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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 and Mina Samuels is a consultant.

Human Rights Watch conducts regular, systematic investigations of human rights abuses in some seventy countries around the world. It addresses the human rights practices of governments of all political stripes, of all geopolitical alignments, and of all ethnic and religious persuasions. In internal wars it documents violations by both governments and rebel groups. Human Rights Watch defends freedom of thought and expression, due process and equal protection of the law; it documents and denounces murders, disappearances, torture, arbitrary imprisonment, exile, censorship and other abuses of internationally recognized human rights.

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Research for this report was undertaken in Louisiana by Mina Samuels, a consultant to the Human Rights Watch Children's Rights Project and Michelle India Baird, then counsel to the Human Rights Watch Children's Rights Project. It was written by Mina Samuels and jointly edited by Lois Whitman, director of the Human Rights Watch Children's Rights Project, Jeri Laber, senior advisor to Human Rights Watch and Juan Mendez, general counsel to Human Rights Watch. Arvind Ganesan provided invaluable production assistance.

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ACA American Correctional Association

ARP Administrative Remedy Procedure

CRC Convention on the Rights of Child

DPSC Department of Public Safety and Corrections

EBR East Baton Rouge

GED Graduate Equivalency Degree

HRW Human Rights Watch

JRDC Juvenile Reception and Diagnostic Center

LTI Louisiana Training Institutes

OJJDP Office of Juvenile Justice and Delinquency Prevention

TCCY Tallulah Correctional Center for Youth

All my ribs were purple at EBR-LTI. A new boy came in and I tried to help him so he wouldn't get beaten up and then a guard pulled us both up and he slapped both of us and then he told me to raise my arms and he beat my ribs until they were purple and blue and I didn't tell my mom cause I knew she would start something.¹

EBR, that's a messed up place. The guards will beat you. One of them named Mr.O, he has a thing called a 'house party'. If you work on weekends he wakes you up at 5 A.M.. He calls you in the back where we take showers and beats you for a whole hour. When we go to the mess hall to eat we have to count, and he tells you to come see, then he calls you into the washroom and beats you up and another sergeant comes to beat you. It has only happened two times to me ... I would change EBR. [I would] fire all the workers cause they are just dirty. "New jacks" come in talking, and they beat them up for nothing. This boy at EBR with me, a guard broke his arm with a broom ... [there were] boys lying on the floor and the sarge picked up his chair and threw it at him and hit him. If you tell a counselor, all it's going to do is make it worse.²

In March and May 1995, the Human Rights Watch Children's Rights Project conducted an investigation in Louisiana into the conditions in which children³ are confined in that state, examining the human rights aspects of their incarceration. We found that substantial numbers of children in the state training institutions are regularly physically abused by guards, are kept in isolation for long periods of time, and are improperly restrained by handcuffs.

The state of Louisiana is by most standards one of the poorest states in the U.S. It has one of the highest rates in the country of children living in poverty and children not in school or working. Large numbers of children, especially black children, are suspended from school each year, sometimes for the whole year. Louisiana also has one of the highest rates of incarceration among U.S. states.⁴ Approximately 1,500 children are confined in secure correctional facilities each year. The circumstances which lead to their incarceration are not within the scope of this report, nor are due process problems, such as adequate representation of the children. Human Rights Watch confined its investigation to the conditions in which children are confined in the Louisiana institutions.

In Louisiana all acts committed by a person over the age of seventeen are tried in adult court, but children over the age of fourteen may be waived by the district attorney into the adult court system for certain enumerated violent crimes. All other children between the ages of eleven and seventeen are under the jurisdiction of the Louisiana Children's Code⁵ and are adjudicated by special juvenile courts, or district and parish courts with original juvenile jurisdiction. Children under the age of eleven are not subject to criminal adjudication. Certain enumerated acts, such as first and second degree murder and aggravated rape, that are not waived into the adult court, carry the potential adjudication by the court of juvenile jurisdiction of a juvenile life sentence. Under a juvenile life sentence a child is committed to a correctional facility until the age of twenty-one for an act committed before the age of eighteen. That means that children between the ages of eleven and twenty-one are confined in the four post-adjudication correctional facilities. These four correctional facilities are currently operating under a Federal court stipulation and consent decree, described below, that governs population limits and staffing levels.

During the course of its investigations Human Rights Watch conducted interviews with more than sixty children incarcerated in all four long-term secure juvenile facilities in the state.⁶ In addition we spoke with lawyers, judges, staff of the juvenile facilities, former and current Louisiana state government officials, private individuals working on contract in the juvenile justice system both in Louisiana and in the U.S. in general, and individuals employed at the Federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Special Litigation Section of the Civil Rights Division of the Department of Justice. During our first visit to Louisiana we visited two detention facilities and two state correctional facilities. At the correctional facilities we were not allowed to speak with children. After a substantial exchange of letters requesting permission to interview children we were given permission by the Secretary of the Department of Public Safety and Corrections in Louisiana (DPSC) to visit all four of the secure correctional facilities, generally called Louisiana Training Institutes (LTI), and to speak with children incarcerated at those facilities. Human Rights Watch enjoyed a high level of cooperation from state government officials on its second visit to Louisiana and thereafter in its correspondence with the Secretary of the DPSC and his staff. We were able to interview children chosen by us from the roster of children housed at each facility. The interviews were conducted in private rooms separated by sight and sound from any staff at the facility.

This report is in two parts. The first provides an overview of children in confinement. It outlines and describes the standards, both international and national, which apply to children in confinement, and the U.S. government's involvement in the juvenile justice system. The second section describes the conditions found at the four correctional facilities in the State. At the beginning of each sub-section of the second part of the report the relevant international standards will be referred to, and outlined briefly, to provide guidance in identifying violations of the standards. The international standards appear in full in the appendices to this report.

One of the most disturbing findings made by the Human Rights Watch Children's Rights Project in its investigation of the conditions in which children are confined in Louisiana was that physical abuse of the children is pervasive in the system of correctional facilities. Although there were complaints of physical abuse at all of the facilities, we received the most complaints about the East Baton Rouge-LTI (EBR-LTI).⁷ Most of the children interviewed at EBR-LTI told us that they had either experienced or witnessed physical abuse. Many of the children interviewed were so inured to the physical abuse that they expected it as a matter of course. The problem is compounded by the fact that there is no functioning complaint system by which the children may bring these abuses to the attention of higher authorities. Human Rights Watch recommends that the physical abuse of the children be strictly prohibited and punished. Moreover, a functioning and effective complaint system should be instituted to enable the children to seek redress for instances of abuse.

Another serious problem is in the area of discipline. The Human Rights Watch Children's Rights Project found that discipline is administered in an arbitrary manner. As punishment, children are often confined in isolation cells for substantial periods of time without access to reading materials, emerging from the cells only once a day to take a shower. This is contrary to both the substance and the purpose of the international standards and U.S. constitutional law which clearly require that isolation be used only where children pose an immediate threat to themselves or others and further state that the confinement of children is for the purpose of treatment, not punishment. There is also an excessive use of restraints. Handcuffs are used regularly to restrain children after a fight until they are placed in isolation. Furthermore, many of the children told us that they were beaten while handcuffed. Human Rights Watch recommends that the institutions stop the use of disciplinary isolation. Human Rights Watch further recommends that the use of restraints be prohibited except where all other control methods have been exhausted and have failed and only in order to prevent the children from hurting themselves or others.

In response to the question, "what would you most like to change here?", virtually every child at all of the facilities, except for Bridge City-LTI, responded that they would like the guards to stop hitting them and that they would like more food. The inadequacy of the portions of food served to the children was alleged in almost all the interviews. Children consistently told us that they were hungry. Human Rights Watch recommends that the portions of food served to the children be increased.

