Ramirez said, noting that six more facilities were already under construction.²⁹

The judge estimated that seventy-five percent of committed girls are status offenders. A status offense is an action which, if carried out by an adult, would not be illegal; for example, truancy or running away from home. The girls referred to by the judge have not committed crimes since an original delinquent act brought them into the system, but were subsequently locked up for contempt of court because they ran away from a group home placement or are truant from school. Ramirez is not alone in pointing out how the system can entangle a child who has committed no serious crime but, instead, is displaying what adults in some times and places would have shrugged off as youthful rebelliousness. The Juvenile Court magistrate in Boulder, T.J. Cole, gave a hypothetical example of how this occurs:

²⁹ Human Rights Watch Interview, Denver, Sept. 6, 1996.

A fourteen-year-old girl steals some earrings from a department store. She is apprehended before she leaves the premises and the earrings are retrieved. It is her first offense. An adult charged with the same offense might get a week in jail or be ordered to make symbolic restitution³⁰ either to the store or to the community. A judge decides the girl needs "fixing" and orders her into Social Services for supervision. She is sexually assaulted and runs away from home. Then she is placed in a group home and runs from there, because she is not allowed to smoke. At this point, the judge commits her to a detention facility for running, even though she has not re-offended. If it were up to me, I would order her to spend a few days in jail and/or sweep the walks at the department store for a couple of weeks. I would advise her that she can get help from Social Services if she wants it and hand her the agency's card.³¹

Judge Ramirez said that behind the callous treatment of children in the justice system lies a general dislike of children. He said,

There is a general dislike and unappreciation of kids in every aspect of public life. Although numerous studies have shown that adolescents need more sleep, they are compelled to attend school at an hour earlier than when they are biologically prepared to learn. There is no day care for the children of families who come to court. Kids are short-changed everywhere because nobody wants to deal with them. This is especially true for troubled kids. Everybody gives up on them. The schools don't want them. If the parents don't want them at home, the treatment facilities give up on them and a group home doesn't work, the court has no option but to commit them. Sixty thousand dollars is the real cost of locking up a child for a year. That amount of money could provide the best education, psychiatric treatment, and

³⁰ Symbolic because there was no monetary loss. The earrings were retrieved.

³¹ Human Rights Watch interview with T.J. Cole, Boulder Juvenile Court magistrate, Denver, Aug. 29, 1996.

family support services with long-term benefit to the community and to the child. The legislature doesn't want to support services that are not punitive.

Judge Ramirez said that this is especially true for minority children, who are over-represented in youth correction centers.³² He said that minority youth are placed in the most restrictive, most punitive facilities. Sixty percent of those who are locked up are either African American or Hispanic, while those groups comprise only 30 percent of Colorado's population. The disparity is greater for juveniles sentenced as adults. In December 1996, 331 institutionalized juveniles had been sentenced as adults. Of that number 40 percent were Hispanic; 30 percent were African American; 22 percent were Anglo; one percent were Native American, and 7 percent were of unknown ethnic origin.³³

Of course, the youth corrections system must deal with the children it is sent. Within the system, race discrimination is widely viewed as pervasive among courts and law enforcement. One state official said, "It begins with the discretion a police officer has to lecture and release a kid or to arrest him. It is exacerbated at each level by prosecutors and judges." Another noted that almost no minority youth are sentenced to the minimum-security sixty-day juvenile "boot camp," Camp Falcon. No girls are sent there either, since the legislature rejected a proposal for a similar program for girls. A minority employee at one of the facilities visited by Human Rights Watch said that everyone sees minority kids as more threatening than white kids and perceives that they are more likely to be involved in gangs.

Another administrator who wanted to remain anonymous said that judges are more likely to send white children to child welfare supervision than to commit them to youth corrections. He said,

You can have the same offense and same circumstances but one kid will get child welfare and the other will be committed. The consequences are more severe for the committed. For instance, the kid in child welfare can attend the public schools. If he leaves a group home or foster care, he is a runaway. The committed child is placed in a more restrictive environment. He

³² According to the Division of Youth Corrections, minorities make up approximately 66 percent of the committed youth and 36 percent of the staff.

³³ Human Rights Watch telephone interview with Lisa Erkes, Department of Corrections Information Systems, December 1996. Jerry Adamek, director of the state Division of Youth Corrections, told Human Rights Watch on Sept. 20, 1996, that diversion programs more accurately reflected the demographics of the state.

cannot attend the public schools. If he leaves a youth corrections center, he is an escapee, not a runaway. The Colorado Bureau of Investigations (CBI) is notified, and he can be sentenced to additional time for the escape. There is also the stigma that attaches to commitment.

Once in the system, children spend hours of pointless idleness when they could be learning, afraid when they should be safe, stuffed into shabby institutions in numbers that make almost every problem worse. Many waste weeks or months in detention waiting for placements without access to education or psychological treatment.

The most extreme example of this treatment is found at the maximum-security Colorado State Penitentiary, where all inmates of all ages are confined in administrative segregation.³⁴ This institution houses prisoners condemned to die, deemed uncontrollable or temporarily sent there for misbehavior in other prisons. Five under-age inmates who had been sentenced as adults were there when Human Rights Watch visited. Isolated in their cells for twenty-three hours each day, inmates of the penitentiary have almost no human interaction except for minimal contact with staff. Meals are served in their seventy-square-foot cells. What little education takes place is delivered via television and an occasional visit by a teacher who delivers and picks up worksheets. One hour a day is spent in a day room that is slightly larger than the cells. The only exercise equipment in the room is a chinning bar. The superintendent of the prison said that inmates have daily access to fresh air during their hour out of their cells. But the youngsters interviewed told Human Rights Watch that the access is limited to whatever fresh air they can get by pressing their noses against holes in a heavy mesh grate during their daily hour in the day room. Inmates can serve their entire sentences in segregation within the walls of this super maximum-security prison depending on their "progress."³⁵

Children who have been dropped from the Youthful Offender System for failure to comply with its program are also held in lockdown for several months while awaiting court dates for resentencing. No longer participants in the YOS program, they are locked in their cells for twenty-three hours a day and receive no education. They are not allowed visitors or telephone calls. Meals and mail are delivered to their rooms. Human Rights Watch interviewed two young females and

³⁴ The Beijing Rules forbid closed or solitary confinement. Rule 67.

³⁵ Human Rights Watch interview with Dennis Burbank, Administrative Officer.

one male in August of 1996 and learned that they were still in this limbo state several months later.

Within most institutions for juveniles, the most common problems revolve around crowding, safety, grievance procedures, isolation, restraints—and food. Most of the children interviewed, except for those in the Adams Youth Services Center and in the Youthful Offender System, complained that they were hungry. Sally A. Stevens, food services manager for the Division of Youth Corrections, said that federal nutritional guidelines for school lunch and breakfast programs are followed at every youth center. Stevens said that she regrets that there isn't enough money to do better, but that she considers meals adequate.³⁶ “Kids want pizza and burgers and don't eat the vegetables they are served,” she said. The adolescents in the state system are offered 3,385 calories a day compared to more than 6,000 calories at the Youthful Offender System. (Stevens quoted the food service manager at YOS as saying food is used for control: “If the kids are full they are less likely to act up.”) Incarcerated young people should not and need not be hungry.

The inmates' claim that food service was inadequate at Mount View was later born out by a state inspection. Stevens and others performed an “audit” in December 1996 and declared the institution in violation of nutritional guidelines and state standards. Among other things, Penny Brown, the recently appointed director of that center, told Human Rights Watch that kitchen staff had been serving syrup from canned fruit and calling it fruit juice.³⁷

The other exception, Adams Youth Services Center, receives large quantities of donated food and does not have to rely on available funds. Relatively small, with about fifty children,³⁸ it can take advantage of community resources not available to larger institutions remote from the community.

Human Rights Watch found the following human rights abuses in the Colorado system:

- Shameful crowding at almost every institution, which lies at the root of many of the other problems. Some are occupied at two and a half times their planned capacity.
- Over representation of minority children in commitment.

³⁶ Telephone interview, Sept. 1, 1996.

³⁷ Human Rights Watch telephone interview, Jan. 7, 1997.

³⁸ Its official capacity is twenty-four.

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- Commitment of children who could learn and be supervised within the community and present no threat to public safety.
 - Use of restraints and punitive segregation in violation of international standards.³⁹
 - Lack of education and psychological treatment for many of the children to prepare them for reintegration into the community.
 - State abdication of its responsibilities and surrender of its powers to protect children committed to its care, by sending children to private facilities, both in and out of state.
 - The placement of children out of state, away from their families, and in private contract facilities where the state has little control over day-to-day operations or the quality and training of staff.
 - Complaints of chronic hunger except at Adams Youth Services Center and the Youthful Offender System. Boys tended to complain about quantity; girls, about quality. At Mount View, almost all those interviewed said the food contained foreign substances.

³⁹ See Beijing Rules 64, 66 and 67. Full text in appendix.

- Detention of children for status offenses, like truancy, if the child committed the status offence while under court jurisdiction. Ironically, juveniles detained for truancy may not be able to attend classes.⁴⁰
- Unsafe conditions ranging from staff failure to protect children from assaults by other inmates, to health code violations.
- Unreported incidents of physical and verbal abuse of children by staff.

Although crowding is a cause of many problems, there is reason to believe that building more prisons for children will not alleviate conditions. The legislature till now has been willing to spend generously on bricks and mortar. However, as the number of committed children continues to rise, many officials are saying, "We can't keep up." Adamek, the Youth Corrections director, said that six new juvenile institutions under construction will be full on the day that they open.⁴¹

⁴⁰ Interview with Penny Brown, director, Mount View Youth Services Center, Jan. 7, 1997. See Mount View below.

⁴¹ Tillie Fong, " Juvenile Jails Stay Jammed," *Rocky Mountain News*, April 13, 1997.

One reason is that in its 1997 session, the Colorado State Legislature again increased the time that some juveniles will serve in prison, by making those convicted as adults subject to enhanced penalties based on their juvenile records. Previously, judges could not consider juvenile records when imposing adult sentences. An attorney notes that many of those juveniles will receive longer sentences based on non-jury convictions, since the legislature earlier had abolished jury trials for most juvenile offenses.⁴² Another reason to expect a higher population, child advocates say, is that judges will be more prone to order commitments if they believe new beds are available.

There is not enough staff or treatment for the present population, and funding for these services, unlike buildings, is unpopular. Funding for education is still acceptable in Colorado but may be fragile in the context of the national mood.

Many incarcerated young people, whatever offenses they might have committed, seemed highly intelligent and disturbed that they were being denied an education. For society's sake as well as theirs, the defects noted below should be remedied. Despite the tough talk and mean treatment, these youths will return to society. We should be getting them ready.

⁴² Human Rights Watch interview with Maureen Cain, lobbyist for the Colorado Criminal Defense Bar, May 15, 1997.

II. RECOMMENDATIONS

Human Rights Watch urges the adoption of the following recommendations:

To the state of Colorado:

- Ensure that state standards for the care and treatment of children in detention and correction institutions--both state-run and private--comply with international standards.
- Order a review of all children in custody with an eye toward releasing those who pose no threat to public safety.
- Replace incarceration with community-based services whenever possible.
- End overcrowding of institutions; place a population cap on all juvenile institutions and ensure that it is observed. End immediately the practice of placing three or four children in a room designed for one. Provide each child with a bed and reasonable privacy.
- Regularly advise courts of the number of beds available for commitments; ensure that number is not exceeded.
- Immediately end under-staffing; provide sufficient numbers of well-trained staff so that children can be properly supervised.
- End the practice of placing children under eighteen in adult prisons or detention facilities.
- Ensure that institutions provide a safe and healthy environment for children.
- Ensure that treatment and education, not punishment, are the primary goals of the juvenile justice system.
- Allow children at least one hour a day for outdoor exercise.
- End the practice of keeping children in detention centers for months without access to education, while waiting for an assessment and

placement. Speed up the process by equipping each detention center to carry out assessments.

- Eliminate placement of children in private contract facilities that violate international standards and bring children home from out-of-state placements.
- Ensure that courts hold expedited hearings for youths terminated from the Youthful Offender System. Those terminated should not be forced to wait for months in lockdown until the court schedules a hearing.
- Rigorously enforce regulations against physical abuse of children by staff. Appropriately discipline staff found to have abused children; dismiss where indicated. Where appropriate, bring criminal charges against staff. Fully inform staff of the rules and consequences concerning physical abuse of children.
- Adhere to grievance procedures, take appropriate follow-up action, and notify children of the disposition of their grievances.
- Prohibit the practice of using buses as “holding cells,” with juveniles handcuffed to their seats.
- End the practice of using isolation as a disciplinary measure.
- End the practice of using instruments such as handcuffs and shackles. In particular, stop using four-point restraints (tying children to beds by their wrists and ankles) and three-point restraints (tying the torso and both legs to a fixed object). Develop alternative methods to control children safely and humanely.
- Provide sufficient food for all children.
- Take steps to correct the committing of disproportionate numbers of minority children to institutions.
- Do not place status offenders in detention or correction facilities.

- Ensure that institution staff protect children from assaults by other children; when such an assault occurs, take appropriate measures to protect the child.
- Correct health code violations promptly.
- Use as health care personnel employees of the Department of Health or other entity separate from the corrections system in order to ensure their independence to report suspected abuse.
- Provide adequate programming and educational instruction to ensure that children are not spending their time without any activity. The purpose of programming and education is to prepare the child for successful reintegration into society.
- Ensure that staff treat children with respect and dignity.
- Provide sufficient staff resources for timely follow-up of state audits to ensure that corrective actions are taken.
- Provide children with access to attorneys, both in person and on the telephone.
- Assure close control and proper documentation of medication provided to children.

To the Federal government:

In accordance with the purposes of the Juvenile Justice and Delinquency Prevention Act, the Office of Juvenile Justice and Delinquency Prevention should:

- Develop mandatory standards for the administration of juvenile justice that at a minimum comply with international standards, and apply to both public and private institutions.
- Assist state and local governments in improving the administration of juvenile justice.

- Monitor states that take part in the formula grants program to ensure that status offenders are not held in detention facilities or corrections institutions; that children are not incarcerated with adults; and that the juvenile justice system is administered fairly, without discrimination on the basis of race, ethnicity, or other status.
- The Department of Justice, in accordance with the Civil Rights of Institutionalized Persons Act, should regularly initiate investigations into the conditions in which children are confined to determine that they comply with U.S. constitutional law and international standards.

Congress should pass legislation expanding the mandate of the Office of Juvenile Justice and Delinquency Prevention to include a requirement to monitor the conditions of confinement for children in the justice system and states' compliance with U.S. constitutional law in confining children.

The United States should ratify the United Nations Convention on the Rights of the Child.

III. FEDERAL RESPONSIBILITY FOR INSTITUTIONAL STANDARDS

Under international law, when a government takes someone into its custody, it has an obligation to ensure that the conditions in which the person is confined do not violate the person's human rights and that minimal standards of decency are guaranteed. Yet the U.S. federal government has not established specific and enforceable standards for the treatment of children in confinement in the U.S.

