

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of Authorizing a Consent
Decree in Robyn A., et al, v. McCoy,
et al: (Litigation over Conditions of
Detention at the Donald E. Long Home)

RESOLUTION
92-60

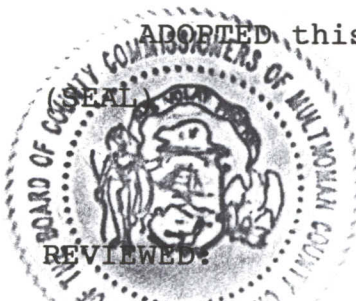
WHEREAS, Legal Aid and the Juvenile Rights Project have brought suit in Federal Court against the members of the Multnomah County Board of County Commissioners and Harold Ogburn and;

WHEREAS, this lawsuit complains of various conditions of detention at the Donald E. Long Home juvenile detention facility (DELH) and;

WHEREAS, the parties have negotiated the terms of the attached consent decree which will govern conditions of detention at DELH during and through the construction of new detention quarters for juveniles;

THEREFORE, BE IT RESOLVED, that the Board of County Commissioners approves the consent decree and consents to its terms.

BE IT FURTHER RESOLVED, that County Counsel is authorized to execute this consent decree binding Multnomah County to its terms and to file the decree with the Court.



ADOPTED this 23rd day of April, 1992.

By Gladys McCoy
Gladys McCoy, Chair
Multnomah County, Oregon

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By H. H. Lazenby, Jr.
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16 IN THE UNITED STATES DISTRICT COURT
17
18 FOR THE DISTRICT OF OREGON

18 ROBYN A., et al.,)	
19)	
20 Plaintiffs,)	Civil No. 90-1151-FR
21 vs.)	
22)	CONSENT DECREE
23 GLADYS MCCOY, et al.,)	
24)	
25 Defendants.)	

26 The parties to this class action challenging the constitutionality of the conditions and
practices at the Donald E. Long Home have agreed to a judgment which resolves all issues

1 without trial. Therefore, it is ORDERED, ADJUDGED, and DECREED:

2 I.

3 JURISDICTION

4 This court has jurisdiction of the subject matter of this action and of all parties. The
5 court has the authority to grant all relief included in this final judgment.

6 II.

7 PARTIES

8 This judgment shall be binding on all defendants, their officers, employees, agents,
9 successors, and all persons acting in concert with them. It shall apply to all children who
10 were at any time since November 9, 1990, or may be, confined at the Donald E. Long
11 Home (DELH).
12

13 III.

14 PURPOSE

15 All parties to this litigation sincerely desire that children for whom there is no less
16 restrictive placement than secure custody be confined under safe, sanitary and humane
17 conditions, be provided treatment appropriate to their individual needs, and be confined
18 for as short a period as is necessary to achieve the objectives of secure custody.
19

20 During the pendency of this action, defendants have made many positive changes in
21 the physical conditions and programs at the DELH. For example, defendants have
22 conducted extensive repairs to the bathrooms, have increased the opportunity for youth to
23 participate in outdoor exercise, added staff to improve programming, instituted fire drills,
24 and increased hours that medical staff is on-site.

25 Defendants have already begun to implement many of the items covered in this
26

1 Decree and have begun planning the implementation of others. It is the intention of the
2 parties that this judgment serve as a vehicle to enforce the positive course set by defendants
3 and ensure that there are future improvements in the conditions of confinement of the
4 children covered by it.

5
6 IV.

7 CLOSURE OF THE DONALD E. LONG HOME

8 There have been numerous reports and studies by citizens and experts about the
9 condition of the Donald E. Long Home. Among these documents are:

10	1983-1991	Annual Reports of Special Corrections Grand Jury
	1988	Internal Audit
11	1988	Report to Management
	1988	Facilities Requirement Study
12	1989	Five Year Space Study
	1989	Architect's Conceptual Design and Preliminary Report
13	1990	Codes and Statutes Evaluation Report
	1991	Report of the Children and Youth Work Group
14	1991	Report of the Children's Justice Task Force
15	1991	Program Review of the Detention Facility and Practice of the Multnomah County Juvenile Justice Division

16 All of these reports are critical of the conditions and programming in the DELH,
17 and many recommend that the facility be replaced. Defendants have agreed the facility
18 needs to be replaced and have begun the process of replacing it. The parties agree that the
19 DELH should be closed promptly, and the defendants agree to open a replacement facility
20 by October 31, 1993. Therefore:

21
22 1. Defendants shall not confine any child at the DELH after October 31, 1993,
23 except in the event of exigent circumstances relating to the financing or construction of
24 the new facility. Use of the DELH after October 31, 1993 shall not be a basis for plaintiffs
25 to seek contempt sanctions, so long as the monitor (provided for in paragraph 54, below)

1 is satisfied that defendants have used, and continue to use, their best efforts to complete
2 the facility within a reasonable time.