The physical conditions in which the children are confined offer no privacy. The children sleep in large dormitories and must take care of all their physical needs in full view of others. Human Rights Watch believes that the failure to accord the children even a small amount of privacy strips them of the basic sense of respect and dignity that is essential to their treatment and reintegration into society. Human Rights Watch recommends that the physical environment in which children are confined be changed so as to afford children privacy while using the toilet facilities.

The common problem of overcrowding, and the sanitary and violence problems associated with overcrowding and inadequate staffing, generally do not exist at the Louisiana institutions. The juvenile institutions in Louisiana are governed by a Federal court ordered stipulation and consent decree which sets out maximum population limits, mandates staffing levels and requires compliance with all state health and fire rules.

Human Rights Watch's detailed recommendations appear at the end of this report.

The United Nations Convention on the Rights of the Child⁸ (CRC) is the most important international document concerning children's rights. The CRC deals directly with confinement conditions in: section 37 which sets out the right to be free from torture and, when detained, to be treated with humanity. Other relevant provisions of the CRC that do not deal specifically with children who are detained include: the right to maintain contact with parents, the right of free expression, the right to health and the right to education.

Five other international documents are relevant to children in confinement: the U.N. Rules for the Protection of Juveniles Deprived of Their Liberty (U.N. Rules);⁹ the U.N. Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules);¹⁰ the U.N. Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines);¹¹ the Standard Minimum Rules for the Treatment of Prisoners (Prisoners' Rules);¹² and the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Principles).¹³ These standards, except for the Prisoners' Rules, have been recognized by the international community by adoption as General Assembly resolutions. The Prisoners' Rules were approved by the Economic and Social Council by resolutions in 1957 and 1977. The Prisoners' Rules and Principles are standards applicable to adults and incorporated by reference into the standards applicable to children. The adult standards are never more rigorous than those applicable to children and are frequently less onerous.¹⁴ The U.N. Rules, the Beijing Rules and the Riyadh Guidelines are applicable exclusively to children in the justice system. The first deals most thoroughly with conditions of confinement and will be referred to most often in the body of this report. All of the international standards stress throughout that children in confinement are entitled to rehabilitative treatment and that states are obliged to provide such

treatment. The objective of the treatment is to facilitate a successful reintegration into society.

Applicable international standards will be outlined at the beginning of each descriptive section in the second part of the report. The full texts of all of the standards pertaining specifically to children appear in the appendix to this report.

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, at the very least, minimal standards of decency are guaranteed.

The U.S. federal government has not established standards for the treatment of children in confinement in the U.S.

The U.S. courts have established 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, as they are not "convicted" of crimes. U.S. constitutional law protects incarcerated children from conditions that "amount to punishment"¹⁵ under the fourteenth Amendment.¹⁶ Although children used to have a right to rehabilitation and treatment,¹⁷ the obligation to provide treatment has been overturned. Now children are only protected from "unreasonable restraint." There is no right to treatment, except to the extent that it is necessary to prevent unreasonable restraint.¹⁸

The American Correctional Association (ACA) is the leading source of standards for juvenile and adult detention and correctional institutions in the U.S. The ACA describes itself as a "private, nonprofit organization that administer[s] the only national accreditation program for all components of adult and juvenile corrections." Its purpose is to "promote improvement in the management of correctional agencies through the administration of a voluntary accreditation program and the ongoing development and revision of relevant, useful standards."¹⁹ Facilities in the corrections system apply to the ACA for accreditation and are subject to a lengthy application process which includes an on-site review of the facilities' compliance with the applicable standards. The accreditation is strictly voluntary. The standards are detailed. Many of the standards require facilities to develop policies regarding, for example, suicide prevention or medical emergency responses, but do not address the effectiveness of the implementation of those policies. All of the Louisiana state juvenile correctional facilities are ACA-accredited and the one private secure facility is required by its contract with the Department of Corrections to become accredited. The ACA standards do not comply in all regards with international law or U.S. constitutional law.²⁰

The OJJDP has granted funds to Abt Associates, Inc. to develop performance-based standards for institutions detaining juveniles. The project is in the preparatory stages.

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 Act).²¹ The mandate of the Act is extremely broad. Its stated purposes include: providing for evaluation of federally assisted juvenile justice and delinquency prevention 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 under the 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 Reagan administration, compliance with these requirements has been verified essentially through self-reporting by the states. The reports of the states are not monitored by the OJJDP.²² There is no general monitoring of the conditions in which children adjudicated delinquent are confined.

The OJJDP itself has not established standards for the conditions in which children are confined. The Act does, however, prohibit the incarceration of status offenders²³ in secure facilities and requires that children adjudicated as juveniles are not confined with adults. The office is authorized under the Act to make grants and to enter into technical assistance contracts. The funds are allocated on an annual basis among the states according to the relative population of children.

In 1995 Louisiana will receive \$1,128,000 from the OJJDP. In earlier years the allocation was less than one million dollars. An official with the state advisory group²⁴ told Human Rights Watch that the funds allocated to Louisiana were never sufficient to enable the state to carry out the Act's mandates effectively. In an attempt to streamline the efforts to carry out the Act's mandate, the state advisory group has determined that OJJDP funds will be used only for pre-adjudication programs or alternative programs, leaving all secure facilities to the Department of Public Safety and Corrections (DPSC). The only funding given to the DPSC is an annual allocation of \$25,000 for the parenting program at Monroe-LTI. This parenting program will be referred to in more detail in the section on education and programming below.

In August 1994 the OJJDP published a research report commissioned by it and prepared by Abt Associates, Inc. entitled "Conditions of Confinement: Juvenile Detention and Corrections Facilities." The report set out the findings of a major research effort into the conditions in which juveniles are incarcerated around the U.S. In assessing the conditions Abt Associates, Inc. referred to five nationally recognized sets of standards, but used the ACA standards as its primary resource.²⁵ The report found substantial deficiencies in institutions around the country in the areas of living space, security, control of suicidal behavior and health care. In the area of living space the report found a systemic problem of overcrowding. The most serious security issues found were the high escape rate and the number of injuries from violence despite adequate staffing. Prevention of suicide planning was found to be uncoordinated and insufficient. Finally, in the area of health care, health screenings were not being done promptly after a child's commitment to a facility. The other areas investigated by the researchers were: food, clothing and hygiene, living accommodations, sanitation, fire and life safety, education, recreation, mental health services, access to the community and limits on staff discretion. The report found some deficiencies in all areas.