U.S. courts, however, have established general standards under the United States Constitution. The Eighth Amendment to the United States Constitution protects adult prisoners from conditions that amount to "cruel and unusual punishment." Children are entitled to a higher standard of care. U.S. constitutional law protects incarcerated children from conditions that "amount to punishment" under the Fourteenth Amendment.⁴³ Although children used to have a constitutional right to rehabilitation and treatment, the obligation to provide treatment has been overturned.⁴⁴ Now, under the constitution, children are only protected from "unreasonable restraint."⁴⁵

Two departments within the U.S. Department of Justice are concerned with the conditions in which children in the justice system are confined. The first, the Office of Juvenile Justice and Delinquency Prevention (OJJDP), was established in 1974 under the Juvenile Justice and Delinquency Prevention Act (the 1974 Act).⁴⁶ The mandate of the 1974 act is extremely broad. Its purposes include: providing for evaluation of federally assisted juvenile justice and delinquency prevention

⁴³*Bell v. Wolfish*, 441 U.S. 520, 99 S.Ct. 1861 (1979). Sue Burrell, Staff Attorney at the Youth Law Center in San Francisco, *Legal Issues Relating to Conditions of Confinement for Detained Children*, presented at the NJDA 6th Annual National Juvenile Services Training Institute, 1994. See also Mark Soler et al., *Representing the Child Client*, (New York: Matthew Bender Publishing, 1994). The Fourteenth Amendment incorporates by reference the standards of the Eighth Amendment, as they apply to children.

⁴⁴*Pena v. New York State Division for Youth*, 419 F. Supp. 203 (S.D.N.Y. 1976).

⁴⁵*Youngberg v. Romeo*, 457 U.S. 307, 102 S.Ct. 2452 (1982).

⁴⁶42 U.S.C. 5601.

programs; developing national standards for the administration of juvenile justice; and assisting state and local governments in improving the administration of justice. States that are assisted under the formula grants program established by the 1974 act used to be monitored by the OJJDP to ensure that status offenders are not held in secure confinement and that children are not held with adults.

Since the 1980s, however, compliance has been verified essentially through self-reporting by the states, although OJJDP reports that it does conduct periodic field audits to check on the states' reports ensuring that status offenders are properly assigned and that children are not held with adults.⁴⁷ Otherwise, there is no federal monitoring of the conditions in which children adjudicated delinquent are confined.

In 1996 the Colorado Division of Youth Corrections received a grant of \$15,000 from OJJDP to help with a needs assessment for a regional detention facility. It also received a three year program grant for 1995-1997 to develop and test intensive after-care programs.⁴⁸

The other Justice Department unit involved with the children in the justice system is the Civil Rights Division - Special Litigation Section, which operates under a mandate to enforce the Civil Rights of Institutionalized Persons Act (Institutionalized Persons Act).⁴⁹ Under the authority of the Institutionalized Persons Act, the Special Litigation Section can bring actions for equitable relief, such as injunctions and court orders, against any state or political subdivision of a state, or any official of the state, responsible for violating the constitutional rights of persons or any other federal laws protecting the rights of institutionalized persons.

⁴⁷Human Rights Watch telephone interview with Barbara Allan Hagan, OJJDP, May 16, 1996.

⁴⁸ Joe Thome, Manager of the Office of Juvenile Justice, Colorado Division of Criminal Justice, June 18, 1997.

⁴⁹42 U.S.C. 1997. The Special Litigation Section also has the authority to enforce the right to special education under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1401, and has used that act to enforce educational rights of children with disabilities in confinement. However, most of the IDEA litigation is undertaken by private organizations and law firms at the instigation of the aggrieved individuals.

Essentially, the Institutionalized Persons Act provides an enforcement mechanism for the constitutional rights of children in confinement, one that is under-utilized by the Department of Justice.

In 1996 the Special Litigation Section opened a formal investigation into the four secure institutions discussed in the 1995 Human Rights Watch report, *United States: Confinement of Children in Louisiana*. In June 1997, the Department of Justice concluded its investigation and strongly condemned the Louisiana facilities, charging “life-threatening” abuses. Department of Justice officials have threatened to sue the state and, at this writing, are meeting with state officials to ensure reforms.

In 1997 the Department of Justice opened a similar investigation into eleven institutions in Georgia, following the 1996 Human Rights Watch report, *United States: Modern Capital of Human Rights? Abuses in the State of Georgia*.

The Special Litigation Section has not looked into conditions in children’s correctional facilities in Colorado.

IV. JUVENILE INSTITUTIONS

We try to create an environment in which kids can develop the skills they would have with good parenting: Things as simple as how to relate to people in authority; keeping a job; how to dress appropriately. . . . We're trying to develop a level of awareness so that they return to the community with a greater sense of right and wrong.

—F. Gerald Adamek,
Director, Colorado Division
of Youth Corrections⁵⁰

This report is based on two principal sources. First are visits by Human Rights Watch to eight institutions that confine children. These were a cross-section of Colorado's facilities, representing various levels of security and kinds of programs. The second chief source was so-called audits of institutions done regularly by teams of state officials. Human Rights Watch was impressed by the Division of Youth Corrections' painstaking self-examination through regular audits. They check for compliance with requirements laid down by the American Correctional Association, the Colorado Division of Youth Services, federal and state laws. The reports are prepared by the Division of Youth Services under the direction of Paul Targoff, its director of staff development and quality control. Teams interview staff and residents, inspect facilities, sample the food and examine documents. Facility administrators are expected to respond to criticism with a plan for action. There is an assumption by the Division of Youth Corrections that the plan will be implemented. However there is usually no follow-up until the next regularly scheduled audit. Problems of crisis proportions, for example those at High Plains and Teen Quest, result in more frequent visits.

Human Rights Watch was struck by the fact that government sources such as audit reports often corroborated children's statements--including some that we first greeted with skepticism.

Adams Youth Services Center

Located next to the Adams County court complex in Brighton, several miles from Denver, the Adams Youth Services Center is a detention facility designed for twenty-four boys and girls. It is regularly overcrowded but in many

⁵⁰ Quoted in the *Christian Science Monitor*, July 29, 1996.

ways was above-average. It demonstrates how leadership can overcome deep difficulties—up to a point.

On September 2, 1996, when Human Rights Watch visited, the population was double its official bed capacity, with fifty youngsters between the ages of twelve and eighteen. On December 5 the number had increased to sixty-two.⁵¹ Some children were playing in an outdoor exercise yard, a concrete enclosure that seemed too small for its occupants. The outdoor exercise area, indoor half gym, the multipurpose room, and the children's rooms all comply with American Correctional Institution's space requirements for a twenty-four-bed facility but not for the actual number of residents.⁵²

Director John Riley greeted Human Rights Watch with an apology for the limitations of the exercise yard and the shabbiness of the interior of the facility. The physical surroundings left much to be desired, but there was a first impression, confirmed later by interviews with current and former residents, that it was a safe place. Riley said that he cannot guarantee that the children will never be in trouble again, but he said, "I can promise that every mother's child will be safe here." One youngster interviewed at another facility told Human Rights Watch that he had witnessed only ten fights between residents during the entire two years he spent at the Adams facility.⁵³ The children greeted Riley cheerfully. The interaction between children and staff seemed relaxed and friendly.

The state-operated center houses both males and females between the ages of ten and eighteen. It serves ten counties, including the one in which it is located. Pre-trial, committed and sentenced children are held there. The length of time that

⁵¹ Human Rights Watch telephone interview with Jonathon Hough, assistant director, Adams Youth Services Center, Dec. 5, 1996.

⁵² Human Rights Watch interview with John Riley, director, Adams Youth Services Center, Sept. 2, 1996.

⁵³ C.D., seventeen years old, told Human Rights Watch that he chose to live at the detention center for two years to avoid returning to his abusive home. Riley, however, said children are not permitted to live at the facility for two years, and that C.D. had "acted out" in ways that brought him back several times over a two-year period.

pre-trial children are held depends on many factors including the ability to make bond, eligibility for bond, court calendars, and legal issues. A preliminary hearing is generally held in eight to ten days. At that time, a prosecutor may move to have the child tried as an adult. A transfer hearing may not take place for six weeks followed by another period before trial. One child was held in the center for one day short of a year because of pre-trial issues working their way through the courts.⁵⁴

Children who have been sentenced can be held for up to forty-five days. Children who have been committed to the Division of Youth Corrections who have been through assessment at another facility are in the detention center waiting for placement in a secure facility or for a community placement. Given the shortage of bed space and the high demand for community placement, youngsters can spend as long as six months in detention.

The center has twenty-four bedrooms, a multipurpose dining and recreation area, a gymnasium, two classrooms, a separate visiting and intake area, a medical services area, three offices and a reception vestibule. It was renovated after the Human Rights Watch visit. It has new carpeting, new floor tile and fresh paint throughout.

⁵⁴ Staff member interview, Adams Youth Services Center, Dec. 5, 1996.

Like all of the state-operated youth facilities, the center has a positive peer culture program with an emphasis on individual and group responsibility and incentives to participate. At Adams, the program is optional and modified for a detention facility. The majority of residents participate. The others select "non-motivational" status and are not eligible to earn points for extra privileges like special visits and purchases. They are not denied regular visits or any other services.⁵⁵

At the time of the Human Rights Watch visit, two youngsters were in punitive segregation for "conspiracy to tattoo with a pen." They were confined together in a room so small that two mattresses, the only "furniture," covered the floor. In a follow-up telephone call on December 5, Human Rights Watch learned that eight youngsters were in disciplinary segregation, attributed by the staff to the tension resulting from the severe overcrowding.

Some residents criticized conditions. A.B. said gang rivalries flared up, and that a sexual offender had been slapped and threatened by other residents. Still, the overall impression was that most children felt personally safe. This finding was supported by a report done by a seven-person committee headed by Targoff, the State Division of Youth Services staff development director. His inspection team painted a generally favorable picture of the facility in a report on November 15, 1996. Children were described as feeling safe. A special education teacher had expanded the education program, and a full-time nurse had been added to the staff. Food service was held to be "exemplary." The auditors said, "The kitchen is always kept in a clean and sanitary condition. The food is plentiful and tasty." The number of "critical incidents," such as fights, injuries and escapes, was reported to be three for the fiscal year to date, slightly fewer than one a month. In the previous year it had been fourteen, a little more than one a month.

⁵⁵ Ibid.

This is not to say the institution is perfect.⁵⁶ Children are held after trials waiting for placement, despite a state standard calling for its use only for those awaiting trial and sentenced for short terms. Forty percent of the staff are temporary workers, and they had not received the mandated forty hours of annual training. Nor do professional specialists get the required training. Some temporary workers had no CPR training.

Several children complained about wearing tattered and stained underwear worn by other inmates. "I don't like having to wear other people's underwear," said A.D.⁵⁷ He and another boy were not mollified by the fact that the items had been washed. "You don't know whose they are, and some are torn," he said. Perhaps more serious from a health standpoint were shortcomings in plumbing and personal hygiene. Not all rooms had working wash basins. The isolation room had no plumbing facilities. Youths did not have a chance to shower after exercise and weren't provided with soap. They were not provided with pillows. They brushed their teeth only once a day. At the most serious level for those affected, youth in detention did not receive drug and alcohol treatment services. And the education program did not include vocational education.

Overall, however, a remark by A.E., who had been in three other youth facilities, seemed to sum up the residents' views of Adams Youth Services Center. Although he wasn't happy about sharing socks and underwear, A.E. said, "AYSC is the most mellow and has the best food."

Phillip B. Gilliam Youth Services Center

The Phillip B. Gilliam Youth Services Center is a detention facility for young people aged ten to twenty-one, formerly known as Juvenile Hall, in the mostly minority Five Points neighborhood of Denver. Its sixty-four rooms are divided into two wings, each with three "pods" where its juvenile inmates live. Typically, the residents are juvenile suspects in criminal cases held on orders of the Denver Police Department, children awaiting trial and children awaiting placement in other institutions or foster homes. As at Adams Youth Services Center, some are serving short sentences of forty-five days or fewer.

⁵⁶ This and the following paragraph are based largely on the Human Rights Watch visit. Each criticism was corroborated by the state inspection team.

⁵⁷ Children's initials and identifying details have been changed for their protection.

Since September 1995 the Gilliam Center has operated under the supervision of the federal district court in Denver, as a result of a civil rights suit filed by the Youth Law Center and the American Civil Liberties Union in late 1994.⁵⁸ The case was settled a few months after being filed. Subsequent court scrutiny provided an outside view of conditions. In reaching a settlement, state authorities and the Denver schools agreed to thirty-two specific conditions that must be maintained at Gilliam. The agreement was accepted by the judge and incorporated into a court order. The court gets regular compliance reports.

Human Rights Watch did not visit Gilliam but relied on information gleaned from court documents, state audits, and interviews with children who had spent time in Gilliam.

The conditions that had existed before the lawsuit were not unique to that institution. Many of the other institutions are equally overcrowded, leading to such abuses as the use of restraints and punitive isolation. Therefore it provides an instructive laboratory.

Much of the following information is drawn from a report of July 21, 1996, by Russell K. Van Vleet, a court-appointed expert. He had most recently visited the center in June 1996. This was a follow-up to a visit in December 1995, three months after the court order was issued.

Van Vleet found the Gilliam Center almost completely in compliance with the order. The only exception dealt with restraints. The settlement agreement and court order required that there be no restraining of youths to "fixed objects" as there had been in the past. Center employees were using three-point restraints with Velcro to fasten youth to beds. Three-point restraints means "placing the juvenile face down in a bed or sitting up in a restraint chair" and tying the "juvenile's torso directly to the bed or chair using soft restraints" and tying the child's legs to the bed or chair.⁵⁹ The staff justified the practice with the Orwellian notion that beds were not fixed objects. Van Vleet wrote, "Included in our discussion was the information that many other detention centers and secure custody facilities for juveniles do not use restraints, and many that do use restraints do not attach them to fixed objects." He declared the Gilliam center out of compliance on that point.

⁵⁸*E.R. v. McDonnell*, No. 94-N-2816 (Dist. of Colo. filed Dec. 9, 1994).

⁵⁹ Office of Youth Services, Policy 9.4 on use of Physical Force and Security Equipment. April 1, 1994.

Van Vleet's numbers indicate that restraints are used on a Gilliam resident roughly once a week. In the thirteen weeks from April through June, 196 violent incidents were reported, thirteen of which led to the use of restraints. The entire first half of the year saw them used twenty-three times.

The court order requires consultation with mental health professionals when restraints are imposed for an hour or longer. The consultant found the center out of compliance on that point. Oddly, his report said, "No youth were in restraints beyond the one hour" on page 26, yet on page 22 he quotes officials of the center as saying "there were five restraints for one hour or greater."

Disturbingly, Van Vleet appeared to have some sympathy with the Gilliam staff's argument that tying children to beds can be the only way to keep them from hurting themselves or others. "Whether refusing the use of restraints to a fixed object is in the youths' best interest will require more history and review by everyone concerned," he concluded. In fact, however, the use of any restraints but for an exceptional case is in contravention of U.N. standards⁶⁰ and, as Van Vleet himself notes elsewhere in his report, some institutions do without them entirely.⁶¹ Only one Colorado institution director interviewed by Human Rights Watch defended the practice. The review of compliance with the court's orders, if there is one, will include plaintiffs' lawyers and the supervising federal district judge, Edward W. Nottingham. Clearly there is no justification for changing the order to permit restraints.

Tying up youths is a serious matter, but, overall, Van Vleet concluded in his compliance report that Gilliam "has responded exceptionally well to the requirements of the Settlement Agreement."

He found, for example, that the institution was obeying the order to hold the number of residents to seventy-eight. It had an average daily population of seventy-one, and an average length of stay of 11.3 days. Only once, a month earlier, had the population risen above seventy-eight, and then by only one. That resulted from a court placement and prompted a letter on April 25 from a state official to the presiding Denver Juvenile Court judge asking for cooperation in holding the population to the court's maximum.

The center was screening for mental health problems, the risk of suicide and intoxication and withdrawal from alcohol and drugs. Those in seclusion and on suicide watch were being checked with the appropriate frequency. Tellingly, the

⁶⁰ Beijing Rules 63 and 64. See Appendix for full text.