3 2. Defendants shall confine no more than 92 children at the DELH. However,
4 it shall not be a basis for plaintiffs to seek contempt sanctions if the number of children
5 exceeds 92 on fewer than four days in any calendar month. In no event shall defendants
6 confine more than 97 children in the facility.

7
8 V.

9 CONDITIONS AND PROGRAMS
10 AT THE DONALD E. LONG HOME UNTIL CLOSURE

11 1. Defendants shall immediately establish an emergency evacuation plan for the
12 DELH.

13 2. Defendants shall maintain and keep current a fire evacuation plan approved
14 by the City of Portland Fire Marshal and shall make any and all changes to the plan
15 recommended by the City of Portland Fire Marshal.

16 3. Defendants shall require that only staff who have been trained and have
17 demonstrated familiarity with the plan be permitted to work in the DELH.

18 4. Defendants shall require that all children receive instruction on emergency
19 evacuation procedures on admission to a detention unit.

20 5. Defendants shall require that fire drills, as specified by the emergency
21 evacuation plan, be held at least once per week.

22 6. Defendants shall, by May 1, 1992, install electronic locking hardware on all
23 doors to sleeping, holding, and isolation cells, and all interior corridors and exterior exits.

24 All the locks shall have manual override capabilities and shall be operable remotely from
25

1 the main control center, as well as from the unit.

2 7. In wings without water and toilets in detention rooms, defendants shall
3 increase staff levels so that, after an initial three hour lock time at bed time, the detention
4 room doors will be unlocked to allow access to toilets and water. During the day, the doors
5 to the detention rooms will remain unlocked unless a child is on roomlock.

6 8. Defendants shall require that there be at least one staff person on a unit at
7 any time there is a child or children on the unit. Children are never to be left on the unit
8 without staff supervision.
9

10 9. Defendants shall ensure that fire and safety inspections of the facility are
11 performed at least once per quarter.

12 10. Defendants shall implement all recommendations from the fire and safety
13 inspections within the time required by the inspector.

14 11. Defendants shall provide lighting adequate to permit children to read while
15 in the detention rooms.

16 12. Where circumstances require that maintenance or repair be conducted in
17 order to ensure the safety of the children, e.g., loose and broken tiles or glass, defendants
18 shall require that maintenance or repair be conducted within 24 hours, and no children shall
19 remain in the room or area in which the unsafe condition exists.
20

21 13. Defendants shall require that the DELH be kept clean and sanitary through
22 employment of, or contract with, professional janitorial services.

23 14. Defendants shall require that bathrooms, kitchens, and all floors, including
24 floors in the detention rooms, be thoroughly cleaned and disinfected by the janitorial service
25 three times per week. Walls and other surfaces in the detention rooms and common areas
26

1 shall be thoroughly cleaned and disinfected by the janitorial services once per month or
2 more often if needed.

3 15. Defendants shall ensure that an inspection by a health and sanitation official
4 be conducted once per month until and unless the monitor agrees to a reduced inspection
5 schedule.

6 16. Defendants shall implement all recommendations from the health and safety
7 inspections within the time required by the inspector.

8 17. Defendants shall require that, upon admission, children's dirty street clothing
9 will be laundered and stored. Items which require dry cleaning or other specialized
10 cleaning need not be cleaned by defendants but will be stored separately.

11 18. Defendants shall require that upon admission all children will be provided
12 clean clothing, bed linens and towels, and a mattress which has been cleaned and
13 disinfected since its last use.

14 19. Defendants shall require that children be allowed to exchange outer clothing
15 at least twice a week and more frequently if the clothing has become dirty. Children shall
16 receive clean underwear and socks every day.

17 20. Defendants shall require that all children be provided clothing that fits
18 comfortably and is in good repair. All children shall be provided pajamas or nightgowns.

19 21. Defendants shall require that upon admission each child be provided the
20 following individual toiletries: soap, deodorant, comb, toothbrush, toothpaste. Individual
21 portions of petroleum jelly shall be provided on request. On request, defendants shall
22 provide children with sanitary means to shave.