The second department 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).²⁶ The Special Litigation Section also has the authority to enforce the right to special education under the Individuals with Disabilities Education Act (IDEA)²⁷ 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. Under the authority of the Institutionalized Persons Act, the Special Litigation Section is given the right to 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, that is violating the constitutional rights of persons or any other federal laws protecting the rights of institutionalized persons. Essentially the act provides an enforcement mechanism for the constitutional rights of children in confinement outlined earlier. The mechanism appears to be under-used on behalf of children in confinement. The Department of Justice only uses its power responsively, bringing suits where there have been substantial complaints about a facility. One attorney with the Department of Justice told us that in her opinion the Department of Justice was ignoring children, partly because there was very little sympathy in the current and former administrations for prisoner's rights, in particular for child prisoners. Mark Soler, President of the Youth Law Center, described the Department of Justice's record on protecting confined children as "mixed" and said that "for years there have been problems with the follow through at the Department of Justice."[28](#)

SECURE CONFINEMENT IN LOUISIANA

There are four secure correctional facilities for children in Louisiana. Correctional facilities house children between the ages of eleven and seventeen²⁹ adjudicated as offenders and ordered by the court to be confined in a state facility. The state-run facilities are called the Louisiana Training Institutes (LTI). They are: the East Baton Rouge-LTI (EBR),³⁰ Monroe-LTI and Bridge City-LTI. The EBR-LTI campus is also the site for the Juvenile Reception and Diagnostic Center (JRDC). All children in Louisiana subject to incarceration in an LTI, whether the institution is specified by the court or not, are sent first to JRDC. The average length of stay at JRDC is about four weeks. During that time the children are evaluated for mental and physical health, educational ability and risk factors, such as aggressivity, to determine where they should be most appropriately placed in the system. The LTI's are ostensibly designed to care for different classes of children. Bridge City-LTI is the least secure environment and is where the children who are considered emotionally fragile or who have displayed low aggressivity are generally sent.³¹

The fourth facility that houses children for the state is the Tallulah Correctional Center for Youth (TCCY). The facility is run by TransAmerican Development Associates, Inc. and was built on contract with the town of Tallulah. The location was chosen for economic development purposes.³² The Department of Public Safety and Corrections (DPSC) pays a per diem for each child incarcerated at TCCY on behalf of the state. TCCY opened in November 1994.

The racial composition of the children incarcerated at the institutions is predominantly African-American. On August 24, 1995, the percentage of African-American children at the institutions was as follows: EBR-LTI - 84 percent; Monroe-LTI - 88 percent; Bridge City-LTI - 73 percent and TCCY - 80 percent.³³ The racial composition of the staff at the institutions is also predominantly African-American. On August 24, 1995, the percentage of African-American staff at the institutions was as follows: EBR-LTI - 87 percent; Monroe-LTI - 69 percent; Bridge City-LTI - 83 percent and TCCY - 78 percent.³⁴

Conditions in the three LTI's are monitored under a Federal court order, administered by Judge Frank Polozola, in the United States District Court, Middle District of Louisiana. The court's order arose out of litigation started in 1971 surrounding the conditions at the Louisiana State Penitentiary at Angola. In 1981, the court extended its jurisdiction to include conditions in all state penitentiaries, parish prisons, and other penal institutions, including juvenile institutions. In 1983 the court set interim population levels for the five then existing juvenile institutions operated by the DPSC, pending a report by the DPSC on the conditions at the institutions. Finally, in 1984, the DPSC entered into a consent decree and stipulation with the court³⁵ pursuant to which the DPSC agreed to maintain conditions, limitations and standards at the juvenile institutions under its supervision and control as set out by the court.

The court set population limits and minimum staffing requirements for the institutions which could be modified only by application to the court. The court also required that the facilities comply with all applicable health and fire rules and any other regulations adopted pursuant to Louisiana law which affect the health and safety of offenders. Finally the court required that an annual report be submitted to it by each institution setting out the populations, staffing levels and the number of violent incidents in certain categories, including assaults and suicides. The court continues to exercise its jurisdiction over the juvenile institutions to the present time. A court-appointed expert monitors the institutions, receiving complaints and reports on occurrences at the institutions.

The conditions at TCCY are also monitored by Judge Polozola. The facility was opened pursuant to a stipulation and consent decree dated November 15, 1994, setting a population limit and requiring that TCCY begin the process of securing ACA accreditation. TCCY encountered significant problems maintaining control of the children housed at the facility during November and December. During the period from November 16, 1994, to December 29, 1994, there were eighty reports of assault incidents between the children.³⁶ As a result of the problems at TCCY the court declared a state of emergency at the facility on December 22, 1994, and has been closely monitoring the situation at TCCY since then. A motion by the DPSC to vacate the state of emergency was denied on June 22, 1995.

PHYSICAL CONDITIONS

The U.N. Rules for the Protection of Juveniles Deprived of their Liberty and the U.N. Standard Minimum Rules for the Treatment of Prisoners set out detailed specifications of the physical environment in which children can be confined. These standards, although non-binding, have been recognized by the international community by adoption as General Assembly resolutions. They are an authoritative statement of the international community's agreement on the minimum standards that should be adhered to in the confinement of children by the state.

Rules 27 to 37 of the U.N. Rules for the Protection of Juveniles Deprived of their Liberty deal specifically with the physical environment that should be created by facilities which detain children in the justice system. The U.N. Rules generally require that the physical environment promote health and human dignity and to that end the design of the facilities is to be in keeping with the rehabilitative aim of the juvenile justice system. The requirements call for small-scale facilities, and where possible facilities with no or minimal security measures. Closed facilities are required to be small enough to enable individualized treatment. Sleeping should be in small dormitories or individual rooms and sanitary installations should afford the children privacy. The right to privacy includes the basic right to the possession of personal effects. Children also have the right to wear their own clothing to the extent possible.

Rule 60 of the U.N. Rules gives children the right to receive regular and frequent visits, at minimum once a month, but preferably once a week. Rule 61 of the U.N. Rules entitles children to write letters or telephone at least twice a week.

Because U.S. constitutional law also protects children from conditions that amount to punishment, courts have found that children are entitled to greater privacy than adults. Some courts have required single rooms, other courts have set limits on the number who may be housed in a dorm and have required privacy in toilet areas.³⁷

The physical environment and conditions in each facility will be described below.

East Baton Rouge-Louisiana Training Institute

The East Baton Rouge-LTI³⁸ has a court-approved capacity of 580. On the first day that Human Rights Watch visited the facility in March 1995, 496 boys and eighty-four girls were housed on the campus. EBR-LTI is the only institution that houses girls. On the first day Human Rights Watch was at the facility, nine of the eighty-four girls were pregnant. On the second day that Human Rights Watch visited in May 1995, the population count for the girls was eighty-three, seven of whom were pregnant. According to Superintendent Lewis at EBR-LTI, the average length of stay at the facility is seventeen months. In the JRDC it is four weeks, although an official with the DPSC told HRW that JRDC processing could be done in five days.³⁹ The facility is located outside of Baton Rouge, about a twenty-minute drive from the city. It is located on the edge of an industrial district; there is no visible residential district in the area. The grounds of the facility are enclosed by a high chain-link fence with intermediate size razor wire coiled on the top of the fence. There are large open green spaces interspersed throughout the campus, including an outdoor playing field. There are very few trees on the property. All of the buildings, except the building which houses the large indoor gymnasium, are either red or yellow brick. The gymnasium building appears to be grey aluminum siding. There are two condemned buildings on the grounds. The JRDC is located on the same campus, but is separated from the main campus by a chain-link fence. The physical environment at JRDC is virtually the same as the main campus; however, the children are not provided with any education and their recreational and work options are restricted. It is, therefore, more punitive to remain at JRDC for a longer period of time, and it denies children

the right to be educated while confined.[40](#)

The dormitories house between forty and fifty children. Each dormitory is in a separate brick building. The buildings are one or two stories high and have a sleeping room, a common room and a bathroom area. The common rooms are generally bare except for a television set, some chairs and on occasion some magazines or a deck of cards. The sleeping rooms are generally furnished with metal double-bunk beds with thin plastic-covered mattresses that run along the perimeter of the room, spaced approximately two and one-half feet apart. There are windows in the room. The children are provided with pillows and blankets, and HRW was told by staff that children are given fresh linen each day. There is a bathroom area adjacent to the sleeping room which has three showers and four toilets. None of these are enclosed to provide privacy in any way. There are three toilets in a small room off the common area; the toilets are set side by side against a wall with no dividing partitions. There is a pay phone and a water fountain in the common room. The dormitories were clean on the day Human Rights Watch visited the facility, and none of the children interviewed indicated that sanitary conditions were a problem.