⁶¹ Among them: Glen Mills in Concordville, Pa., where some Colorado children are sent.

staff said compliance had been made possible by cutting the population to seventy-eight from 230 a day.

The center was also screening the young people to make sure it did not house those who did not belong in a detention facility—for example, because they had been abused or neglected. Van Vleet rated as acceptable the center's level of staffing and its technique for separating the most dangerous and disruptive youths from the others.

The benefits of having a reasonable population are visible everywhere. "The monitor saw no evidence that youth were sleeping on floors," Van Vleet said. Before the suit, the ACLU complaint said, "In some of the rooms the mattresses are squeezed so closely together that there is barely room to walk between them or to open the door to the room."

Lockdowns, in which all residents are locked in their rooms because of some extraordinary problem, had been eliminated since the monitor's previous visit. The last one had happened when a weapon was reported in the building, a permissible circumstance for a lockdown under Judge Nottingham's order. Before the court order, according to the complaint, the center would keep half the children locked in their rooms whenever the population reached 135. As a result, many children spent most of the day sleeping or lying on their beds.

In the old Gilliam, a trip to the toilet required knocking on the door of the room and waiting for a staff person to unlock it. Sometimes an adult came in time, sometimes not, the court complaint said. In the new Gilliam, immediate access to toilets was no problem. In the old Gilliam, stopped-up plumbing was common. In the new Gilliam, "a high standard of cleanliness" prevailed.

Van Vleet reported compliance in the form of regular exercise, prompt medical screening, an end to seclusion for punishment without a hearing with due process. Before the court order, punishments were arbitrary, often administered to groups rather than individuals. They frequently consisted of being locked in a room "regardless of how minor the violation," the complaint said.

A central failing of the old Gilliam was in education. The complaint said the center and the public schools had failed to educate its children, even though some were in the center for many months. Under the settlement agreement, the Denver Public Schools must assess each child on entering and begin an education program—special education, if needed—within three days of the inmate's arrival.

For the most part, the Gilliam Center staff were eager to comply with the court order, the monitor said, and were relieved at having a manageable number of children. It would be comforting to conclude that the problems of the Gilliam Center have been solved. But the pressure on the system has not let up. Gilliam's

lesson is twofold. One, it sometimes takes court intervention to produce humane conditions. Two, even that isn't always enough.

Shortly after Van Vleet's visit in June, the Denver news media were reporting a new crisis. The *Rocky Mountain News* said on September 1, "Only two months after Denver opened a juvenile detention center to ease crowding at Gilliam Youth Center, the new center is full and Gilliam is beyond its court-ordered limit of seventy-eight."⁶² The article said the center had been above the limit every day the previous week, by as many as thirteen inmates, or 17 percent. This happened despite steps including early release, cancellation of some arrest warrants and quick transfers to other facilities. The arrests of juveniles were outpacing the system's capacity to absorb them. The city's twenty-seven beds at the new Dahlia Youth Center were filled. Plans to build another sixty-bed facility had been held up by disputes on its location.

The conditions at Gilliam improved because of the lawsuit which, according to the consent agreement, has a life span of only three years. The problems there had been no secret. Health Department inspections in 1993 and 1994 had found overcrowding and understaffing. In the words of the court complaint, "The reports in both years found dozens of violations of state codes, regulations, and professional standards." Audits in 1991 and 1992 had pointed out the damaging results of crowding in state juvenile institutions.

Given the level of arrest and incarceration of juveniles, and in the absence of action by the Legislature, the courts are the last, best hope for humane conditions in juvenile institutions. The unhappy reality appears to be that, in its "natural" state, without court intervention, the Gilliam Youth Center would still be crowded, poorly staffed, filthy and unsafe—a place where the only children assured of beds were the ones tied to them.

High Plains Youth Center

The High Plains Youth Center (HPYC) in Brush, 125 miles from Denver on the eastern plains of Colorado, is a private contract institution classified as "intensive secure," for those convicted of the most serious offenses.

It has a stormy history. Idaho withdrew its children from the institution after officials looked into complaints that residents were being victimized. The place was the subject of an unannounced visit by Illinois officials in late 1995 that

⁶² Sue Lindsay, "Juvenile Jails Crammed Beyond Capacity," *Rocky Mountain News*, Sept. 1, 1996.

produced a strongly worded report and the recommendation that Illinois also pull its children from High Plains. This all happened before Human Rights Watch began its inquiry, and the organization did not visit the facility, which is operated by a company called Rebound. Information presented here was compiled from news stories, official reports and interviews with children who had served time there.

An inspection by Colorado in 1996 found many deficiencies and ordered corrections. The state's position is that reform is underway.⁶³ But the recent descriptions of High Plains have found lingering ills—poor staffing, a threat to weak inmates of physical and sexual abuse at the hands of the strong, and an education program which hardly seems worthy of the name.

The Illinois group that visited the 180-bed facility in December 1995 was led by Ron Davidson,⁶⁴ director of the mental health policy program at the University of Illinois at Chicago. The trip was prompted by complaints by caseworkers familiar with the institution. The Illinois officials found that High Plains had been the site of assaults on staff by inmates and vice versa. A federal occupational-safety inspection had found, in Davidson's words, that "the level of workplace violence at the facility was so high as to place employees at risk of serious injuries from physical attacks." The center's director had resigned. Davidson and his team interviewed current and former staff members. "The information provided by all of these independent sources," he wrote, "points to a consistent and disturbing pattern of violence, sexual abuse, clinical malpractice and administrative incompetence at every level of the program."⁶⁵

His eleven-page typewritten report to the director of the Illinois Department of Children and Family Services attributes a previous-year staff turnover rate of forty-two percent largely to fear of violence.⁶⁶ He was highly critical of the "firewalls of corporate 'deniability'" between High Plains and its parent company, the Rebound Corporation in Denver, which is owned by Boston's Mayflower Group Ltd. There was a desire within the institution to keep a lid on knowledge of embarrassing incidents, he said.

It is worth dwelling on Davidson's year-old findings partly because High Plains illustrates the danger of reliance by the state on private, for-profit institutions. It is hard to avoid the suspicion that High Plains would have continued to operate without reforms if officials of Illinois and Idaho had not made its failings public.

⁶³ Human Rights Watch telephone interview with Paul Targoff, December 1996.

⁶⁴ Ron Davidson is not related to the Human Rights Watch researcher who prepared this report.

⁶⁵ Ron Davidson, Report dated Dec. 8, 1995.

⁶⁶ Other factors were said to be low pay and the center's remoteness.

Davidson was highly critical of the host state, saying his team was “appalled by the complete failure of Colorado’s child welfare authorities to identify and remedy these shameful (and in some cases unlawful) conditions.” State officials told Human Rights Watch that they had been aware of the conditions at Brush before the abuses became public. Why were children left there? “We have no place to put them,” a state official said, referring to the children. “We were working and continue to work with High Plains to bring about improvements.”

Of the facility, Davidson wrote, “Physical injuries of staff and residents during restraints are very high, as are the number of restraints themselves. . . .” A Colorado review of worker compensation records cited by Davidson showed 110 reported injuries to date in 1995, “eighty of which occurred during restraint procedures.” Attacks and sexual assaults among residents were described as routine events. Many residents said staff members “are either unable or unwilling to effectively intervene.” Weapons and the supposedly forbidden hair picks and combs from which to make them were commonplace. Drugs were found to be common.

“Sexually aggressive residents, including known perpetrators, are mixed with other residents in six-bed locked dormitories,” he wrote. Assaults were described as common. Davidson wrote, “HYPC employees who spoke on-background indicated that unit staffing practices appear to be a numbers game where management attempts to balance the competing pressures of safety and profit.” He found “a fundamental lack of professional leadership at the core of the operation” and recommended that the Illinois children be removed. “Regrettably,” he wrote, “all of the members of the review team concluded that these children are presently at risk of suffering physical and emotional harm if left at HPYC, and that they should therefore be removed as quickly as possible.” Instead of removing them, Illinois declared a moratorium on sending more children to High Plains.

A little more than two months after Davidson’s report, on February 21 and 23 1996, Colorado conducted an inspection of High Plains with eight staff members from its human services, child care and education departments.⁶⁷ This audit focused on specific policies and standards. The team’s report is dryer, less fierce and in some respects less specific than the Illinois document. It is more

⁶⁷ State Report of High Plains Youth Center, Follow-up Audit done by Division of Youth Services in conjunction with the Department of Human Services, Division of Child Care, and the Colorado Department of Education. February 21-23, 1996.

concerned with paper records (“In one file the File Assessment, Assessment Interview, Intake Interview and Adolescent Self Assessment were not done”). But the team also examined program, staffing, safety and inmate-treatment issues, and its report contains a number of findings that are quietly damning. On education, for example, it says,

Vocational training programs should be relevant to the vocational needs of the juveniles and the employment opportunities in the community. The building trades vocational training program, while a positive experience, does not give the youth enough training to qualify for employment opportunities in the building trades industry. . . . Several youths who are high achievers related that their teacher was unable to help them with algebra or geometry. Others complained that they learned alone with books and written assignments; that their teacher did not know the content enough to discuss it. . . . There is no written curriculum for academic content areas.

In other words, the vocational training is useless in preparing for jobs and teachers know as little as their students. To the state's credit, an immediate assessment of High Plains' educational effort was ordered.

The Colorado staff members rated security as very good despite what the report called a “sparing use” of seclusion. Logs showed “an average of 45.3 minutes in confinement,” with 141 minutes the longest. When it came to tying up children, however, the team was not wholly satisfied. “The use of restraints has decreased in October; however, it is still high. There were 134 incidents involving restraints in November, 112 instances in December, 95 in January and 49 as of February 21st.” It said the inmate discipline lacked basic procedural rights such as the right to call witnesses, and it ordered improvements there and in the grievance procedure.

Yet another inspection was done seven months later, on September 11 and 12 1996, leading to a report dated September 30. Despite a year of criticism mounting to the bureaucratic equivalent of Jovian fury, the audit team found numerous problems with health, safety, restraints and education.

The use of restraints was described as “very high,”—ranging between fifty-eight and eighty-seven instances a month over a four-month period in 1996. “Youth interviewed stated that some of the staff continue to intentionally hurt youth during restraint episodes,” the audit said. One resident had been kept in “time out,” that is, isolation, for 239 minutes in March, when policy sets the maximum at sixty minutes. “The records . . . reflect that youth who physically assault either staff or peers have

minimal consequences other than immediate administrative separation,” according to the audit.⁶⁸

It describes as alarming the number of worker compensation claims by employees arising out of violent acts. In seven months, forty-five compensable cuts, bruises, sprains and other injuries had resulted from restraint episodes and assaults. “Examples of these instances include youth attacking staff who are restraining other youth,” the report said. “Youth who were interviewed stated this is a common occurrence.”

On the program side, the center’s educational efforts were still deplorable. The only good work seemed to be in making plans. Although four vocational courses were offered, only one had a full-time instructor and no class was being held more than twice a week. “In addition, the technology lab articulated so well in February’s audit as the crux of the vocational program has not materialized.”

The library was closed. Residents were cut off from news of the outside world. Grading of their work was nonexistent. Teacher-pupil interaction was “limited.” Teaching materials were so deficient that one teacher used a single text for students of all ages to “hit the middle ground.” Incentives for learning were nowhere to be found. “Too many students are allowed and expected to sit day after day doing minimal or no work,” the audit said.

⁶⁸ Ibid.

Rules were vague and discipline arbitrary. Hearings were held *after* punishment in the manner of the Queen of Hearts,⁶⁹ and, contrary to the rules, basic rights to mail, phone calls to case managers and visits were being denied residents under so-called cottage restriction.

Add bad smells, flies and mice in the kitchen, and High Plains Youth Center still fell short of reasonable, even minimal, performance.

Lookout Mountain Youth Services Center

Lookout Mountain Youth Services Center is the largest of the nine facilities that house the Division of Youth Corrections' most serious offenders. Only one other, Grand Mesa in the Western Region, is operated by the state. The other seven are privately operated. Lookout Mountain, classified as an intensive-secure institution, cares for approximately 200 males aged twelve to twenty-one. It draws youngsters from around the state but mostly from Jefferson and Denver Counties. The average stay is eleven months, but sentences range up to five years based on the seriousness of the offense. Most of the youth at Lookout have serious offense histories including assaults, sexual assaults, and repeated property offenses. Many have mental health problems and abuse drugs and alcohol.⁷⁰

Nestled against the foothills of the Rockies in Golden, Lookout Mountain is on a former wildlife preserve. Rabbits still scamper across the spacious, well-tended grounds. Several large playing fields are used for softball, soccer and football. The campus has a school building, a medical and dental clinic, several vocational workshops, a central dining room, a gymnasium, an intake unit, and administrative offices. Although it is enclosed by a sixteen-foot fence, it does not have the razor wire seen at many corrections facilities. Director Stephen Bates said no useful purpose would be served by razor wire. "If a kid wants to run, the wire won't stop him," Bates said. "He will just sustain serious injuries."

On the day that Human Rights Watch visited, there were 196 residents in the 152-bed facility. Eighty children were double-bunked in shabby eighty-square-foot rooms with no beds. They slept on mattresses on the floor.

⁶⁹ "Sentence first —verdict afterward." (*Alice in Wonderland*).

⁷⁰ Human Rights Watch interview with Stephen Bates, director, Lookout Mountain Youth Services Center, Sept. 12, 1996.

The six separate residential units include a twenty-four-bed treatment facility, called Cypress, for youngsters who need mental health services. At Cypress the regular staff is augmented by five professionals from the Department of Public Psychiatry at the University of Colorado Health Sciences Center. The unit was filled to capacity and had a waiting list. According to Bates, there has been a dramatic increase in the number of children with mental health problems. That day there was no space for thirty-six youngsters who needed treatment. By October 28, the backlog had risen to forty-eight.⁷¹

The twenty-three residents in one unit, Oak, were all in lockdown pending an investigation of an outbreak of racial violence the previous day. Several had been placed in isolation. Human Rights Watch was able to interview only one African American youngster. All of the others had been implicated in the disturbance and were in isolation. However, the Hispanic and white residents gave consistent accounts of the mounting racial tensions that had led to the confrontation. L.A., a thirteen-year-old Hispanic boy, said,

The blacks let us know whites were laughing at us for fighting each other. They kept calling us spics and niggers. We decided to get together and jump them the next time they called us names. That's what happened in the lunch room. Now they're talking about charging the blacks and Mexicans with inciting a riot and assault.

A minority staff member identified by several youngsters as a "good guy" denied that there had been any immediate provocation for the assault on the white kids. He said that the investigation revealed that it had been planned for that morning in the restroom but the whites stayed away to avoid a confrontation: "They were afraid to brush their teeth."

⁷¹ Human Rights Watch telephone interview with Stephen Bates, Oct. 28, 1996.

None of the youths interviewed believed that the staff could protect them from the frequent fights that take place, especially in the communal bathroom. They rely on their “own people” for protection and said that “loners”⁷² are especially vulnerable. Minorities at Lookout, as everywhere else, are over represented in the resident population and, by comparison with the inmates, under represented on the staff.⁷³ The racial tension at Lookout differed from the other facilities visited only because the African Americans and Hispanics had coalesced.

Violence is a problem at Lookout Mountain, but not the only one. Children in the Oak Unit complained of dirty bathrooms with toilets that don't always flush; the lack of privacy in the school restrooms, where there are no individual stalls; uncomfortable mattresses and pillows; cold isolation cells; lack of enough time for laundry; too few towels; having TV only three hours on weekends; a ban on visits from siblings over ten years of age; no family visits during lockdown and only two a month during other times; no telephone access to client managers to inquire about remaining time before release.⁷⁴ They objected to the ban on telephone calls to lawyers during lockdown, what they called frequent and arbitrary room restrictions, and an abusive and indifferent staff that ignores policies on grievances, requests for staff representation at disciplinary hearings and appeal requests. Some were afraid that the staff could not deal with a medical emergency.