23 22. Defendants shall require that temperatures in the DELH be maintained
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1 within a healthful and comfortable range, no lower than 64 degrees Fahrenheit and no
2 higher than 84 degrees Fahrenheit at all times.

3 23. Defendants shall monitor the temperature in the DELH at places and times
4 to be agreed on with plaintiffs' counsel and shall notify plaintiffs' counsel, guardian ad litem,
5 and the monitor at any time the temperatures fall outside the range. No child shall be
6 required to remain for longer than eight hours in a portion of the facility that is not within
7 the acceptable range of temperature.

8 24. Defendants shall require that any and all broken or cracked windows be
9 repaired immediately and in no event shall children be required to sleep in rooms with
10 broken windows.

11 25. Defendants shall maintain a healthful level of circulating fresh air in the
12 facility at all times.

13 26. Defendants shall provide all children with a bed off the floor.

14 27. Defendants shall permit all children to personalize their living space including
15 decorating the walls of the detention rooms.

16 28. Defendants shall use their best efforts to ensure that when making placement
17 decisions, preference is given to housing children in wings with toilets and water in the
18 detention rooms.

19 29. In order to provide children with sufficient quantities of healthy and
20 appetizing foods at frequent intervals, defendants shall contract with a qualified person
21 jointly selected by plaintiffs and defendants to review and report on the current food
22 service. Defendants shall implement the recommendations of the report as soon as
23 practicable.

1 30. Defendants shall provide second helpings of food at each meal to children
2 who request them.

3 31. Defendants shall provide children a mid-morning and mid-afternoon snack.

4 32. Defendants shall prohibit staff from eating non-institutional food at the facility
5 in the presence of the children.

6 33. Defendants shall post a copy of the menu and substitutions in each of the
7 residential units.

8 34. Defendants shall provide children special diets where medically indicated or
9 where requested for religious reasons.

10 35. Weather permitting, defendants shall provide all children with the opportunity
11 for at least one hour per day of outdoor recreation.

12 36. Defendants shall make their best efforts to ensure that appropriate
13 educational services in a classroom setting are provided to each child at the DELH on
14 every school day.

15 37. Defendants shall provide medical and psychiatric care to each child at the
16 DELH, in accordance with the Standards for Health Services in Juvenile Confinement
17 Facilities promulgated by the National Commission on Correctional Health Care. Within
18 thirty (30) days from the entry of this Consent Decree, or by July 1992, whichever is later,
19 defendants shall request accreditation by the National Commission on Correctional Health
20 Care and will make any and all necessary changes in their policies and practices in order
21 to become and remain accredited.

22 38. Defendants shall provide that there is at least one qualified health
23 professional (physician, registered nurse, physicians assistant, nurse practitioner) on-site at
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1 the DELH 24 hours per day, with a physician on call. If needed, specialty medical and
2 dental care shall be provided with transport for out-of-facility services. The transports shall
3 be recorded and monitored with reports filed quarterly.

4 39. Defendants shall provide that as of July 1, 1992 there is at least one full-
5 time psychiatric nurse-practitioner on-site at the DELH, supervised by Corrections Health
6 Department.

7 40. Defendants shall maintain a health record file on each child containing
8 completed admissions and intake screening forms, and other data, findings, forms and
9 information as required by applicable standards.

10 41. Defendants shall provide a system of daily sick call that causes each child in
11 the DELH to be verbally notified of the availability of non-emergency medical services.

12 42. Defendants shall convert existing space for use as a medical isolation room
13 within ninety (90) days of entry of the Consent Decree.

14 43. Defendants shall provide that children detoxifying from drugs or alcohol are
15 medically supervised.

16 44. Defendants shall require that both admissions and intake health screening be
17 conducted by a qualified health trained staff, who shall request assistance from the health
18 professional on-site whenever necessary.