Other problems were identified with the physical environment. TD,[41](#) age fifteen, said that she was told when to go to the bathroom and that when she asked permission to go to the bathroom, her request was only granted "sometimes".

The children are issued jeans, t-shirts, sweatshirts, underwear, socks, a pair of running shoes, rubber boots and a rain jacket. The jeans have 'LTI' printed down one leg. Children are not allowed to wear their own clothing. Children who earn privileges at Monroe-LTI are able to wear some of their own clothing which suggests that there is no security reason for denying this right. Children may wear their own shoes if the medical staff certifies that it is necessary for health reasons.

Bridge City-Louisiana Training Institute

The Bridge City-LTI is located five minutes out of a residential district in Bridge City, which is located a half hour drive from New Orleans. The facility has a court-approved capacity of 150 children. On the first day that Human Rights Watch visited in March 1995, 144 children were on campus. The facility houses only boys. The facility has large outdoor spaces, a playing field and trees; flowers are planted each spring by children on a work detail at the facility. The buildings are for the most part brick; much of the facility was originally part of a religious girls school.

The dormitories house forty children per sleeping room. There are two sleeping rooms in each of the buildings that house children. The children sleep on metal double-bunk beds that are arranged along each of the long walls with two foot lockers underneath each bed. There are windows along the same wall. The children are provided with blankets and pillows and fresh linen weekly, more often if necessary. The bathroom off of the sleeping room has three showers, one toilet and one urinal. There are no dividing or privacy partitions in the bathroom area. There is a water fountain against the wall. In the recreation room there is a water fountain and a bank of phones against the wall and an adjoining bathroom with one toilet and one urinal.

The children are issued jeans, t-shirts, sweatshirts, running shoes, socks, underwear and jackets, and for Sundays they are issued khaki pants and shirts and black dress shoes. Their hair is shaved to a short stubble. They are neither able to wear their own clothing, nor wear longer hair. None of the other facilities require the children to shave their hair. It is a practise that enhances the harsh atmosphere, contrary to international standards which specify rehabilitation and treatment, not punishment.

Monroe-Louisiana Training Institute

The Monroe-LTI is located in a residential area of the city of Monroe, next to a hospital. Monroe is in the north of Louisiana, approximately three and a half hours from Baton Rouge by car. It has a court-approved capacity of 356. On the day that Human Rights Watch visited in May 1995, it was below capacity but waiting for the arrival of children being sent from other facilities for disciplinary purposes. The facility houses only boys. When the campus was first built it was simply integrated into the surrounding neighborhood without fences. As a result the campus has created a normal environment with named city streets running through it, large open green spaces, a playing field, trees, flowers and even sidewalks. The buildings are almost all red or yellow brick of varying sizes.

In the early 1980s the closed campus was created. Monroe-LTI is composed of an open and a closed campus, although both campuses are secure. The closed campus is separated from the open campus by an extra fence. All entrances to the closed campus from the open campus are secured by correctional officers. Children from all of the LTI's and TCCY who are judged by the facilities to be incorrigible are sent to the Monroe-LTI closed campus. The closed campus has four dormitories and also maintains twenty-four isolation cells in another dormitory. Confinement to the closed campus is administered in stages as part of a three-level behavior program, beginning with a child's assignment to an isolation cell and graduating to the dormitories as his behavior is judged to be modified appropriately. The chain-link fence around the whole facility was erected in 1984, and in 1993 all of the fences were topped with large size coiled razor wire at the direction of the then new Governor Edwin Edwards's correctional administration.

The dormitories are spread throughout the campus and house between thirty-four and forty-four children each. The buildings vary between single-story, two-story and three-story buildings. The three-story dormitory has one floor of administrative offices. The children sleep in metal double-bunk beds arranged around the perimeter of the room. There is one toilet and one urinal in the sleeping room itself. The adjoining bathroom has no partitions between the showers, toilets and urinals. The numbers of each vary with the size of the dormitory. In one dormitory housing thirty-four children there were five showers, two urinals and three toilets.

The children are issued sweatshirts, t-shirts, jeans and running shoes, as at the other LTI's. At Monroe-LTI, however, there is also a point system that rewards good behavior under which a child may be entitled to get some of his own clothes sent to him for use at the facility. Monroe-LTI is the only facility that operates such an incentive system.

Tallulah Correctional Center for Youth

Tallulah Correctional Center for Youth is located in the town of Tallulah in the north of Louisiana, about a half hour drive from Monroe and three and a half hours from Baton Rouge. The facility has a court-approved capacity of 396. On the day that Human Rights Watch visited in May 1995, there were 395 children on the campus. There are plans to expand the facility by 350 beds, 240 of which will be single cellisolation and administrative segregation cells. Although the ground has been broken for the new building, progress has been held up due to the state of emergency declared by the federal court, described earlier.

All the buildings look alike, with gray siding and concrete floors; they are placed close together. The buildings are connected by concrete walkways, and the dormitories are enclosed by high chain-link fences. There is no grass on the property and no playing field. The gymnasium consists of a concrete floor and a roof held up by posts. This is also the visiting area. The whole facility appears to be cramped, institutional and drab, particularly in comparison to the open green spaces of the state-run facilities.

All the dormitories are identical: one-room buildings with concrete floors. Forty children live in each dormitory. Twenty double-bunk beds are arranged in two rows along one wall in each. Underneath each bed are two unlocked foot lockers. Each dormitory has three long grey tables with long benches on either side and a television in the corner nearest the tables. There is a water fountain and four pay phones. Four toilets are separated from the showers by a partition and there is a low partition between the toilets. There are two urinals and six showers.

The children wear unmarked t-shirts, sweatshirts, jeans and sneakers. On the day that Human Rights Watch visited the facility, it was raining heavily. The children were not wearing rain jackets. Some of the children interviewed told Human Rights Watch that a confrontation early in the winter was sparked partly by the fact that the children were not issued coats for the colder weather. The children are not allowed to wear their own clothing.

When TCCY first opened, on November 16, 1994, there were significant problems in the operation of the facility. The staff hired by TransAmerican Development Associates, Inc. were unable to keep control of the children. Some children told HRW that they were moved to the facility without being told where they were going and once at the facility were given conflicting information about the length of time they would spend at TCCY and the nature of their program. Two children who had been confined at the facility since the opening described being awoken at 3:00 A.M. at EBR-LTI and being told to take off all their clothes and to put on the new ones issued from TCCY. They were then bused up to TCCY in the middle of the night without being told where they were being taken.

The DPSC assumed operational authority of the facility on December 29, 1994, pursuant to a Federal court-declared state of emergency at TCCY, on December 22, after an accumulation of disturbances made it clear to the court that order could not be maintained under the administration of the private management services corporation.⁴² Until the court declared a state of emergency authorizing the DPSC to assume operational control, there had been no indication that the DPSC would involve itself in a resolution of the problems. Human Rights Watch was told by Superintendent Goodwin at TCCY that the security system has been brought under control and that the administration of the facility is now operated more effectively. There was, however, a confrontation between the staff and the children in a dormitory on April 19, 1995, which suggests that the security system is still not as effective as it should be and that the children do not have sufficient respect for the security system.