L.C., fourteen, said, “I'm not afraid of fights. I'm afraid that I will have an asthma attack when I'm locked in my room at night. There are only two staff and the nurse leaves at two in the afternoon. The staff doesn't know anything about asthma.”

All of the children said they were hungry immediately after meals and between meals. They said that servings were too small and seconds rare. Complaints were about quantity, not quality. With the exception of one complaint

⁷² Described by several youngsters as usually white with no gang affiliation.

⁷³ On December 6 the minority population was 60 percent, and of the direct care staff, 30 percent were minority. Minority staff in every category in the Division of Youth Corrections exceed the relevant percentages of the general population; they are under represented only in proportion to the children committed to their custody.

⁷⁴ A case manager is assigned to each committed child by the DYC to follow progress and make recommendations about placement, treatment and eligibility for release.

that “there isn't enough variety and the food has no flavor and needs some spices” there was general agreement with L.D., who said, “It is good most of the time, especially when we get brownies or root beer floats.” There is a consensus that the food is better than at other facilities because of the vocational culinary arts program.

L.E., fifteen, complained about one teacher who serves as a disciplinary hearing officer and also attends group therapy sessions. “He laughs at the kids who are written up and says, ‘Just wait till I get you at the hearing.’ If he doesn't like something we say about him in group, he tells us to get out and go to our room for the rest of the day. If it's one o'clock in the afternoon, we have to stay there until the next day.” The facility audit of May 1996 noted that Lookout Mountain violates the policy that says “room restriction for minor misbehavior serves only a cooling off purpose and is short in duration with the time period 15 to 60 minutes—specified at the time of assignment.”

L. F., fourteen, said that staff are “rougher than they have to be when they take a kid down.” He quotes one staff member as telling a group of inmates, “I've been waiting to slam someone, so I can use my new pressure point training.”

Several disciplinary hearing report forms provided by the children substantiated their allegations that requests for staff to represent them at hearings and appeals had been ignored in violation of state policy. L. B., who is thirteen years old, said that when he tried to file a grievance with a staff member, he was told, “I ain't putting up with your shit.” A state audit lends credence to his statement by saying that requests for a staff member to represent them at a grievance hearing—theoretically available under state policy—are never granted.

At the conclusion of the interviews, Human Rights Watch summarized the complaints so that the director would have an opportunity to respond.

Bates denied that youngsters were not permitted to call their lawyers during lockdowns. They are never prohibited from calling their lawyers, he said. He acknowledged that long distance calls to client managers are not permitted because of the cost. He said that medical staff is available at all hours. He said the TV restrictions are a compromise with the legislature, which wanted to ban all television. He promised to investigate complaints about the staff's ignoring disciplinary procedures. He said, “We have to be secure but not abusive.”

Bates agreed that the Oak Unit was shabby and that there were plumbing problems. He said that it is on the list of units that is scheduled for remodeling. He said that most of the complaints are attributable to overcrowding and lack of resources. “There is not enough staff to supervise more visits,” he said. “Visitors between the ages of ten and eighteen pose an additional risk, because they may also be involved in criminal activity and a source for smuggling contraband weapons and

drugs into Lookout. There isn't enough money in the budget for more food. We receive \$1.05 for food costs per meal."⁷⁵

"Locking someone up does give society the feeling that something is being done," Bates said. Earlier in 1996, Bates told the *Christian Science Monitor*, "Unless you're locking someone up for life, they're coming back out. So the degree to which you can maximize their progress is to the benefit of society."⁷⁶

Bates has been with the system for twenty-three years and describes himself as committed to education and treatment. He told Human Rights Watch, "Everyone who works here is engaged in changing kids' lives. Changing kids for reentry into the community is the best way to keep the community safe. We are mandated by the legislature to keep these kids in a secure facility. I take both missions of security and change seriously."

Lookout Mountain is the site of two unusual efforts to prepare children for their return to society.

It is one of four U.S. institutions with a federally funded pilot project called the Intensive Aftercare Program⁷⁷ designed as a model for working with delinquent children to prepare them for reentry into the community. "We focus on transition from day one," Bates said. The program has counseling, multifamily therapy, and individualized education. Client-managers have caseloads of eighteen apiece instead of the usual forty or fifty. It also has completed a federally funded, three-year demonstration project for drug and alcohol treatment called People Empowering Adolescents to Redirect Lives. There will be follow-up research to evaluate its success. Informally, it is viewed as a model program showing strong results. Officials intended to shift resources to continue the program when federal funding dried up at the end of 1996.⁷⁸

Metropolitan State College in Denver provides all educational programming for the youth at Lookout Mountain and serves as a training ground for students completing degrees in criminal justice, education, and human services. The

⁷⁵ It has been increased to \$1.15, according to Ivan Tate, assistant director of the Department of Youth Corrections, in a Sept. 20, 1996 meeting with Human Rights Watch.

⁷⁶ Quoted in the *Christian Science Monitor*, July 29, 1996.

⁷⁷ The others are in Virginia, Nevada, and New Jersey.

⁷⁸ Human Rights Watch interview with Stephen Bates, Dec. 6, 1996.

director of the college's education project for Lookout Mountain, Robert Wiener, said the curriculum includes a vocational element.

Human Rights Watch toured a greenhouse constructed by the students that will be used for horticultural study, classrooms, an auto mechanic shop, and a computer repair shop. Some students were working in a silk-screen lab while they designed and printed T-shirts and banners for community organizations. All of the youth are encouraged to work for high school diplomas rather than settle for a general equivalency diploma. Jerry Adamek, the director of Youth Corrections, told a newspaper reporter, "Our old goal was, get these guys to earn general equivalency degrees and that would be a success . . . My notion was, if you have a kid with only a GED, a delinquency history, and a personal appearance that's shoddy as hell, they don't have any shot in the world."⁷⁹ Some youths take college courses through Red Rocks Community College. Two will have associate degrees on their release from Lookout.

All accomplishments are celebrated at the center. Graduation ceremonies mark completion of academic and vocational education programs. Special ceremonies recognize other achievements like completion of a program similar to Outward Bound. Families are encouraged to attend.

Despite its efforts at education, Lookout Mountain has some of the usual institutional problems. A state inspection report of May 1996 cited problems that included having less than the required living space in the Oak Unit, double bunked rooms, the excessive population, the use of four-point restraints in the psychiatric treatment Cypress Unit, the lack of clear procedures for using restraints for psychiatric purposes, excessive room restrictions for minor misbehavior with bedtimes as early as 5 p.m. (1 p.m. according to one resident), and failure to respond to grievances in a timely manner.⁸⁰

Several staff members expressed concern to Human Rights Watch about the use of restraints except in the rarest of instances under medical supervision—for example, on a suicidal resident who tried to pull stitches out of his slashed wrists.

⁷⁹ Quoted in the *Chronicle of Higher Education*, Aug. 4, 1996.

⁸⁰ The use of four-point restraints, in which a child is tied by wrists and ankles to a bed, is a violation of the Office of Youth Services rules, which state that, "staff shall never connect any more than three points of a juvenile's body to a fixed object." Policy 9.4, III D(a). April 1, 1994. It also violates international standards, U.N. Rules 63 and 64.

The staff is struggling to arrive at alternatives for out-of-control youth like so-called "soft rooms" where they cannot injure themselves or others or destroy property.

The Critical Incident Analysis Report for fiscal year 1995-1996 prepared by the Division of Youth Corrections notes that there were four sexual assaults and seven suicide attempts. Other assaults had declined. According to the residents, however, many resident-on-resident assaults are unreported.

Mount View Youth Services Center

The Mount View Youth Services Center is a three-building, ninety-six-bed facility in the southwest Denver metropolitan area. It houses girls awaiting trial in a twenty-four-bed cottage. In addition, the two main buildings have both male and female prisoners, aged ten to twenty-one, awaiting trial, assessment, determination of parole violation charges, and community placement. It houses some young people serving sentences of up to forty-five days.

Human Rights Watch visited Mount View on August 30, 1996, and again on January 7, 1997. None of the children interviewed said that they felt safe; they told us that assaults by other residents were unreported or ignored by staff. The children described staff members as verbally and physically abusive. The facility was crowded and dirty.

All of the boys interviewed complained about chronic hunger. Weaker inmates, they said, particularly "loners," were coerced into giving up their food. As one youth described it, the predator would say, "How about giving me your fries?" and, if the target declined, "How about I *take* your fries?" The victim knew that if he gave up his food he would be marked as an easy target. If he refused, he risked an assault by the bully and his friends in a room or the shower. Several youths said food had been snatched from their trays. Food was used as "currency" in card games. Asked the one thing he would change at Mount View, a boy replied, "I would give every kid however much food he needs."

At the same time, the quality of the food was the subject of stinging criticism from the residents. A.D., who was interviewed in the Adams Youth Services Center but had spent time in Mount View, told Human Rights Watch that he hadn't trusted the food because it was prepared by inmates. He said he had found hair and eraser tips in the food. "I've heard stories about cooks spitting in the food," he said. "There are seconds sometimes, but I wouldn't eat it."

A number of children described Mount View as violent. "The staff lets fights go on a long time," an inmate, A.Z., said. "They are slow to respond and let kids get hurt." A girl, M.A., said she had heard of a minor sexual assault. All of the youths interviewed, whatever their ethnicity, said that much of the violence at

Mount View was racially motivated or part of a continuing battle between rival street gangs.

As elsewhere, problems arise against a background of severe crowding. "On any given day the facility holds 200 to 250 residents," M.B. said. "People sleep on the floor. You are not allowed anything in your room, including your own clothes. . . . We are supposed to get two blankets but since it's overcrowded we only get one."

A report of a state Division of Youth Services inspection that took place from January 29 to February 1, 1996, concurred with the observation by Human Rights Watch that the facility was unsafe, dirty and overcrowded. A usual population level is twice or more the supposed limit. Each main building "has been forced to support up to three times as many residents" as the design maximum of thirty-six, the audit said. Nearly a year later the picture hadn't improved. In December 1996, 206 youths were housed at Mount View.

"Because of overcrowding, the staff to juvenile ratio has been dangerously high," the February 1996 report said. "One staff has supervised as many as forty juveniles. Twenty-five percent of the staff assigned to the Mount View program is comprised of temporary positions." The temporary staff were described as having little commitment to the work; for many it is a second job.

The audit done in December 1996 said, "The physical plant of the facility is in poor condition. The living areas were dirty, paper was thrown on the floor in all the living areas, the walls were scar[r]ed with graffiti in the living rooms and bathrooms, there were unknown substances on walls throughout the facility." An inmate identified the "unknown substances" in an interview as urine, feces, and semen. The state auditors complained, correctly, that there was "an offensive odor throughout the facility." Inmates and staff also told the state inspectors they felt unsafe.

The crowding means more so-called critical incidents such as assaults and escapes. Handling of medication also has been a problem. The February report said there had been a "significant increase in the number [of] medications, particularly psychotropic medications." It pointed to an "unacceptable level of 'undocumented' medication doses." Although Human Rights Watch had been told by the Division of Youth Services that medications were carefully prescribed and monitored, the audit suggested that medications were being handled loosely.

Human Rights Watch interviewed one seventeen-year-old youth who appeared to be severely depressed and voiced thoughts of suicide. Employed and functional on the outside, he had been committed for repeated marijuana use. He said he wanted professional help but was afraid that he would be treated as a suicide risk, locked in his room with a pink sheet on the door and half-hourly checks by

“sneering” staff. He complained, “The staff treats everybody like hardened criminals who just came from Canon City. I’m no criminal. I just can’t give up smoking marijuana.”

The audits confirmed that there is a near total absence of educational and recreational programs in the living units. Typical activities for the school-age children were watching television and playing cards.

In February, state inspectors found forty-eight standards with which the institution was out of compliance. Improvements by December were few. The main problem areas identified were administration, health and safety, and the lack of programs to get the inmates ready to leave. “Both staff (including temporaries) and youth state they do not feel safe,” the February audit said. “Some of this can be attributed to overcrowding . . . and the extensive use of untrained temporaries.”

The audit confirmed the allegation that other inmates working in the kitchen were in a position to put foreign substances in the food. Earlier, Division of Youth Corrections staff had denied that the inmate kitchen-helpers had access to the food.

Food was one of several health and safety issues highlighted by the inspection. Living quarters were, as noted, too small for the number of inmates. Lighting was bad. Children arriving did not regularly get additional clean clothes, and the center did not clean their clothes before storing them. Inspectors found the same kind of problems: too little bedding, and that torn and with holes; no pillows; haphazard laundering of linens; not enough clothes for youths’ basic needs.

New employees were not given physicals and were poorly trained. Medical record-keeping was poor, and consent forms needed to treat inmates’ medical problems were not always on file.

There was little in the way of program. Education was limited to fewer than three hours daily, and there was no special education for children with handicaps. “Juveniles were assigned a personal counselor, however, there was very little evidence that the youth had an opportunity to see their personal counselor,” the February audit said. “Not all detained and committed students attend school.”

The state visitors did compliment the center for its start toward developing a written curriculum, and there appeared to have been progress in December. A contributing factor may have been a federal district court lawsuit filed six months earlier.⁸¹ The Children’s Legal Clinic of Denver accused the state of breaking state and federal laws by denying any education to children awaiting placement to other facilities and doing an inadequate job with the rest. The suit is pending, with settlement talks reportedly under way.

⁸¹ *A.C. v. McDonnel*, Civil Action No. 95-uv-1838 (filed July 21, 1995).

Critical incidents, including suicide attempts, assaults, escapes, etc., had tripled in three years, from twenty-one in 1992-1993 to sixty-five. More troubling, the increases came in assaults on residents, at the same time that the number of other kinds of incidents, such as escapes, dropped. Here are the state's figures.⁸²

Type of Incident	1992-93	1995-96
Resident assaulting resident	2	20
Sexual assault	1	7
Resident assaulting staff	1	2
Abuse on resident alleged	0	3
Suicide attempt	0	4

In the four years covered by the report, the dominant kind of incident had gone from escapes to assaults by residents on one another. Notes on one of them include the comment, "Single coverage made it difficult to break up the fight." One staff member assaulted by a resident needed knee surgery, and a resident attacked by another suffered a broken wrist. Most of the abuse reports were deemed "unfounded," but one resulted in the suspension of a staff member and a referral to the district attorney's office for criminal charges. Other staff members have been fired since the appointment of a new director.

⁸² Division of Youth Corrections critical incident report. July 1996.

Force was being employed against the children about once every two days (there were thirty-one incidents between September 24 and December 3).⁸³ One resident had been in isolation for at least thirty days on “administrative separation” for which there was no adequate explanation in the file, the auditors found. “While there is not gross abuse of juveniles’ rights . . . there is clearly consistent neglect in assuring those rights will not be abused and that youths are safe,” the draft December report says.

Human Rights Watch returned to Mount View on January 7, 1997. A new director, Penny Brown, had been appointed. She said she was addressing problem areas. She had made a number of staff changes and was in the process of making others. However, Human Rights Watch again observed a number of children who were not in school. Mount View staff and the children said they were not on the list for classes that week. Apparently, Jefferson County school will not allow more than fifty children at a time to attend classes.

⁸³ Between September 24, 1996 and December 3, 1996, thirty-one Use of Force Reports were sent to the office of Youth Services’ Quality Control Division. Thirty-three percent of them described incidents which mechanical restraints (handcuffs and/or shackles) were used. Two reports dealt with the use of soft restraints. One report stated that one child had been held in mechanical restraints for forty-five minutes.