19 45. Health screening shall include:

20 Inquiry into:

- 21 - current illness and health problems, including venereal diseases
- 22 and other infectious disease
- 23 - dental problems
- 24 - mental health problems
- 25 - use of alcohol and other drugs, which includes types of drugs
- 26 used, mode of use, amounts used, frequency used, date or time
- of last use, and a history of problems that may have occurred

- 1 after ceasing use (e.g., convulsions)
2 - past and present treatment or hospitalization for mental
3 - disturbance or suicide
4 - other health problems designated by the responsible physician

5 Observation of:

- 6 - behavior, which includes state of consciousness, mental status,
7 - appearance, conduct, tremor, and sweating
8 - body deformities, ease of movement, etc.
9 - condition of skin, including trauma markings, bruises, lesions,
10 - jaundice, rashes and infestations, and needle marks or other
11 - indications of drug abuse

12 46. Defendants shall use criteria for intake adopted by the Chief Judge of the
13 Multnomah County Circuit Court, Juvenile Department, in determining whether to detain
14 a child.

15 47. Defendants shall revise policies and practice on use of room time, roomlock
16 and isolation to provide for supervisory review of each instance of such discipline or
17 isolation and for an opportunity for a hearing before the supervisor or his or her designee
18 if the effect of the discipline or isolation is that the child misses any activity. Defendants
19 will document the reviews and hearings.

20 48. Defendants shall provide all staff with minimum mandatory training of 90
21 hours for the first year of employment and 20 hours per year thereafter for the first year
22 this decree is in effect. For the second and any subsequent years this decree is in effect
23 defendants shall provide all staff with minimum mandatory training of 120 hours per year
24 for new staff and 40 hours per year for ongoing staff. Training shall be given in:

- 25 - security procedures
26 - supervision of juveniles
- signs of suicide risk
- suicide precautions
- use of force regulations and tactics
- report writing
- juvenile rules and regulations

- rights and responsibilities of juveniles
- fire and emergency procedures
- key control
- interpersonal relations
- social/cultural lifestyles of the juvenile population
- child growth and development
- communication skills
- first aid and CPR

49. Defendants shall ensure that there is at least the following staff coverage:

Boys I, II and III: At least 2 group workers at all times and one lead group worker for eight hours five days er week.

Girls: At least one group worker at all times and one lead group worker for eight hours five days per week.

50. Defendants shall also employ 1 full time equivalent (FTE) deputy superintendent for programming and 1 full time equivalent (FTE) "floater" for the graveyard shift.

51. Defendants shall use their best efforts to employ at least one child care worker fluent in Spanish during each shift.

VI.

THE NEW FACILITY

52. Defendants shall not confine children in the new facility until it has been inspected and approved for occupation by state and local fire, health and safety officials and until the consent decree monitor or monitors gives approval.

VII.

MONITORING

53. This court will retain jurisdiction of this matter until defendants no longer detain children in the current Donald E. Long Home.

54. Defendants shall establish and fund a consent decree monitor who shall be

1 selected jointly by defendants and plaintiffs. However, if the parties cannot agree on a
2 single monitor after good faith attempts then defendants shall establish and fund a consent
3 decree monitoring panel consisting of one person selected by plaintiffs, one person selected
4 by defendants and one person selected by the other two panel members. The monitor or
5 monitors will be appointed by July 1, 1992, and will conduct on-site inspections of the
6 DELH at least two times per year, and will make a report of findings and
7 recommendations to the parties after each inspection.
8

9 55. Defendants shall provide plaintiffs' counsel, guardian-ad-litem and monitor
10 copies of the following documents, and other documents requested by the monitor, each
11 quarter:

- 12 - Juveniles in Detention Forms
- 13 - Exercise Logs
- 14 - Receiving Ledger
- 15 - Custody Logs
- 16 - Temperature Logs
- 17 - Fire Inspection Reports
- 18 - Health and Safety Inspection Reports
- 19 - Incident Reports
- 20 - Suicide Reporting Forms
- 21 - Director's Reports
- 22 - Transport Logs referred to in ¶138
- 23 - Daily Reports
- 24 - Records of Supervisory Review and Hearings referred to in ¶147.

25 56. Defendants shall provide plaintiffs' counsel, experts, and guardian-ad-litem
26 access to the facility, children, and records, including medical records, at reasonable times
and on reasonable notice throughout the period covered by this Consent Decree.

57. Defendants shall post copies of this Consent Decree in each residential wing
and classroom in the DELH.

/////

VIII.

ATTORNEY FEES

The parties agree that plaintiffs are the prevailing party and are entitled to attorney fees and costs. The parties will attempt to reach a separate agreement on the issues. If no agreement can be reached within 60 days, plaintiffs will, within 120 days, submit the issue to the court.

ENTERED this _____ day of _____, 1992

UNITED STATES DISTRICT COURT JUDGE

APPROVED:

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