Although the reasons for the disturbance are not clear, the children in one dormitory were reported to be "loud, unruly and causing chaos" all evening.⁴³ The situation escalated when the children began throwing shoes and deodorant at the correctional officers. The correctional officers set off "Clear Out," a chemical agent, and left the dormitory. The children began "destroying" the dormitory, "knocking the T.V. down, pulling the water fountain off the wall, pulling sinks and urinals off the wall [and] overturning bunks." More Clear Out was set off and several of the children put towels, sheets and pillowcases around their faces. The situation was brought under control, and the children were removed and restrained within one hour. The forty-one children in the dormitory were dispersed to be housed as follows: "Nineteen were placed in segregation (the total count of this unit is twenty), fourteen were placed in the ward in the infirmary (this ward normally holds up to six offenders), eight were placed in the intake room in the segregation unit, and three were placed in the isolation rooms in the infirmary." There were no significant injuries to staff or children. HRW does not have sufficient information to determine whether the response to the riot was appropriate.

GENERAL OBSERVATIONS ON PHYSICAL CONDITIONS

The facilities described above fail to comply with international standards in many respects. Although contrary to both international law standards and ACA standards, the state facilities in Louisiana use large dormitories exclusively. All of the standards recommend the use of single cells or at minimum small dormitories.⁴⁴ The large dormitories and the open bathrooms afford the children absolutely no privacy at any time in their daily lives. Large dormitories have also been found to be directly and positively linked to child-on-child injury and the increased use of isolation to control juvenile behavior.⁴⁵ Many children told HRW about getting into fights in their dormitories, or being picked on by other children in their dormitories. During the period from July 1994 to July 1995, there were 614 incidents of child-on-child assaults at Monroe-LTI, 545 incidents at EBR-LTI and eighty-three at Bridge City-LTI.⁴⁶ Frequently physical abuse by the correctional officers (which will be described later in the report) occurs in the process of breaking up a fight between children in a dormitory.

The physical environment of all the facilities, but EBR-LTI and TCCY in particular, is punitive. The size of the facilities precludes individualized treatment to a large extent. Staff and children at the facilities told Human Rights Watch that isolation cells are often used to control the behavior of a child. The isolation cells are small and bare except for a bed, a toilet and a sink. There are generally no windows; where there are windows, they are so small that no significant natural light is let in, and they are covered by wire mesh. The doors have small windows for observation and slots through which food is passed at mealtimes. At Bridge City-LTI the isolation cells are painted a dark color on the walls, floors and ceilings. Placement in a dark cell and closed or solitary confinement is absolutely prohibited by Rule 67 of the U.N. Rules for the Protection of Juveniles Deprived of their Liberty.

The U.N. Rules also encourage contact between confined children and their families and communities. Rules 59-61 require regular visits, preferably once a week but at minimum once a month, and a right to twice weekly telephone calls and letter writing. All of the facilities have visiting day only once a month. They are contact visits which usually occur in a large open room or space at the facility, generally the gymnasium or a similar location. Parents are not permitted to bring food for their children on visiting day. Because of the size of the facilities there is no attempt to locate facilities in the communities from which the children come. A substantial percentage of the children come from the urban areas, in particular Orleans Parish. Yet Bridge City-LTI, the closest facility to the parish, is the smallest and least secure facility. Because of the travel distances to the facilities, many of the children never receive visitors, and most do not have visitors every month.

Telephone calls are generally permitted every night from the pay phones in the common rooms in the dormitories. Many children told HRW that their parents cannot afford to pay the collect phone charges, so they do not speak with their parents on a regular basis. At Monroe-LTI the counsellors are required to make a phone call to the parents of each child in their care once a month at the facility's expense.⁴⁷ This system ensures that the children speak with their parents at least once a month.

The children said they are unable to call their lawyers because the lawyers will not accept the collect charges. There is also no privacy when making the phone calls, as the phones are located on a wall in the common room. Some children told us that they were denied the opportunity to make phone calls by other children in their dormitory. Others said that the length of time they were given to use the phone was restricted by the staff to between three and eight minutes. When the children are placed in disciplinary segregation, there does not appear to be any opportunity to use the telephone, as the children are not permitted to leave the isolation cell except once a day to take a shower. Human Rights Watch, however, was not told of any specific rule that prevented the children from using the telephone while segregated from the rest of the population.

Writing paper and stamped envelopes are not uniformly or regularly supplied to the children. Many of the children said that they get writing paper, pencils and stamps from their parents. It is an article commonly included in the packages sent to the facilities by parents. There does not appear to be any institutional encouragement to write letters.

The location of the institutions, the overall environment of monthly visits, shortened telephone calls, if any are made at all, and irregular letter writing do not foster contacts between the children and their families. Children at all the facilities told Human Rights Watch that they rarely saw their counsellors, whose role it is to provide guidance, counselling and individual attention to the children. Strengthening contacts with family and other persons in their home community and individual attention from a counsellor are considered by international standards to be an integral part of creating a treatment environment.⁴⁸

DISCIPLINE

Children are subject to different disciplinary standards than those that apply to adults, because under international standards the purpose of a child's confinement is not punishment but rehabilitation and treatment.⁴⁹ U.S. Constitutional law protects children from conditions that amount to punishment.⁵⁰

Rule 67 of the U.N. Rules for the Protection of Juveniles Deprived of their Liberty prohibits cruel, inhuman and degrading treatment. It specifically prohibits corporal punishment and the use of solitary confinement under any circumstances. Rule 68 of the U.N. Rules requires that clear rules set out the conduct that constitutes a disciplinary offense and the sanction that will be imposed. Rule 24 of the U.N. Rules requires that upon admission to a facility, all children be given a copy of the governing rules of the institution.

U.S. Constitutional law cases have found that children may not be placed in isolation for purely disciplinary purposes; rather they "may only be placed in isolation when they pose immediate threats to themselves or other people."⁵¹ Moreover, isolation should be for as short a period of time as is necessary to enable a child's violent mood to subside. Giving a child books and writing materials in isolation reinforces its non-punitive nature.

When children are placed in isolation in LTI's⁵² they are not able to participate in any of the programming at the facilities. They are let out only to have a shower each day. They are not provided with anything to do, no books, no paper and pencil, no television. They are simply given nothing to occupy their time.

According to the ACA standards, disciplinary isolation may last a maximum of five days. This is the standard purportedly followed by the LTI's. This does not comply with the international standards set out above, nor does it appear to comply with the U.S. constitutional law decisions which restrict the use of isolation to instances where children pose an immediate threat to themselves or others, referred to above. Most children interviewed at all the institutions, except Bridge City-LTI, confirmed that disciplinary isolation generally lasted a maximum of five days. There were exceptions, however: TA at EBR-LTI told us that she had spent nine consecutive days in disciplinary lockdown. She also said that the guards sometimes refuse to let children out of the cells during the isolation period.

None of the children interviewed at Bridge City-LTI had been in lockdown, nor had they ever heard of anyone placed in lockdown. The lockdown log book at Bridge City-LTI confirmed that no child had been in the cells since November 1994. Human Rights Watch was told by Superintendent Harris that when isolation is used it is only for one hour at a time to bring a child's behavior under control.

Children are, however, placed in what the institutions call "protective custody", or administrative segregation, for longer periods of time than five days at all the facilities except Bridge City-LTI.⁵³ The administrative segregation cells are identical to the isolation cells and frequently located in the same building. The use of administrative segregation gives the institutional administration a power which is open to abuse and arbitrary use. There is no clear monitoring system or system of review at the correctional facilities to ensure that this power is not abused or over-used. Institutions use administrative segregation excessively.

At TCCY, 240 of the 350 new beds being built will be single cells for use as administrative segregation cells and isolation cells.⁵⁴ At EBR-LTI, the staff uses what is called "pre-disciplinary detention" in the isolation cells. A child can spend up to three days in an isolation cell, prior to a determination that disciplinary isolation is required.