The Office of Youth Services policy on Physical Force and Security Equipment states: “ To ensure safety and security and to prevent injury to juvenile(s) and staff, limited physical force may be used in instances requiring self-protection, protection for others, prevention of property damage or preventional escapes, and in accordance with appropriate statutory authority and a written report shall be submitted by each staff member who employed force. Mechanical restraints shall never be applied as punishment and may be applied only under prescribed conditions and with the approval of the facility director or his/her designee.” April, 1994.

Teen Quest

Teen Quest is a private contract facility operated by Denver Area Youth Services. Human Rights Watch visited Teen Quest on September 10, 1996. A small institution for girls on the grounds of Mount View Youth Services Center, it was the subject of a memorable piece of negative publicity: a newspaper photograph of several girls, shackled together, being taken to lunch. This led to scrutiny by the state and the appointment of a new director, Laura Shipman Hamblin.

The girls eat at Mount View and have the same complaints that the boys had about foreign objects in the food. They said they had found hair and bolts and heard of worse. "We're in jail," one girl said. "Food's not supposed to be good. But there is hair in this food, spit and other bodily fluids." Another resident called the food "OK" but added, "There is not enough. I'm always hungry."

Several voiced criticism of the staff, calling some members "mean." "They slam doors in our faces for asking questions," one said. Idleness and restrictions on talking were also the subject of criticism. "I just sit here all day like a potato," said one. Girls reported that they lose privileges for laughing. They have an hour a day after dinner when writing is allowed; they said they would like more writing time. They dislike the rule against talking in halls, bathrooms, day rooms and at meals.

One told a story about how she got into trouble. A staff member told her, "You're smarter than this. I read your file." The girl became upset and replied, "You guys think I'm that file. My life is not paper. You guys don't know me." She said that she was put in isolation, where she calmed down. She asked to go to the restroom but was made to wait. She responded by screaming she had a right to go to the bathroom. Staff told her she would have to sign a "contract" before she would be taken to the bathroom, saying, "I have to know I'm safe." The girl yelled, "Screw your contract," and hit the wall. She told Human Rights Watch that her arms were tied behind her back and she lay face down coughing for half an hour. "When we're having bad days, staff doesn't understand and throw us in isolation," she said. T.C. said the isolation rooms at Teen Quest are large, cold rooms with no mats or toilets. T.C. said that the maximum stay is five days; the usual, two.

Girls need permission to use the bathroom. They told Human Rights Watch that they must knock on their doors and wait, sometimes for fifteen minutes, for staff to respond.

Girls told us that if the staff are too busy, girls in isolation are not allowed out that day even for a shower.

Many of the girls complained that nursing care is inadequate and gave examples: 1. A girl had an asthma attack and could not see the nurse for her medication. She kept getting worse and finally passed out. She was hospitalized overnight. The parents had to pay the bill. The girl's mother then provided Teen

Quest with a nebulizer for her daughter, but the night staff couldn't find it or didn't know how to use it, saying, "We just work graveyard." Another girl helped her with the medication. 2. Three girls told us that Q.A., who is subject to seizures, had one when she was locked in her room and that she had bruises from pounding her head on the concrete floor.

Hamblin, the new director, said three-fourths of the staff had been replaced since she arrived. Good staff members were hard to find, she said, and since their skill level was minimal they became more punitive with the girls. The rule against talking during walks to meals, for instance, had not always been in place. It started because the girls became too noisy and were cursing, which led to fights. Since July, talking at meals had been permitted at the discretion of the person who takes the girls to the dining room, Hamblin said.

The staff that employed bathroom and shower restrictions, she said, are "no longer here." The use of restraints and isolation have diminished, Hamblin said, and restraints are to be used only briefly if a resident is in danger of injuring herself or others. Hamblin said she hoped to implement many changes that would benefit the girls.

The picture of an institution undergoing improvement was corroborated by state inspections, of which there have been three since the new director took over. The reports cite problems but are generally upbeat. "Residents feel safe and well cared for," one audit says. And: "The program has drastically reduced the use of restraints and seclusion."⁸⁴

State inspection reports said that improvements had started in several crucial areas but had not gone far. One such area was so-called "special management" of children. The institution is supposed to have individual plans for juveniles with serious behavior problems and those requiring special care. It must check on those in seclusion every fifteen minutes, and each child is supposed to get daily visits from various professionals. The maximum permitted number of days' seclusion for most offenses is five. And inmates in seclusion are supposed to enjoy living conditions "approximating those available to the general population." Inspectors said that all those procedures had just been started.

The inspection teams did not give Teen Quest a perfect score, citing several concerns of varying levels of importance. They found a lack of consistency in the enforcement of rules. There was no schedule for clinic hours when a nurse

⁸⁴ Office of Youth Services Facility Audit Report, DAYS/Teen Quest, October 2-4, 1996.

was on site. The building was overheated. Girls who were members of minority groups did not get appropriate grooming items such as hair relaxer and conditioner. Residents complained that visits are too short for family members who travel long distances, and that girls without visitors had to spend visiting hours in their rooms.

More seriously, residents do not have the mandated thirty-five square feet apiece of unencumbered space in their bedrooms. Isolation rooms lack toilets and wash basins. Education is woefully lacking: "There is no vocational or post-secondary program in place," an audit said. "Both programs have been started and addressed in a preliminary way." There is no counseling procedure for education and vocational training.

Residents' rooms do not have toilets and wash basins. Ventilation is poor. Rooms are "extremely hot." Residents don't get to shower after strenuous exercise. There were gaps in medication records.

The facility fails to meet some fire code requirements, and an inspection had found flammable materials in several areas.

In an interview with Human Rights Watch on September 20, 1996, several state youths' corrections officials gave vent to some of their frustrations that they said lie behind the problems found at virtually every institution.

Adamek, the Youth Corrections director, said, "Today we have the best range of options for kids that we have ever had, but we can't control the number of admissions. They are released by someone else, and the dollars for programs are determined by someone else. Resources can't keep up as long as the number and length of stays increase. We're managing a moving target. Juvenile court judges and magistrates have no concern about filling facilities with 250 percent of capacity. A federal court ordered a cap of seventy-eight kids at Gilliam. That order is violated every day by judges."

Marler, the division's director of program services, said, "The public is angry, vindictive and frightened. It believes that unconstitutional conditions are not harsh enough."

V. CHILDREN SENTENCED AS ADULTS

The Colorado State Penitentiary

As of November 29, 1996, 332 children were incarcerated in Colorado after having been charged and convicted as adults. Predictions are that their numbers will rise dramatically, since the latest Children's Code revisions took effect on January 1, 1997. Three-fourths of the 332 were not held in adult prisons, however, but had been sentenced to the state's new Youthful Offender System. (See section on Youthful Offender System below).

Eighty-six, however, *had* been incarcerated in adult facilities. Of that number, sixty-two percent were either Hispanic or African-American.⁸⁵ These are the young offenders at the harshest end of the punishment spectrum.

Human Rights Watch interviewed young inmates in three adult facilities in Canon City on October 7, 1996. The first and most disturbing visit was to the Colorado State Penitentiary. It is one of a growing number of "super max" prisons around the country. It is an administrative segregation facility for male and female inmates considered difficult to manage, and includes Colorado's death row.

On the day of the visit, five youngsters were incarcerated in the prison. Only two were willing to be interviewed when prison officials asked them, a surprise since all youngsters at other institutions had agreed to talk when approached directly by Human Rights Watch with assurances of confidentiality.

This new penitentiary opened in August 1993 with 504 beds, including a fifteen bed unit for females. It is always full but cannot go over capacity, because each inmate is individually confined in an eighty-three-square-foot cell (the equivalent of roughly nine by nine feet). Each cell has a steel toilet, a sink, and a desk-chair unit. A slit four inches wide and four feet long serves as a window to the outside. According to Dennis Burbank, an administrative officer, inmates are individually taken out of their cells for one hour and ten minutes each day for showers, exercise, and access to fresh air. They have no contact with other inmates. Each one in turn uses a so-called "day room" that is two square feet larger than a cell. A chinning bar is the only equipment in the room, and fresh air access comes from three narrow windows heavily screened with steel mesh. Inmates are never

⁸⁵ Human Rights Watch interview with Lisa Erkes, state Department of Corrections Information Systems, December 1996.

taken outside. The youngsters interviewed said they have to press their noses against the holes in the screens to get fresh air. All programs, including education and treatment for substance abuse, are delivered through closed circuit television. Burbank said instructors visit each cell at least three times a week, but inmates dispute this. Meals are served in the cells. The only work assignments go to "unit porters" who clean the day rooms.

A half-time psychiatrist affiliated with the state hospital prescribes medication and provides other mental health services to 504 inmates considered too difficult to manage in less restrictive environments.

Burbank said that the institution is "designed to create a deterrent incentive to function at a less secure facility." There is a three-tier incentive level. Level one inmates are not allowed to have any personal property in their cells, no TV for closed circuit programs and are limited to one telephone call and visit per month. Level two inmates have TV and commissary privileges. Level threes are paid to clean the day rooms and can get more phone calls. The average time spent by all prisoners at the penitentiary is thirteen months.⁸⁶

Donice Neal, superintendent of the penitentiary, said that she is surprised and pleased at how successful the televised classes have been. Inmates who had been in the system for many years without earning a GED had earned them through the penitentiary's education program, she said. Inmate behavior significantly improved with "anger management" therapy, and some inmates were able to transfer to less secure facilities. She also said that there was insufficient after-care at other institutions and that the Colorado State Penitentiary needs more line and program staff.⁸⁷ Asked why there was a waiting list when the classes were delivered via television, Neal said there were not enough staff to do the necessary follow-up.

This was borne out by L.R., a seventeen-year-old, who told Human Rights Watch that she was told that she needed to work on her temper, but that there is a long waiting list for the TV instruction. She had a number of other complaints: that male guards in the towers and male porters cleaning the halls can watch the girls shower (Neal said the windows get too steamed up for any observation), that she sleeps all day and studies at night. "The days and nights are long and boring," she said. "Dinner is brought on a tray at 4:30 p.m. and there are no snacks at night

⁸⁶ Human Rights Watch interview with Dennis Burbank, administrative officer, Colorado State Penitentiary, Oct. 7, 1996.

⁸⁷ Human Rights Watch telephone interview with Donice Neal, Jan. 28, 1997.

unless you can buy stuff in the canteen.” She said that she is permitted to make two collect telephone calls and have two visits a month. L.R. said that she has seen an instructor twice and the instruction consists of delivering study materials. “The TV stuff is irrelevant to the material,” according to L.R. “I just write down the answers to the questions and the instructor picks them up.”

The other youngster interviewed said that he doesn't feel safe even with the tight security. “You can't be too relaxed,” he said. “You always have to keep your eyes open. The porters can get you when you're going to the day rooms or the showers.” He said that it is depressing to be locked up all the time with little human contact. He misses his family and worries about his younger brothers and sisters.

When he isn't filling out worksheets for his General Equivalency Diploma test, he passes the time by working out in his cell. He said that one instructor came twice in one week and then left. Another one came once, but he hasn't seen her again. T.C. said that all of the programs are “backed up” so he can't participate. He would like treatment for his behavior problems and more education. He hopes that he can get out some day and go to college to become a teacher.

Arrowhead Correctional Center

Arrowhead Correctional Center, located a few miles from the penitentiary, is one of the state-run Canon City minimum security centers. It provides inmate labor for the Department of Corrections Wild Horse Inmate Program, a state-federal venture that breaks wild horses for “adoption.”

Besides Arrowhead, the minimum security centers include the Four Mile Correctional Center, whose inmates work in a dairy operation; the Skyline Center, whose inmates do community projects in Canon City and Pueblo, and a pre-release center that teaches inmates about to be released how to apply for jobs.

All four operations had a total of about thirty prisoners who were juveniles sentenced as adults, and only a handful are under the age of eighteen. There is no separation of juveniles and adult inmates in any of these four facilities. Human Rights Watch interviews at the centers were limited to Arrowhead. Arrowhead is a 460-bed facility with one ninety-six bed unit for sex offenders and another unit for drug and alcohol addicted inmates.

A.G., who is seventeen years old, said that everyone tries to be mellow at Arrowhead. He said that he goes to school for one hour a day to prepare for a GED test, although the superintendent said that inmates are expected to attend classes from two and half to four hours. A.G. works at a job that pays him \$1.50 per day. Ninety percent of the inmates are employed. A.G. is on a waiting list for anger management and drug abuse treatment. Randy Henderson, Superintendent of Arrowhead, said that there are waiting lists for all programs with those closest to

release getting priority placement.⁸⁸ A.G. described the food as both disgusting and insufficient and said some staff treat inmates without respect. Other inmates, he said, have been harassed by staff. Each room has two beds, a desk and two chairs and a television set. Like other youngsters in Canon City prisons, he complained that the remoteness of the area made it difficult for families to visit. He has had no visitors since his arrival.

Centennial Correctional Facility

The Centennial Correctional Facility is a “close custody” facility, one step below the State Penitentiary in security. It opened in 1980 as a maximum-security prison. D.L., seventeen years old, had been in four facilities since he was twelve years old and had not attended school in any of them until he was placed in Centennial. However, he complained, “Teachers just sit on their ass all day,” and don't teach anything. “I try to get along,” he said. “Nobody is safe here. There's no point in reporting anything to the staff. They just call you a snitch. Protective custody doesn't help—you have to come out sometime. If you're a loner with none of your people from the streets, you'd better buy protection.” He explained that inmates buy protection by asking someone from the outside to put money into the protector's canteen accounts.

He described the food as “nasty” and said the only way to get enough is to buy food from the canteen. He was one of the more fortunate inmates who had a job that he liked, paying two dollars a day, almost enough to buy a bag of potato chips that costs two dollars and fifty cents.

D.L. said he had seen guards slam inmates onto concrete and rough them up in other ways. “Filing a grievance is a joke,” he said. “Nothing ever happens. The guards just laugh at you and ignore them.”

Another youngster, S.M., seventeen years old, said that he had never been assaulted or threatened. He complained that the staff and other inmates treat him like a child. “I don't get respect like adults.” He had spent fifteen days in the “hole.”

He said that he doesn't get enough food and is hungry. His family sends canteen money. He complained that there is no juice machine, just a pop machine. He said he gets two glasses of milk a day. All inmates are locked in their rooms from 9:15 p.m. until 7 a.m. He said he had been waiting three months to see a dentist about two cavities.

His days are spent largely preparing for his GED test and in stress management and mental health programs. He goes to the gym forty-five minutes a

⁸⁸ Human Rights Watch telephone interview with Randy Henderson, superintendent, Arrowhead Correctional Center, Jan. 28, 1997.

day six days a week. He complained that the windows don't close all the way, the metal stays cold, and the walls are cold.

"The hardest thing is being around people not of my age and away from my family," he said. He will be eligible for parole in twenty years. His mandatory release date is forty-four years away.

VI. YOUTHFUL OFFENDER SYSTEM

The Youthful Offender System, despite its clunky name, is the media star of Colorado juvenile corrections. Its new recruits, their heads shaved and their faces showing the strain of what the law calls a controlled and regimented environment, have been depicted not only in the local press and *Corrections Today*, but national outlets that include *U.S. News & World Report*.

YOS, as it's known, provides a sort of negative commentary on the importance of crowding at state juvenile facilities. Its own facilities are not allowed to be crowded, and 146 youths who would otherwise be there are in out-of-state programs as a result. Possibly because of the operation's special place in the Colorado system, it has—despite some rough treatment of its young inmates—probably the best program among those Human Rights Watch examined.

Pending the opening of a permanent home in Pueblo, in southern Colorado, the system is housed at the Department of Corrections' Denver Regional Diagnostic Center. This is on the grounds of the Denver County Jail, with walls topped with barbed wire, guard towers, a small exercise yard and cells built in tiers. It is a distinctly prison-like atmosphere. Adult prisoners are housed nearby, a reminder of the penalty for washing out of the Youth Offender System.

The system grew out of what was known in Denver as the "summer of violence." In 1993, as a result of a number of highly publicized crimes and the spread of street gang activity to middle class neighborhoods, the state legislature held a special session called by Governor Romer. Among its actions was the creation of the Youthful Offender System. Its aims and operations are spelled out in Senate Bill 93S-9. The program's intent is to divert young offenders who have been charged as adults with violent and weapons-involved crimes. It offers them a program that lies between the juvenile system and prison. The hope is that it will return them to society changed for the better. Much of the effort, designed to last two to six years, always with the threat of adult prison in the background, is specifically aimed at substituting accepted norms for gang behavior.

The introductory "boot camp" is the most visibly different element, the one that has attracted the most attention and it seems likely to be the part that makes the rest of the effort acceptable to the public and legislature. Journalist Alan

Prendergast writes: "The boot-camp training is a highlight of the programs' VIP tours—there's something about the sight of young lawbreakers running up and down stairs, mopping floors and 'Yes, sir'-ing that seems to warm the hearts of politicians. . . ."⁸⁹ The law has some self-consciously tough talk, for example banning TV, radio, cigarettes and "access to snacks" unless they have been earned under a merit system.

But its stern language also lays down elements of a multi-stage program that, despite its current unpopularity, can only be called rehabilitation.

Human Rights Watch observed the beginning of the "boot camp" experience on August 1. "Hell Day" is designed to give the youths, male and female, their first taste of military-style discipline. The yellow-clad youths pounded up and down stairs to the screams of their instructors, formed ranks and did seemingly nonstop calisthenics. "Don't say you're sorry!" an instructor yelled when one "yellow" apologized for stepping out of line to talk to a guard. "Say yes, sir!" He ordered the entire group to pay for the error with twenty-five push-ups.

"They're pushed to the limit but not over the limit," said Nobel Wallace, the former military man in charge of the boot camp.

The youths were not struck by their instructors, but some of the physical demands seemed to border on abuse, particularly with inmates who were out of shape. When one clutched his side as if he had a stitch in his side, an instructor asked a nurse on duty to examine him. Her response from across the room was that the youngster was fine.

Human Rights Watch talked with kids whose "Hell Day" was in the past but who were still going through the thirty day boot camp period. It's a time of testing and lots of exercise, but each inmate's main job is moving up through various rankings, each with more privileges.

The thirty day boot camp, officially called intake, diagnostic and orientation, is designed to break down gang ties and establish discipline. Afterward, inmates go through successive stages of peer-group sessions and education. They attend school from 8:30 a.m. to 3 p.m., where they have a full range of academic subjects and a computer lab. There is presently no vocational program, but there

⁸⁹ Alan Prendergast, "The Young and the Reckless," *Westword*, July 18-24, 1996.

will be one when the new facility in Pueblo opens.⁹⁰ The inside schooling is followed, if all goes well, by a gradual—very gradual—increase in freedom, first in a community facility with a staff member in charge, then independently but with frequent contact including drug testing.

Misbehaving at any point in YOS can pull an inmate back to the beginning as a “yellow.” At any point his or her newly won measure of freedom can be revoked. There is also the ultimate threat of washing out entirely and being sent to prison, but those in the program say they try hard to avoid that level of punishment. Sentences to the Youthful Offender System imposed by courts are flat, ranging from two to six years, and include no possibility of time off for good behavior. At the time of Human Rights Watch’s visit, a handful of youths had passed through the confinement stages and were under community supervision.

Some youngsters who spoke with Human Rights Watch about the experience gave it rave reviews. “They taught me things I didn’t know before,” said Y.A., an eighteen-year-old. “I changed myself.”

“I was roughed up just enough but not too much” in the early stage of the program, said X.C., who had been at YOS for a year. “They do what they have to. We’re violent offenders.” A high-school dropout, he hopes for an education and to return to his wife and two children.

W.B., a nineteen-year-old male, said, “I like school. I went from a fifth grade level to an eleventh grade level in nineteen months at YOS.” He hopes to attend college. He hated boot camp but said it taught him to control himself. He said there is no physical abuse by the staff—“they do cuss at people”—and the number of staff members makes him feel safe.

U.A. shrugged off Hell Day, calling it easier than he had expected. He is cited by staff as a success story. He spent only two weeks as a “yellow” and is taking college courses. “The tools are here to let me see what kind of person I want to be,” he said. “If you want to change, you can change.” Even successful inmates were not

⁹⁰ Human Rights Watch interview with Regis Groff, director, Youth Offender System, July 24, 1996.

uncritical, U.A. included. He disliked group punishment and was dubious about the value of the positive peer culture program.

Human Rights Watch spoke with one youngster who had announced he was dropping out of YOS and choosing prison instead. Hell Day had not been just a phrase to him. A slightly overweight sixteen-year-old, he had thrown up and, worse, had been humiliated with names like “porky” and “ham.” “They push you, and if you fall down they push you again,” said the youth, V.A., who was in twenty-three-hour lockdown at the time. He said he was afraid he would lose control of himself, get in further trouble and end up serving more time.⁹¹

There is a physical side beyond exercise to the Youthful Offender System program. The standard technique for restraining an inmate judged to be out of control is for four staff members to “take him down” to the ground. He is held till he agrees to behave; restraints are banned. The director of the program said physical mistreatment is strictly forbidden and some staffers have been fired for being too violent. Some of the youngsters said they had seen “take downs” that were rougher than necessary.

Like a number of kids, W.B. suggested that drug treatment be expanded. “Drugs were my life” before he was imprisoned, he said. X.C. said of the program’s managers, “They try to make it sound like Disneyland” in signing up offenders. “The reality is we are in prison. We have prison numbers. We can only go outside on weekends for a short time. We are in a maximum-security prison. This number will stick with me the rest of my life.”

The staff of the Youthful Offender System appeared enthusiastic and cautiously optimistic that it will show positive results as its “graduates” re-enter society.

⁹¹ Urged by the staff to change his mind, V.A. returned and subsequently made it out of orientation.

Unlike the typical Colorado institution, YOS is decently staffed. It has a low resident-staff ratio and a high level of education among staff members; three-fourths have graduated from college.⁹² The effort is being closely watched.

Moreover, it does not take the most serious offenders. It is open only to youths convicted of Class 3 and less-serious felonies. Murderers are thus excluded, as are sex offenders. The most common crimes represented by inmates are assaults, aggravated assaults and aggravated robbery. This has resulted in criticism of the program by those who see it as a way for the state to trumpet achievements with a hand-picked group of prisoners while consigning the rest to long, empty stretches of time spent jammed into institutions where teaching is hardly even attempted.

Youths who do not cooperate can be sent to serve their full prison sentences. For most, this means a powerful incentive to obey the program's dictates. The discrepancy between underlying sentences and the Youth Offender sentence can be enormous. At this writing, one eighteen-year-old from Mesa County faces the strong possibility of being ordered to serve a State Penitentiary term of *forty years* for walking away from an out-of-state YOS placement. Had he stuck with the program, he could have been out in six. For the same behavior, two girls who were also in the program have already been ordered to serve prison sentences of ten and fourteen years.

Regis Groff, the director of YOS since its opening, is a former high school teacher, public school administrator, and state senator. A longtime advocate for children, he surprised his supporters with his senate vote to establish the Youthful Offender System in response to the governor's call for an "iron-fisted" response to gangs. Groff is still critical of what he calls a "punitive, mean-spirited approach to social problems." He said, "The most effective way to prevent crime is early intervention. The legislature is reluctant to fund pre-school and other programs that help kids from becoming YOS residents. They have negative feelings about social work and welfare even for two- or three-year-olds. They are willing to heavily fund programs in prison settings. . . . I voted for YOS when it became clear that the legislature would send kids to adult prisons or have a third tier" of institutions.

Groff acknowledged there is a conflict in philosophy between YOS and the rest of the Department of Corrections of which YOS is a part. "The main purpose of DOC is to warehouse and keep inmates in a safe, secure environment," he said. "Rehabilitation is a secondary concern. The principal purpose of YOS is to prepare

⁹² Colorado Department of Corrections, "Youthful Offender System: Annual Report & Recommendations," Jan. 1, 1996, p. 22.

young offenders for healthy reintegration back into society by offering each individual offender a specially designed program through education, counseling and vocational training. The legislative intent for YOS was to give kids as young as fourteen a second last chance, which distinguished YOS from less imaginative adult prisons.”

Groff defended Hell Day and the boot camp orientation mandated by the legislature and said he was proud of the academic progress of the residents. “When you take away the gangs, girls, and drugs, these kids surprise themselves with how smart they are,” he said. “Some go through several grade levels within a few months.”⁹³

Human Rights Watch observed several students in the classrooms. Almost all of the youngsters interviewed said that YOS was their most helpful school experience. They said they appreciated the individual attention that they received and the quality of instruction. In addition to the teachers, Human Rights Watch observed Americorps volunteers tutoring students.

⁹³ Human Rights Watch interview with Regis Groff, director, Youthful Offender System, Denver, July 24, 1996.

APPENDIX A

United Nations Convention on The Rights of the Child

Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Sup p. (No. 49) at 167, U.N. Doc. A/44/49 (1989).

PREAMBLE

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the

United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, '

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

- States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:
- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counseling as may be necessary;
 - (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
 - (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services,

rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every

child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenses committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavor to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
 - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) To be presumed innocent until proven guilty according to law;
 - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defense;

- (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
 - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
 - (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
 - (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
 - (vii) To have his or her privacy fully respected at all stages of the proceedings.
3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:
- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
 - (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counseling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offense.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after

the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favor a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favor such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

APPENDIX B
U.N. Standard Minimum Rules For The Administration of Juvenile
Justice(Beijing Rules)

United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), G.A. res. 40/33, annex, 40 U.N. GAOR Supp. (No. 53) at 207, U.N. Doc. A/40/53 (1985).

PART ONE

General principles

1. Fundamental perspectives

1.1 Member States shall seek, in conformity with their respective general interests, to further the well-being of the juvenile and her or his family.

1.2 Member States shall endeavor to develop conditions that will ensure for the juvenile a meaningful life in the community, which, during that period in life when she or he is most susceptible to deviant behavior, will foster a process of personal development and education that is as free from crime and delinquency as possible.

1.3 Sufficient attention shall be given to positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other community institutions, for the purpose of promoting the well-being of the juvenile, with a view to reducing the need for intervention under the law, and of effectively, fairly and humanely dealing with the juvenile in conflict with the law.

1.4 Juvenile justice shall be conceived as an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles, thus, at the same time, contributing to the protection of the young and the maintenance of a peaceful order in society.

1.5 These Rules shall be implemented in the context of economic, social and cultural conditions prevailing in each Member State.

1.6 Juvenile justice services shall be systematically developed and coordinated with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes.

2. Scope of the Rules and definitions used

2.1 The following Standard Minimum Rules shall be applied to juvenile offenders impartially, without distinction of any kind, for example as to race, color, sex,

language, religion, political or other opinions, national or social origin, property, birth or other status.

2.2 For purposes of these Rules, the following definitions shall be applied by Member States in a manner which is compatible with their respective legal systems and concepts:

- (a) A juvenile is a child or young person who, under the respective legal systems, may be dealt with for an offense in a manner which is different from an adult;
- (b) An offense is any behavior (act or omission) that is punishable by law under the respective legal system;
- (c) A juvenile offender is a child or young person who is alleged to have committed or who has been found to have committed an offense.

2.3 Efforts shall be made to establish, in each national jurisdiction, a set of laws, rules and provisions specifically applicable to juvenile offenders and institutions and bodies entrusted with the functions of the administration of juvenile justice and designed:

- (a) To meet the varying needs of juvenile offenders, while protecting their basic rights;
- (b) To meet the needs of society;
- (c) To implement the following rules thoroughly and fairly.

3. Extension of the Rules

3.1 The relevant provisions of the Rules shall be applied not only to juvenile offenders but also to juveniles who may be proceeded against for any specific behavior that would not be punishable if committed by an adult.

3.2 Efforts shall be made to extend the principles embodied in the Rules to all juveniles who are dealt with in welfare and care proceedings.

3.3 Efforts shall also be made to extend the principles embodied in the Rules to young adult offenders.

4. Age of criminal responsibility

4.1 In those legal systems recognizing the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity.

5. Aims of juvenile justice

5.1 The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offense.

6. Scope of discretion

6.1 In view of the varying special needs of juveniles as well as the variety of measures available, appropriate scope for discretion shall be allowed at all stages of proceedings and at the different levels of juvenile justice administration, including investigation, prosecution, adjudication and the follow-up of dispositions.

6.2 Efforts shall be made, however, to ensure sufficient accountability at all stages and levels in the exercise of any such discretion.

6.3 Those who exercise discretion shall be specially qualified or trained to exercise it judiciously and in accordance with their functions and mandates.

7. Rights of juveniles

7.1 Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of proceedings.

8. Protection of privacy

8.1 The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labeling.

8.2 In principle, no information that may lead to the identification of a juvenile offender shall be published.

9. Saving clause

9.1 Nothing in these Rules shall be interpreted as precluding the application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations and other human rights instruments and standards recognized by the international community that relate to the care and protection of the young.

PART TWO

Investigation and prosecution

10. Initial contact

10.1 Upon the apprehension of a juvenile, her or his parents or guardian shall be immediately notified of such apprehension, and, where such immediate notification is not possible, the parents or guardian shall be notified within the shortest possible time thereafter.

10.2 A judge or other competent official or body shall, without delay, consider the issue of release.

10.3 Contacts between the law enforcement agencies and a juvenile offender shall be managed in such a way as to respect the legal status of the juvenile, promote the well-being of the juvenile and avoid harm to her or him, with due regard to the circumstances of the case.

11. Diversion

11.1 Consideration shall be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority, referred to in rule 14.1 below.

11.2 The police, the prosecution or other agencies dealing with juvenile cases shall be empowered to dispose of such cases, at their discretion, without recourse to formal hearings, in accordance with the criteria laid down for that purpose in the respective legal system and also in accordance with the principles contained in these Rules.

11.3 Any diversion involving referral to appropriate community or other services shall require the consent of the juvenile, or her or his parents or guardian, provided that such decision to refer a case shall be subject to review by a competent authority, upon application.

11.4 In order to facilitate the discretionary disposition of juvenile cases, efforts shall be made to provide for community programmes, such as temporary supervision and guidance, restitution, and compensation of victims.

12. Specialization within the police

12.1 In order to best fulfil their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose.

13. Detention pending trial

13.1 Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.

13.2 Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.

13.3 Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.

13.4 Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

13.5 While in custody, juveniles shall receive care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical-that they may require in view of their age, sex and personality.

PART THREE**Adjudication and disposition*****14. Competent authority to adjudicate***

14.1 Where the case of a juvenile offender has not been diverted (under rule 11), she or he shall be dealt with by the competent authority (court, tribunal, board, council, etc.) according to the principles of a fair and just trial.

14.2 The proceedings shall be conducive to the best interests of the juvenile and shall be conducted in an atmosphere of understanding, which shall allow the juvenile to participate therein and to express herself or himself freely.

15. Legal counsel, parents and guardians

15.1 Throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.

15.2 The parents or the guardian shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile. They may, however, be denied participation by the competent authority if there are reasons to assume that such exclusion is necessary in the interest of the juvenile.