Children reported that isolation is used frequently. UB, at EBR-LTI, said that on the day before she talked with us, she had been placed in isolation for seven hours simply for dancing. OK, age eighteen, at EBR-LTI, said that he was put in isolation for a "couple of hours" just for talking in the dining hall. At Monroe-LTI, one child alleged there was corruption in the isolation practices:

C KJ, age eighteen, said: "Some of the guards are crooked, they ask for your money or else it's lockdown. [It's] cold [and] they take everything away from you and [you have] just your pj's."

Several children reported that isolation cells were cold. At TCCY children in isolation prior to disciplinary hearings are provided with a mattress at all times, however, once a child is found "guilty" of a violation, the mattress is taken away between the hours of 6:00 A.M. and 9:00 P.M. during his time in isolation. Human Rights Watch was not told about the use of this practice at any of the other facilities.

Human Rights Watch was told by each of the superintendents of the facilities that the use of restraints was confined to circumstances where children needed to be brought under control or where they were being transported. None of the children interviewed said that they had either experienced or witnessed the application of handcuffs or shackles as punishment. However, a number of children told Human Rights Watch that they had either experienced or witnessed correctional officers placing handcuffs on a child to restrain him and then proceeding to beat him while he was restrained. In other instances where the use of restraints was described, it was unclear whether the restraints were a necessary security measure or an abuse of the power to restrain the children. DM, age nineteen, who had escaped from Monroe-LTI in 1993, told us that he is forced to wear shackles at all times, except when he is confined to his room. He was wearing shackles when HRW spoke with him. This unnecessary and cruel use of shackles is contrary to the international standards cited above.

The international standards require that on admission children be given a copy of the rules and that the information contained in the rules be conveyed to them in a "manner enabling full comprehension."⁵⁵ Many of the children told us that they had not received a rule book upon arrival at the facility in which they were incarcerated. Being given a copy of the rules does not in itself guarantee that the rules will be applied fairly as written. Both children who had received a copy of the rules, and those who had not, told us that the "real" rules were created and applied at the discretion of the staff on duty. UB, at EBR-LTI, said that she got a copy of the rules, "but I didn't read them, because they don't run the institutes by the rules book." KM, age twenty, at EBR-LTI, said, "rules change every day."

Human Rights Watch has reviewed the book of rules. It is drafted in complex language that is difficult to understand. It is unlikely that a reading of the rule book would provide adequate notice to the children of their rights and obligations, given the language in which it is written.⁵⁶ Secretary Richard Stalder of the DPSC told us that he wanted to change the language of the rules to make them more accessible to both staff and children.⁵⁷

International law is clear and consistent in its prohibition of torture or other cruel, inhuman or degrading treatment. The prohibition is contained in the Convention on the Rights of the Child at article 37(a).⁵⁸ The U.N. Standard Minimum Rules for the Administration of Juvenile Justice prohibit corporal punishment in Article 17.3, and Rules 63 and 64 of the U.N. Rules for the Protection of Juveniles Deprived of their Liberty prohibit the use of restraints or force in any case unless all other control methods have been exhausted and failed.⁵⁹ A violation of any of these provisions is physical abuse. In accordance with the ACA standards, the DPSC has adopted a standard operating procedure that specifically restricts the use of physical force to instances of justifiable self-defense, protection of others, protection of property, and prevention of escapes, and then only as a last resort. Under the DPSC procedure, physical force is never justifiable as punishment.⁶⁰

HRW received complaints of physical abuse at all of the facilities we examined. The frequency of abuse varied between the facilities. At the Bridge City-LTI only one child complained to us of abuse by a guard.⁶¹ The problem of physical abuse by security staff at the facilities is more serious at Monroe-LTI and TCCY; at EBR-LTI physical abuse is pervasive. Children told us that they had been beaten for just "looking at someone wrong." A former staff person of the DPSC told Human Rights Watch that correctional officers have told him that the abuse problem is worsening, but that they will not report the problem because they are afraid of losing their jobs and of the repercussions in their relations with other correctional officers.

Allegations of abuse varied widely from institution to institution. Secretary Stalder of the DPSC told Human Rights Watch that there is no systematic record of the number of allegations of abuse of children by staff.⁶²

East Baton Rouge-Louisiana Training Institute

Children interviewed about the conditions at EBR-LTI said the following things about the physical abuse problem:

C EC, age seventeen, said: "[The] night shift don't like me ... one of my friends was beaten up. They are beating people like us because we look at them, a lot of people are fighting ... I got hit in the head with handcuffs three weeks ago ... [the guard] hit me with a basketball. I asked him why and he pressed against me and I stepped back because I thought that he was going to swing and the other guard held me down and hit me with handcuffs and kicked me."⁶³

C BA, age sixteen, said: "[I have] been beaten up once by the guards, [he] used [his] fists. I was sitting on a bench and [he] said I was talking and hit me and gave me a [disciplinary] ticket and two days later I went to the [disciplinary] committee and they gave me work detail."

C DR, age fifteen, said: "I got in trouble with one of the guards, I was talking and watching TV [around] bedtime and said I hope that they send me to Tallulah or Bridge City so I can go home. A guard came from behind and jumped on my back and started kicking and punching me with his hands. I went to court the next day. I told mama and the judge called here and told them to put me in C wing

[protective custody]. My eye was swollen and my lip busted, so mama knew. I couldn't fight back. It happened so quick. I didn't know what hit me."

C BN, age sixteen, said: "The guards round here beat you up. They use handcuffs and whatever they get their hands on ... Counsellors will let the guards beat you up."

C OK, age sixteen, said: "[Two weeks ago]my friend got hit with handcuffs over not moving a picnic table. He had a cut up by his eye, it was bleeding and left a scar, but he didn't have to get stitches ... We get mace thrown in our eyes when they try to break up fights."

C EJ, age seventeen, said: "They hit you for any reason, with handcuffs, with hands. I've been hit with hands twice because I messed up the count by accident. He pulled me to the side and smacked my head two times. I've lots of times seen people hit. [In] April [I saw] two guards sure beating [another boy]. One was holding him and one was beating him ... they bust his nose all up, there was a lot of blood, they sent him to Delta lockdown."

C UD, age seventeen, said: "In area one the guards beat you up with their hands...they beat CS up bad. They beat him up ... Sergeant G is the one who really beats you up. He beats you up for calling him Sergeant. [Sergeant G] slapped [CS] and cursed him. He asked to go to the infirmary and he said no ... [Sometimes] we be up in the dorm in the back; if you miss the count or talk in the dormitory they beat you up for that and if you get up to get water. [Sergeant G] is just doing it for the fun of it...One time the dorm was sick, we had a virus, and he beat us up for coughing. My friend, they took his mattress and made him sleep in the shower because of his coughing ... They rush for you to eat your food. If you don't rush they take your fork away and throw it away. They beat you if you are too slow. You have about three minutes to eat."

C ED, age sixteen, said: "I had a fight with a couple of them, they be hitting on you with handcuffs. I got hit in the head and had my teeth knocked out. It happened a lot."

C BA, age sixteen, said: "A couple of nights ago I was talking and got slapped across the face for it ... for messing the count up they punched me in the side of the face ... Mr. K jumped on me, put some black cut-off gloves on and [was] beating on me ... they said if we find out, you rat, then we'll come back after you ... the next morning I peed blood because he kicked me in the wrong spot ... he took me in a little room to beat me, a room on the side of the dormitory. [He said] "you seem to have a little problem" and then they just beat on you ... the guards break you up, and they beat you to break it up, sometimes they hit you with the handcuffs or the shackles and then put them on you and take you to infirmary."

C TM, age seventeen, described an incident in which he was not familiar with the shower rules and neglected to stand naked against the wall waiting for everyone to finish their showers. When he went to get his clothes, he said the guard,"hit me in the head, I fell down and he kicked me a couple times and then when I got up he hit me again." On another occasion TM said he witnessed two guards taking turns beating up two boys who had been fighting. He said, "they wrote a report saying that his black eye was caused by the other boy... [the guards] hit the fat boy in the head and stomach and stomped on him ... they did this right in front of everybody, then made us all go to bed early."

C TS, age nineteen, said: "One time he tried to get another guard to help beat me up ... in the dining hall, but not in front of everyone, in the little entrance way. First he put cuffs on, then started hitting me in the face and kicking me."

C KJ, age eighteen, said: "My first day there they had some suicide precaution, so I tried to say I was suicidal, so a guard asked me if I wanted to kill myself, so I said yeah so I could leave, but he just kicked me and hit me full in the side of the face. I was in full shackles and fell down and he kicked me out and so I shut up after that."

C UD said: "That's how come I came up here from EBR because a guard beat me and another guy up with a broom. It's going to court, but they say I was in a fight and he beat us up with a broom and got a few minor bruises."

C ED said: "I got hit one time by a sergeant with a book cause we weren't supposed to talk and I giggled and he made me get on my knees and he hit me on my head and my face."

C EM, age fifteen, said: "EBR, that's a messed up place. The guards will beat you. One of them named Mr.O, he has a thing called a 'house party', if you work on weekends, he wake you up at 5 A.M. . He calls you in the back where we take showers and beats you for a whole hour. When we go to mess hall to eat we have to count, and he tells you to come see, then he calls you into the washroom and beats you up and another sergeant comes to beat you. It has only happened two times to me ... I would change EBR. [I would] fire all the workers cause they are just dirty. "New jacks" come in talking, and they beat them up for nothing. This boy at EBR with me, a guard broke his arm with a broom ... [there were] boys lying on the floor and the sarge picked up his chair and threw it at him and hit him. If you tell a counselor, all it's going to do is make it worse."

C KN, age fourteen, said: "That place [EBR] was the worst place ever. I wasn't used to it. They slapped me cause I shared food and a guard walked up and came up and slapped me in the face and then took me into the laundry room and hit me again. Guards call us rats and stuff and people are stupid. Even if they don't talk they get hit."

C BG, age eighteen, said: "All my ribs were purple at EBR. A new boy came in and I tried to help him so he wouldn't get beaten up, and then a guard pulled us both up and he slapped both of us and then he told me to raise my arms and he beat my ribs until they were purple and blue and I didn't tell my mom cause I knew she would start something."

C UB said: "Every day ... they be hitting on pregnant girls. [On Sunday] the pregnant girls didn't want to go in for bed rest, they were pushing and shoving them, [the guards] carry them, just holding them by their arms and legs, and [they] picked one of them up over their shoulders, [there were] probably five guards, one man dropped a girl on her back."

Ms. Gagneaux, the head nurse on staff at EBR-LTI,⁶⁴ told Human Rights Watch that the most common illnesses for which children came to the infirmary were orthopedic injuries such as broken jaws, broken hands and broken noses. She said that there were a lot

allegations of abuse made, and sometimes they were followed up, and that there were cases where children did not report the source of their injury to the nurse on duty. She also said that many of the allegations are found by staff to be unfounded. Human Rights Watch was not told of any systematic reporting of suspected cases of abuse by the medical staff.

Monroe-Louisiana Training Institute

Children interviewed about conditions at Monroe-LTI had the following things to say about physical abuse:

C ED, age sixteen, said: "They don't hit on you with handcuffs, but they hit you with their hands and they kick you with their boots. I haven't been hit here yet, not yet. I saw a guard punch a guy with his fist last Saturday. He went to the infirmary, his eye was swole."

C GD, age seventeen, said: "Stay your distance [from the guards]. People get hit every day, all the time. They use their hands and handcuffs."

C KJ, age eighteen, said: "In the past they were hitting. I've had my share of bruises and footprints on my face, but they are better."

C UD said: "Mr. X hit him in the face with a radio, and he hit CA with his fist and broke his nose. They be slapping you every now and then. Mr. Y, he hits people while they are asleep; somebody might talk, and he hits them."

C LJ, age sixteen, said: "I've been beat up a lot of times. I can't count, it be so many. They get some handcuffs and hit you up the side of the head and cut your head. They stomp on you when you fall down. A couple of days ago Mr. X hit a guy in the face with a radio ... they beat you up, they call you out where other offenders can't see you, in some room somewhere."

C RR, age seventeen, said: "When you fight, they bust you in the head with [handcuffs]. I've seen that about, I believe it was Friday, two dudes fighting, [the guard] put handcuffs over his fingers and put the key in to make a fist, then he hit them over the head; they complained, and they got their lawyers." Several other children told us about the same incident. Human Rights Watch was told by the children that the incident was under investigation. We were told by Superintendent Robert Dunavant that a recent abuse incident was under investigation, but we have heard nothing further on the matter.

A few of the children told Human Rights Watch that the guards at Monroe-LTI sold contraband to some of the other children. They said that nobody talked about it, and the children were not prepared to give the names of the guards involved. The court expert appointed by Judge Polozola confirmed that she had received similar complaints but that there was never enough evidence to pursue the complaints.

Tallulah Correctional Center for Youth

The children confined at TCCY made fewer complaints about physical abuse. Where abuse was reported, it was attributed to the DPSC security staff.

The children interviewed about conditions at TCCY said the following about physical abuse:

C BG, age eighteen, said: "It used to be alright but the DPSC came in and has to do their own thing. They beat you up and stuff ... they got a pack, three of them, and they run around and beat people up. My mama wants to check. [One time when there were] no white people in the cafeteria, so [the man serving the food] skipped me three times and then started punching me and others joined and said this be for 300 years ago what you did to my people."

C SC said: "I had my eardrum bust, March 22nd, the dormitory they stuck me out because I was the only one from Baton Rouge, the rest are from New Orleans, and the lieutenant punched me in the ear and busted my eardrum. I went to Conway hospital in Monroe ... I reported the ear drum. The nurse said she wrote it up, but you can't always listen to them and nothing happened."

A few children who had been at both TCCY and EBR-LTI commented that the security staff at TCCY were more understanding and more willing to talk rather than hit as compared to EBR-LTI.

Bridge City-Louisiana Training Institute

Of the children interviewed at Bridge City-LTI, only one mentioned physical abuse. The rest of the children interviewed said that they had never experienced physical abuse, nor had they witnessed it, at that facility. CM, age thirteen, said, "the guards here are better. They take their time with you, explain things." This sentiment was expressed by several children who told us that they liked the fact that the guards talked to them.

However, the abuse described by the one child at Bridge City-LTI was very serious:

C KG, age fourteen, said, "What had happened is this guard was walking around with a broomstick and he made a line of people and he hit guys ontop of the head and they fell down. The other day they were punishing us by making us hold our hands out for thirty minutes and one guy dropped his fingers and they came over and beat him up and threw a chair at him. Another punishment is thinking position. They make you hold up your weight on your elbows for ten minutes even if its only one guy who messed up; the skin rips off your arms and elbows ... one guard, he hits you with a cable wire, he wets your hand and arm and whips you."

U.N. Rules 75 and 76 provide that children should have the opportunity to make complaints and to be informed of the response without delay.