16. Social inquiry reports

16.1 In all cases except those involving minor offenses, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is living or the conditions under which the offense has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority.

17. Guiding principles in adjudication and disposition

17.1 The disposition of the competent authority shall be guided by the following principles:

- (a) The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offense but also to the circumstances and the needs of the juvenile as well as to the needs of the society;
- (b) Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum;
- (c) Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offenses and unless there is no other appropriate response;
- (d) The well-being of the juvenile shall be the guiding factor in the consideration of her or his case.

17.2 Capital punishment shall not be imposed for any crime committed by juveniles.

17.3 Juveniles shall not be subject to corporal punishment.

17.4 The competent authority shall have the power to discontinue the proceedings at any time.

18. Various disposition measures

18.1 A large variety of disposition measures shall be made available to the competent authority, allowing for flexibility so as to avoid institutionalization to the greatest extent possible. Such measures, some of which may be combined, include:

- (a) Care, guidance and supervision orders;
- (b) Probation;
- (c) Community service orders;
- (d) Financial penalties, compensation and restitution;
- (e) Intermediate treatment and other treatment orders;
- (f) Orders to participate in group counseling and similar activities;
- (g) Orders concerning foster care, living communities or other educational settings;
- (h) Other relevant orders.

18.2 No juvenile shall be removed from parental supervision, whether partly or entirely, unless the circumstances of her or his case make this necessary.

19. Least possible use of institutionalization

19.1 The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.

20. Avoidance of unnecessary delay

20.1 Each case shall from the outset be handled expeditiously, without any unnecessary delay.

21. Records

21.1 Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorized persons.

21.2 Records of juvenile offenders shall not be used in adult proceedings in subsequent cases involving the same offender.

22. Need for professionalism and training

22.1 Professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.

22.2 Juvenile justice personnel shall reflect the diversity of juveniles who come into contact with the juvenile justice system. Efforts shall be made to ensure the fair representation of women and minorities in juvenile justice agencies.

PART FOUR**Non-institutional treatment*****23. Effective implementation of disposition***

23.1 Appropriate provisions shall be made for the implementation of orders of the competent authority, as referred to in rule 14.1 above, by that authority itself or by some other authority as circumstances may require.

23.2 Such provisions shall include the power to modify the orders as the competent authority may deem necessary from time to time, provided that such modification shall be determined in accordance with the principles contained in these Rules.

24. Provision of needed assistance

24.1 Efforts shall be made to provide juveniles, at all stages of the proceedings, with necessary assistance such as lodging, education or vocational training, employment or any other assistance, helpful and practical, in order to facilitate the rehabilitative process.

25. Mobilization of volunteers and other community services

25.1 Volunteers, voluntary organizations, local institutions and other community resources shall be called upon to contribute effectively to the rehabilitation of the juvenile in a community setting and, as far as possible, within the family unit.

PART FIVE**Institutional treatment*****26. Objectives of institutional treatment***

26.1 The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.

26.2 Juveniles in institutions shall receive care, protection and all necessary assistance-social, educational, vocational, psychological, medical and physical-that they may require because of their age, sex, and personality and in the interest of their wholesome development .

26.3 Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

26.4 Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.

26.5 In the interest and well-being of the institutionalized juvenile, the parents or guardians shall have a right of access.

26.6 Inter-ministerial and inter-departmental co-operation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalized juveniles, with a view to ensuring that they do not leave the institution at an educational disadvantage.

27. Application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations

27.1 The Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.

27.2 Efforts shall be made to implement the relevant principles laid down in the Standard Minimum Rules for the Treatment of Prisoners to the largest possible extent so as to meet the varying needs of juveniles specific to their age, sex and personality.

28. Frequent and early recourse to conditional release

28.1 Conditional release from an institution shall be used by the appropriate authority to the greatest possible extent, and shall be granted at the earliest possible time.

28.2 Juveniles released conditionally from an institution shall be assisted and supervised by an appropriate authority and shall receive full support by the community.

29. Semi-institutional arrangements

29.1 Efforts shall be made to provide semi-institutional arrangements, such as half-way houses, educational homes, day-time training centers and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

PART SIX

Research, planning, policy formulation and evaluation

30. Research as a basis for planning, policy formulation and evaluation

30.1 Efforts shall be made to organize and promote necessary research as a basis for effective planning and policy formulation.

30.2 Efforts shall be made to review and appraise periodically the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody.

30.3 Efforts shall be made to establish a regular evaluative research mechanism built into the system of juvenile justice administration and to collect and analyze relevant data and information for appropriate assessment and future improvement and reform of the administration.

30.4 The delivery of services in juvenile justice administration shall be systematically planned and implemented as an integral part of national development efforts.

APPENDIX C

U.N. Rules For The Protection of Juveniles Deprived of Their Liberty

U.N. Rules for the Protection of Juveniles Deprived of their Liberty, G.A. res. 45/113, annex, 45 U.N. GAOR Supp. (No. 49A) at 205, U.N. Doc. A/45/49 (1990).

I. Fundamental perspectives

1. The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.
2. Juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these Rules and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release.
3. The Rules are intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.
4. The Rules should be applied impartially, without discrimination of any kind as to race, color, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability. The religious and cultural beliefs, practices and moral concepts of the juvenile should be respected.
5. The Rules are designed to serve as convenient standards of reference and to provide encouragement and guidance to professionals involved in the management of the juvenile justice system.
6. The Rules should be made readily available to juvenile justice personnel in their national languages. Juveniles who are not fluent in the language spoken by the personnel of the detention facility should have the right to the services of an interpreter free of charge whenever necessary, in particular during medical examinations and disciplinary proceedings.

7. Where appropriate, States should incorporate the Rules into their legislation or amend it accordingly and provide effective remedies for their breach, including compensation when injuries are inflicted on juveniles. States should also monitor the application of the Rules.

8. The competent authorities should constantly seek to increase the awareness of the public that the care of detained juveniles and preparation for their return to society is a social service of great importance, and to this end active steps should be taken to foster open contacts between the juveniles and the local community.

9. Nothing in the Rules should be interpreted as precluding the application of the relevant United Nations and human rights instruments and standards, recognized by the international community, that are more conducive to ensuring the rights, care and protection of juveniles, children and all young persons.

10. In the event that the practical application of particular Rules contained in sections II to V, inclusive, presents any conflict with the Rules contained in the present section, compliance with the latter shall be regarded as the predominant requirement.

II. Scope and application of the rules

11. For the purposes of the Rules, the following definitions should apply:

(a) A juvenile is every person under the age of 18. The age limit below which it should not be permitted to deprive a child of his or her liberty should be determined by law;

(b) The deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority.

12. The deprivation of liberty should be effected in conditions and circumstances which ensure respect for the human rights of juveniles. Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programmes which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

13. Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are

entitled under national or international law, and which are compatible with the deprivation of liberty.

14. The protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures shall be ensured by the competent authority, while the objectives of social integration should be secured by regular inspections and other means of control carried out, according to international standards, national laws and regulations, by a duly constituted body authorized to visit the juveniles and not belonging to the detention facility.

15. The Rules apply to all types and forms of detention facilities in which juveniles are deprived of their liberty. Sections I, II, IV and V of the Rules apply to all detention facilities and institutional settings in which juveniles are detained, and section III applies specifically to juveniles under arrest or awaiting trial.

16. The Rules shall be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

III. Juveniles under arrest or awaiting trial

17. Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.

18. The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:

- (a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Privacy and confidentiality shall be ensured for such communications;
- (b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work,

education or training should not cause the continuation of the detention;

(c) Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

IV. The management of juvenile facilities

A. Records

19. All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, should be placed in a confidential individual file, which should be kept up to date, accessible only to authorized persons and classified in such a way as to be easily understood. Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to and to consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.

20. No juvenile should be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. The details of this order should be immediately entered in the register. No juvenile should be detained in any facility where there is no such register.

B. Admission, registration, movement and transfer

21. In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile received:

- (a) Information on the identity of the juvenile;
- (b) The fact of and reasons for commitment and the authority therefor;
- (c) The day and hour of admission, transfer and release;
- (d) Details of the notifications to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment;
- (e) Details of known physical and mental health problems, including drug and alcohol abuse.

22. The information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

23. As soon as possible after reception, full reports and relevant information on the personal situation and circumstances of each juvenile should be drawn up and submitted to the administration.

24. On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies and organizations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.

25. All juveniles should be helped to understand the regulations governing the internal organization of the facility, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorized methods of seeking information and of making complaints and all such other matters as are necessary to enable them to understand fully their rights and obligations during detention.

26. The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

C. Classification and placement

27. As soon as possible after the moment of admission, each juvenile should be interviewed, and a psychological and social report identifying any factors relevant to the specific type and level of care and programme required by the juvenile should be prepared. This report, together with the report prepared by a medical officer who has examined the juvenile upon admission, should be forwarded to the director for purposes of determining the most appropriate placement for the juvenile within the facility and the specific type and level of care and programme required and to be pursued. When special rehabilitative treatment is required, and the length of stay in the facility permits, trained personnel of the facility should prepare a written, individualized treatment plan specifying treatment objectives and time-frame and the means, stages and delays with which the objectives should be approached.

28. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offense, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The

principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

29. In all detention facilities juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme that has been shown to be beneficial for the juveniles concerned.

30. Open detention facilities for juveniles should be established. Open detention facilities are those with no or minimal security measures. The population in such detention facilities should be as small as possible. The number of juveniles detained in closed facilities should be small enough to enable individualized treatment. Detention facilities for juveniles should be decentralized and of such size as to facilitate access and contact between the juveniles and their families. Small-scale detention facilities should be established and integrated into the social, economic and cultural environment of the community.

D. Physical environment and accommodation

31. Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

32. The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities. The design and structure of juvenile detention facilities should be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There should be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the juveniles. Detention facilities should not be located in areas where there are known health or other hazards or risks.

33. Sleeping accommodation should normally consist of small group dormitories or individual bedrooms, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories, in order to ensure the protection of each juvenile. Every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness.

34. Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner.

35. The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognized and respected. Personal effects that the juvenile does not choose to retain or that are confiscated should be placed in safe custody. An inventory thereof should be signed by the juvenile. Steps should be taken to keep them in good condition. All such articles and money should be returned to the juvenile on release, except in so far as he or she has been authorized to spend money or send such property out of the facility. If a juvenile receives or is found in possession of any medicine, the medical officer should decide what use should be made of it.

36. To the extent possible juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear their own clothing.

37. Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.

E. Education, vocational training and work

38. Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

39. Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.

40. Diplomas or educational certificates awarded to juveniles while in detention should not indicate in any way that the juvenile has been institutionalized.

41. Every detention facility should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the juveniles, who should be encouraged and enabled to make full use of it.

42. Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.

43. With due regard to proper vocational selection and to the requirements of institutional administration, juveniles should be able to choose the type of work they wish to perform.

44. All protective national and international standards applicable to child labor and young workers should apply to juveniles deprived of their liberty.

45. Wherever possible, juveniles should be provided with the opportunity to perform remunerated labor, if possible within the local community, as a complement to the vocational training provided in order to enhance the possibility of finding suitable employment when they return to their communities. The type of work should be such as to provide appropriate training that will be of benefit to the juveniles following release. The organization and methods of work offered in detention facilities should resemble as closely as possible those of similar work in the community, so as to prepare juveniles for the conditions of normal occupational life.

46. Every juvenile who performs work should have the right to an equitable remuneration. The interests of the juveniles and of their vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of a juvenile should normally be set aside to constitute a savings fund to be handed over to the juvenile on release. The juvenile should have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify the victim injured by his or her offense or to send it to his or her family or other persons outside the detention facility.

F. Recreation

47. Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skill development. The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

G. Religion

48. Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by conducting his or her own services and having possession of the necessary books or items of religious observance and instruction of his or her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counseling or indoctrination.

H. Medical care

49. Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatization of the juvenile and promote self-respect and integration into the community.

50. Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.

51. The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer.

52. Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

53. A juvenile who is suffering from mental illness should be treated in a specialized institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

54. Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programmes administered by qualified personnel. These programmes should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.

55. Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Juveniles shall never be testers in the experimental use of drugs and treatment. The administration of any drug should always be authorized and carried out by qualified medical personnel.

I. Notification of illness, injury and death

56. The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should also be given to the consular authorities of the State of which a foreign juvenile is a citizen.

57. Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body. Upon the death of a juvenile in detention, there should be an independent inquiry into the causes of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

58. A juvenile should be informed at the earliest possible time of the death, serious illness or injury of any immediate family member and should be provided with the opportunity to attend the funeral of the deceased or go to the bedside of a critically ill relative.

J. Contacts with the wider community

59. Every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society. Juveniles should be allowed to communicate with their families, friends and other persons or representatives of reputable outside organizations, to leave detention facilities for a visit to their home and family and to receive special permission to leave the detention facility for educational, vocational or other important reasons. Should the juvenile be serving a sentence, the time spent outside a detention facility should be counted as part of the period of sentence.

60. Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defense counsel.

61. Every juvenile should have the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless legally restricted, and should be assisted as necessary in order effectively to enjoy this right. Every juvenile should have the right to receive correspondence.

62. Juveniles should have the opportunity to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, through access to radio and television programmes and motion pictures, and through the visits of the representatives of any lawful club or organization in which the juvenile is interested.

K. Limitations of physical restraint and the use of force

63. Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in rule 64 below.

64. Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

65. The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.

L. Disciplinary procedures

66. Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

67. All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labor should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction. No juvenile should be sanctioned more than once for the same disciplinary infraction. Collective sanctions should be prohibited.

68. Legislation or regulations adopted by the competent administrative authority should establish norms concerning the following, taking full account of the fundamental characteristics, needs and rights of juveniles:

- (a) Conduct constituting a disciplinary offense;
- (b) Type and duration of disciplinary sanctions that may be inflicted;
- (c) The authority competent to impose such sanctions;
- (d) The authority competent to consider appeals.

69. A report of misconduct should be presented promptly to the competent authority, which should decide on it without undue delay. The competent authority should conduct a thorough examination of the case.

70. No juvenile should be disciplinarily sanctioned except in strict accordance with the terms of the law and regulations in force. No juvenile should be sanctioned unless he or she has been informed of the alleged infraction in a manner appropriate to the full understanding of the juvenile, and given a proper opportunity of presenting his or her defense, including the right of appeal to a competent impartial authority. Complete records should be kept of all disciplinary proceedings.

71. No juveniles should be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-government programmes.

M. Inspection and complaints

72. Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

73. Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.

74. After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

75. Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.

76. Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

77. Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

78. Every juvenile should have the right to request assistance from family members, legal counselors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organizations which provide legal counsel or which are competent to receive complaints.

N. Return to the community

79. All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end.

80. Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles. These services should ensure, to the extent possible, that the juvenile is provided with suitable residence, employment, clothing, and sufficient means to maintain himself or herself upon release in order to facilitate successful reintegration. The representatives of agencies providing such services should be consulted and should have access to juveniles while detained, with a view to assisting them in their return to the community.

V. Personnel

81. Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counselors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a permanent basis. This should not preclude part-time or volunteer workers when the level of support and training they can provide is appropriate and beneficial. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual needs and problems of detained juveniles.

82. The administration should provide for the careful selection and recruitment of every grade and type of personnel, since the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work.

83. To secure the foregoing ends, personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men. The personnel of juvenile detention facilities should be continually encouraged to fulfil their duties and obligations in a humane, committed, professional, fair and efficient manner, to conduct themselves at all times in such a way as to deserve and gain the respect of the juveniles, and to provide juveniles with a positive role model and perspective.

84. The administration should introduce forms of organization and management that facilitate communications between different categories of staff in each detention facility so as to enhance cooperation between the various services engaged in the care of juveniles, as well as between staff and the administration, with a view to ensuring that staff directly in contact with juveniles are able to function in conditions favorable to the efficient fulfilment of their duties.

85. The personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

86. The director of a facility should be adequately qualified for his or her task, with administrative ability and suitable training and experience, and should carry out his or her duties on a full-time basis.

87. In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles, in particular, as follows:

(a) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever;

(b) All personnel should rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities;

(c) All personnel should respect the present Rules. Personnel who have reason to believe that a serious violation of the present Rules has occurred or is about to occur should report the matter to their superior authorities or organs vested with reviewing or remedial power;

(d) All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation, and should take immediate action to secure medical attention whenever required;

(e) All personnel should respect the right of the juvenile to privacy, and, in particular, should safeguard all confidential matters concerning juveniles or their families learned as a result of their professional capacity;

(f) All personnel should seek to minimize any differences between life inside and outside the detention facility which tend to lessen due respect for the dignity of juveniles as human beings.

APPENDIX D
United Nations Guidelines For The Prevention of Juvenile Delinquency
(The Riyadh Guidelines)

United Nations Guidelines for the Prevention of Juvenile
Delinquency (The Riyadh Guidelines), G.A. res. 45/112, annex, 45
U.N. GAOR Supp. (No. 49A) at 201, U.N. Doc. A/45/49 (1990).

I. FUNDAMENTAL PRINCIPLES

1. The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young persons can develop non-criminogenic attitudes.
2. The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.
3. For the purposes of the interpretation of the present Guidelines, a child-centred orientation should be pursued. Young persons should have an active role and partnership within society and should not be considered as mere objects of socialization or control.
4. In the implementation of the present Guidelines, in accordance with national legal systems, the well-being of young persons from their early childhood should be the focus of any preventive programme.
5. The need for and importance of progressive delinquency prevention policies and the systematic study and the elaboration of measures should be recognized. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others. Such policies and measures should involve:

..

- (a) The provision of opportunities, in particular educational opportunities, to meet the varying needs of young persons and to serve as a supportive framework for safeguarding the personal development of all young persons, particularly those who are demonstrably endangered or at social risk and are in need of special care and protection;
- (b) Specialized philosophies and approaches for delinquency prevention, on the basis of laws, processes, institutions, facilities and a service delivery network aimed at reducing the motivation,

need and opportunity for, or conditions giving rise to, the commission of infractions;

(c) Official intervention to be pursued primarily in the overall interest of the young person and guided by fairness and equity;

(d) Safeguarding the well-being, development, rights and interests of all young persons;

(e) Consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood;

(f) Awareness that, in the predominant opinion of experts, labelling a young person as "deviant", "delinquent" or "pre-delinquent" often contributes to the development of a consistent pattern of undesirable behaviour by young persons.

6. Community-based services and programmes should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet been established. Formal agencies of social control should only be utilized as a means of last resort.

II. SCOPE OF THE GUIDELINES

7. The present Guidelines should be interpreted and implemented within the broad framework of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Declaration of the Rights of the Child and the Convention on the Rights of the Child, and in the context of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), as well as other instruments and norms relating to the rights, interests and well-being of all children and young persons.

8. The present Guidelines should also be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

III. GENERAL PREVENTION

9. Comprehensive prevention plans should be instituted at every level of Government and include the following:

- (a) In-depth analyses of the problem and inventories of programmes, services, facilities and resources available;
- (b) Well-defined responsibilities for the qualified agencies, institutions and personnel involved in preventive efforts;
- (c) Mechanisms for the appropriate co-ordination of prevention efforts between governmental and non-governmental agencies;
- (d) Policies, programmes and strategies based on prognostic studies to be continuously monitored and carefully evaluated in the course of implementation;
- (e) Methods for effectively reducing the opportunity to commit delinquent acts;
- (f) Community involvement through a wide range of services and programmes;
- (g) Close interdisciplinary co-operation between national, State, provincial and local governments, with the involvement of the private sector representative citizens of the community to be served, and labour, child-care, health education, social, law enforcement and judicial agencies in taking concerted action to prevent juvenile delinquency and youth crime;
- (h) Youth participation in delinquency prevention policies and processes, including recourse to community resources, youth self-help, and victim compensation and assistance programmes;
- (I) Specialized personnel at all levels.

IV. SOCIALIZATION PROCESSES

10. Emphasis should be placed on preventive policies facilitating the successful socialization and integration of all children and young persons, in particular through the family, the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations. Due respect should be given to the proper personal development of children and young persons, and they should be accepted as full and equal partners in socialization and integration processes.

A. Family

11. Every society should place a high priority on the needs and well-being of the family and of all its members.

12. Since the family is the central unit responsible for the primary socialization of children, governmental and social efforts to preserve the integrity of the family, including the extended family, should be pursued. The society has a responsibility

to assist the family in providing care and protection and in ensuring the physical and mental well-being of children. Adequate arrangements including day-care should be provided.

13. Governments should establish policies that are conducive to the bringing up of children in stable and settled family environments. Families in need of assistance in the resolution of conditions of instability or conflict should be provided with requisite services.

14. Where a stable and settled family environment is lacking and when community efforts to assist parents in this regard have failed and the extended family cannot fulfil this role, alternative placements, including foster care and adoption, should be considered. Such placements should replicate, to the extent possible, a stable and settled family environment, while, at the same time, establishing a sense of permanency for children, thus avoiding problems associated with "foster drift".

15. Special attention should be given to children of families affected by problems brought about by rapid and uneven economic, social and cultural change, in particular the children of indigenous, migrant and refugee families. As such changes may disrupt the social capacity of the family to secure the traditional rearing and nurturing of children, often as a result of role and culture conflict, innovative and socially constructive modalities for the socialization of children have to be designed.

16. Measures should be taken and programmes developed to provide families with the opportunity to learn about parental roles and obligations as regards child development and child care, promoting positive parent-child relationships, sensitizing parents to the problems of children and young persons and encouraging their involvement in family and community-based activities.

17. Governments should take measures to promote family cohesion and harmony and to discourage the separation of children from their parents, unless circumstances affecting the welfare and future of the child leave no viable alternative.

18. It is important to emphasize the socialization function of the family and extended family; it is also equally important to recognize the future role, responsibilities, participation and partnership of young persons in society.

19. In ensuring the right of the child to proper socialization, Governments and other agencies should rely on existing social and legal agencies, but, whenever traditional institutions and customs are no longer effective, they should also provide and allow for innovative measures.

B. Education

20. Governments are under an obligation to make public education accessible to all young persons.

21. Education systems should, in addition to their academic and vocational training activities, devote particular attention to the following:

(a) Teaching of basic values and developing respect for the child's own cultural identity and patterns, for the social values of the country in which the child is living, for civilizations different from the child's own and for human rights and fundamental freedoms;

(b) Promotion and development of the personality, talents and mental and physical abilities of young people to their fullest potential;

(c) Involvement of young persons as active and effective participants in, rather than mere objects of, the educational process;

(d) Undertaking activities that foster a sense of identity with and of belonging to the school and the community;

(e) Encouragement of young persons to understand and respect diverse views and opinions, as well as cultural and other differences;

(f) Provision of information and guidance regarding vocational training, employment opportunities and career development;

(g) Provision of positive emotional support to young persons and the avoidance of psychological maltreatment;

(h) Avoidance of harsh disciplinary measures, particularly corporal punishment.

22. Educational systems should seek to work together with parents, community organizations and agencies concerned with the activities of young persons.

23. Young persons and their families should be informed about the law and their rights and responsibilities under the law, as well as the universal value system, including United Nations instruments.

24. Educational systems should extend particular care and attention to young persons who are at social risk. Specialized prevention programmes and educational materials, curricula, approaches and tools should be developed and fully utilized.

25. Special attention should be given to comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse by young persons.

Teachers and other professionals should be equipped and trained to prevent and deal with these problems. Information on the use and abuse of drugs, including alcohol, should be made available to the student body.

26. Schools should serve as resource and referral centres for the provision of medical, counselling and other services to young persons, particularly those with special needs and suffering from abuse, neglect, victimization and exploitation.

27. Through a variety of educational programmes, teachers and other adults and the student body should be sensitized to the problems, needs and perceptions of young persons, particularly those belonging to underprivileged, disadvantaged, ethnic or other minority and low-income groups.

28. School systems should attempt to meet and promote the highest professional and educational standards with respect to curricula, teaching and learning methods and approaches, and the recruitment and training of qualified teachers. Regular monitoring and assessment of performance by the appropriate professional organizations and authorities should be ensured.

29. School systems should plan, develop and implement extracurricular activities of interest to young persons, in co-operation with community groups.

30. Special assistance should be given to children and young persons who find it difficult to comply with attendance codes, and to "drop-outs".

31. Schools should promote policies and rules that are fair and just; students should be represented in bodies formulating school policy, including policy on discipline, and decision-making.

C. Community

32. Community-based services and programmes which respond to the special needs, problems, interests and concerns of young persons and which offer appropriate counselling and guidance to young persons and their families should be developed, or strengthened where they exist.

33. Communities should provide, or strengthen where they exist, a wide range of community-based support measures for young persons, including community development centres, recreational facilities and services to respond to the special problems of children who are at social risk. In providing these helping measures, respect for individual rights should be ensured.

34. Special facilities should be set up to provide adequate shelter for young persons who are no longer able to live at home or who do not have homes to live in.

35. A range of services and helping measures should be provided to deal with the difficulties experienced by young persons in the transition to adulthood. Such

services should include special programmes for young drug abusers which emphasize care, counselling, assistance and therapy-oriented interventions.

36. Voluntary organizations providing services for young persons should be given financial and other support by Governments and other institutions.

37. Youth organizations should be created or strengthened at the local level and given full participatory status in the management of community affairs. These organizations should encourage youth to organize collective and voluntary projects, particularly projects aimed at helping young persons in need of assistance.

38. Government agencies should take special responsibility and provide necessary services for homeless or street children; information about local facilities, accommodation, employment and other forms and sources of help should be made readily available to young persons.

39. A wide range of recreational facilities and services of particular interest to young persons should be established and made easily accessible to them.

D. Mass media

40. The mass media should be encouraged to ensure that young persons have access to information and material from a diversity of national and international sources.

41. The mass media should be encouraged to portray the positive contribution of young persons to society.

42. The mass media should be encouraged to disseminate information on the existence of services, facilities and opportunities for young persons in society.

43. The mass media generally, and the television and film media in particular, should be encouraged to minimize the level of pornography, drugs and violence portrayed and to display violence and exploitation disfavouredly, as well as to avoid demeaning and degrading presentations, especially of children, women and interpersonal relations, and to promote egalitarian principles and roles.

44. The mass media should be aware of its extensive social role and responsibility, as well as its influence, in communications relating to youthful drug and alcohol abuse. It should use its power for drug abuse prevention by relaying consistent messages through a balanced approach. Effective drug awareness campaigns at all levels should be promoted.

V. SOCIAL POLICY

45. Government agencies should give high priority to plans and programmes for young persons and should provide sufficient funds and other resources for the effective delivery of services, facilities and staff for adequate medical and mental health care, nutrition, housing and other relevant services, including drug and

alcohol abuse prevention and treatment, ensuring that such resources reach and actually benefit young persons.

46. The institutionalization of young persons should be a measure of last resort and for the minimum necessary period, and the best interests of the young person should be of paramount importance. Criteria authorizing formal intervention of this type should be strictly defined and limited to the following situations:

- (a) where the child or young person has suffered harm that has been inflicted by the parents or guardians;
- (b) where the child or young person has been sexually, physically or emotionally abused by the parents or guardians;
- (c) where the child or young person has been neglected, abandoned or exploited by the parents or guardians;
- (d) where the child or young person is threatened by physical or moral danger due to the behaviour of the parents or guardians; and
- (e) where a serious physical or psychological danger to the child or young person has manifested itself in his or her own behaviour and neither the parents, the guardians, the juvenile himself or herself nor non-residential community services can meet the danger by means other than institutionalization.

47. Government agencies should provide young persons with the opportunity of continuing in full-time education, funded by the State where parents or guardians are unable to support the young persons, and of receiving work experience.

48. Programmes to prevent delinquency should be planned and developed on the basis of reliable, scientific research findings, and periodically monitored, evaluated and adjusted accordingly.

49. Scientific information should be disseminated to the professional community and to the public at large about the sort of behaviour or situation which indicates or may result in physical and psychological victimization, harm and abuse, as well as exploitation, of young persons.

50. Generally, participation in plans and programmes should be voluntary. Young persons themselves should be involved in their formulation, development and implementation.

51. Government should begin or continue to explore, develop and implement policies, measures and strategies within and outside the criminal justice system to prevent domestic violence against and affecting young persons and to ensure fair treatment to these victims of domestic violence.

VI. LEGISLATION AND JUVENILE JUSTICE ADMINISTRATION

52. Governments should enact and enforce specific laws and procedures to promote and protect the rights and well-being of all young persons.

53. Legislation preventing the victimization, abuse, exploitation and the use for criminal activities of children and young persons should be enacted and enforced.

54. No child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions.

55. Legislation and enforcement aimed at restricting and controlling accessibility of weapons of any sort to children and young persons should be pursued.

56. In order to prevent further stigmatization, victimization and criminalization of young persons, legislation should be enacted to ensure that any conduct not considered an offence or not penalized if committed by an adult is not considered an offence and not penalized if committed by a young person.

57. Consideration should be given to the establishment of an office of ombudsman or similar independent organ, which would ensure that the status, rights and interests of young persons are upheld and that proper referral to available services is made. The ombudsman or other organ designated would also supervise the implementation of the Riyadh Guidelines, the Beijing Rules and the Rules for the Protection of Juveniles Deprived of their Liberty. The ombudsman or other organ would, at regular intervals, publish a report on the progress made and on the difficulties encountered in the implementation of the instrument. Child advocacy services should also be established.

58. Law enforcement and other relevant personnel, of both sexes, should be trained to respond to the special needs of young persons and should be familiar with and use, to the maximum extent possible, programmes and referral possibilities for the diversion of young persons from the justice system.

59. Legislation should be enacted and strictly enforced to protect children and young persons from drug abuse and drug traffickers.

VII. RESEARCH, POLICY DEVELOPMENT AND CO-ORDINATION

60. Efforts should be made and appropriate mechanisms established to promote, on both a multidisciplinary and an intradisciplinary basis, interaction and co-ordination between economic, social, education and health agencies and services, the justice system, youth, community and development agencies and other relevant institutions.

61. The exchange of information, experience and expertise gained through projects, programmes, practices and initiatives relating to youth crime, delinquency

prevention and juvenile justice should be intensified at the national, regional and international levels.

62. Regional and international co-operation on matters of youth crime, delinquency prevention and juvenile justice involving practitioners, experts and decision makers should be further developed and strengthened.

63. Technical and scientific co-operation on practical and policy-related matters, particularly in training, pilot and demonstration projects, and on specific issues concerning the prevention of youth crime and juvenile delinquency should be strongly supported by all Governments, the United Nations system and other concerned organizations.

64. Collaboration should be encouraged in undertaking scientific research with respect to effective modalities for youth crime and juvenile delinquency prevention and the findings of such research should be widely disseminated and evaluated.

65. Appropriate United Nations bodies, institutes, agencies and offices should pursue close collaboration and co-ordination on various questions related to children juvenile justice and youth crime and juvenile delinquency prevention.

66. On the basis of the present Guidelines, the United Nations Secretariat, in co-operation with interested institutions, should play an active role in the conduct of research, scientific collaboration, the formulation of policy options and the review and monitoring of their implementation, and should serve as a source of reliable information on effective modalities for delinquency prevention.