The Administrative Remedy Procedure (ARP) under which children in the Louisiana correctional facilities are entitled to complain to the superintendent about physical abuse is virtually never used. During the period from July 1994 to March 1995, the summary of ARPS⁶⁵ prepared by each institution showed that there were no complaints of abuse at Bridge City-LTI and only one complaint of abuse at EBR-LTI. At Monroe-LTI, where, according to Superintendent Dunavant, the ARP system is functioning much more effectively, there were seventy-seven complaints of abuse during the same period of time. The number of complaints per month dropped dramatically after the

first three months of the period reported. There is no reporting by TCCY.

The children we spoke to universally had no confidence in the system. Complaints are rarely made as a result of this lack of confidence, and when they are made there is frequently no response at all. Many of the children told us that when they wrote complaints they were ripped up by the guards when they gave the paper to them, or that the complaints were never passed on to the captain in charge. There is a strong fear of reprisal among the children.

C LJ, age sixteen, said: "If you write them up and they find out, they are away for a couple of days, and then they try to hit you up for anything you do."

Despite the existence of the ARP, Superintendent Elijah Lewis at EBR-LTI told us that he had no way of knowing how many children in total complained of abuse⁶⁶ and how many staff members had been disciplined for abusing children. However, after our visit, he reported to Secretary Stalder that there had been ninety-two reported cases of alleged abuse; six of the cases had been confirmed and disciplinary action had been taken. There was no indication what the disciplinary action was.⁶⁷ Three days after Human Rights Watch's second visit to EBR-LTI, a child complained that he had received lacerations to the head area and the correctional officer named was placed on forced leave. An investigation was conducted, and the complaint was substantiated. The correctional officer received an emergency verbal suspension.⁶⁸

The children we talked to had the following to say about the ARP:

C EC, age seventeen, said: "I wrote a complaint and told the truth and the officer came and got me and we started fisting. Sometimes they tear them up...every time someone in the dormitory files a complaint, nothing has ever happened."

C DM, age nineteen, said: "They use physical force but when it goes down everything comes up clean, like nothing happens."

C BC, age twenty, said: "The guards write reports and say that the offenders hit first, that's why nobody did nothing about it."

C EK, age eighteen, said: "You can't beat their words. I wrote them up a couple of times and I never got no response."

Rule 37 of the U.N. Rules for the Protection of Juveniles Deprived of their Liberty provides that children must receive food of a quality and quantity to satisfy the standards of health and hygiene.

Virtually every child interviewed at all the facilities, except Bridge City-LTI, told Human Rights Watch that he was hungry. At Bridge City-LTI the children said that they received better quality food than at the other facilities and a sufficient quantity of food. At the other facilities the portions of food served are inadequate according to the children.

The children consistently made the following kinds of statements about the quantity of the food served:

C UB told Human Rights Watch that she had lost 31 lbs. since her arrival at the LTI.

C EC, age seventeen, said: "They don't feed us enough."

C BA, age sixteen, said: "The food tastes like soap."

C BN, age sixteen, said: "No taste to it. Don't get enough. Can't get full."

C OK, age sixteen, said: "Don't be enough."

The breakfasts and lunches served at the LTI's are funded by the federal government's school lunch program. In a meeting with the secretary of the DPSC, Human Rights Watch raised the issue of inadequate portions of food. The secretary agreed that there was a possibility that the portion sizes specified for the school lunch program might not be fixed with a view to the appetites of sixteen and seventeen-year-old boys. However, the secretary was of the opinion that all health and nutritional standards were met by the meals served at the LTI's.⁶⁹ In response to Human Rights Watch's expressed concern, Superintendent Dunavant of Monroe-LTI offered to look into the possibility of increasing the portion sizes, noting that the portion specifications were a minimum requirement, not a maximum requirement. Human Rights Watch was not told whether the DPSC authorized any increase in portion size.

Although the quantities were said to be insufficient, there were fewer complaints about the quality of the food. Human Rights Watch was told by children who had been in several facilities that the quality of the food at EBR-LTI and JRDC was significantly worse than at the other two state-run facilities. There were complaints of meat and chicken being rare or raw in the middle. Some of the children complained about the sanitary conditions in the kitchens. KJ, age eighteen, who works in the dining hall at Monroe-LTI, said, "the cooks up here are dirty. They drop food on the floor and pick it up and serve it up." UM, age fourteen, said, "one day they dropped food on the floor and then picked it back up and gave it to us."

We had meals at both EBR-LTI and Monroe-LTI. We found the food to be adequate, though it lacked seasoning, particularly, we were told, to the Louisiana palate which is accustomed to salt. Human Rights Watch was also told by some children that the food on days that visitors came was invariably much better quality than on other days.

Article 28 of the Convention on the Rights of the Child provides that children have a right to education and that primary education must be compulsory and free. The right to education is reiterated in U.N. Rule 38. U.N. Rules 39 through 46 detail the parameters of the right to education, vocational training and work. The right includes education for children of compulsory school age and access to further education for children above compulsory school age. Article 26.6 of the Beijing Rules provides that children should not leave the institution at an educational disadvantage. U.N. Rule 47 sets out the children's right to a daily period of recreation, outdoors if possible, and additional daily time for leisure activities, like arts and crafts.

All of the facilities, except the JRDC section at EBR-LTI, have a school program and some time set aside each day, usually about one

hour, for recreation. In general children attended school either in the morning or in the afternoon for three hours. There is no school for children housed at the JRDC. Since many of the children are found to be at a grade level below the one corresponding to their age, most of the schooling programs are alternative education programs. Many of the children interviewed by Human Rights Watch said that they had not been in school right before they were admitted to the institutions. The school provides basic education in math and literacy and builds on the child's education as he or she progresses.

The teachers are, for the most part, drawn from the school system in the area in which the institution is located. There is provision for special education at all the facilities, to some extent. Monroe-LTI appears to have the most highly developed staff of teachers in the area of special education. Most of the children commented relatively favorably on school, saying that it was an acceptable way to pass time and was sometimes interesting.

All of the facilities provide classes to prepare children for their Graduate Equivalency Degree (GED). However, once a child achieves a GED there are no further educational opportunities. At Monroe-LTI, KJ, age eighteen, who wanted to take college courses, said, "If you are smarter, you don't get good education. It pays to be stupid, you get rewarded." Superintendent Dunavant told HRW that one child at Monroe-LTI did a teleconference course from Northeast University in Louisiana in 1994, but that college courses were not generally available. He also told us that when a child wants to go to college his approach is to try to convince a court to let the child out to attend college. Secretary Stalder of the DPSC told HRW that college courses were not possible because of lack of funds. The institutions have no policy of facilitating the pursuit of higher education.

Human Rights Watch visited each of the facilities on a weekday, at an hour during which the children, or at least some of them, would normally be in school. At every facility there were empty classrooms at the time the visit occurred and a substantial proportion of the children were not in school. At Bridge City-LTI most of the teachers were gone on the first day Human Rights Watch visited, apparently on training programs, but no one that Human Rights Watch spoke to was quite sure of where the teachers were.

EBR-LTI, but not JRDC, is fortunate enough to have the Model Continuum of Rehabilitative Care (MCRC) program, which is funded by a grant from the federal Center for Substance Abuse Treatment (CSAT). The program includes interaction with the parents, substance abuse treatment, aftercare, job placement and a large educational component. Children learn on computers, using a specially designed computer program which includes the Job Skills Education Program (JSEP). That program gives children the foundation for at least 350 different job prescriptions. The children who were participating in this program expressed satisfaction with the program, particularly the sense that the interactive computer program was like having their own personal tutor. Bridge City-LTI and Monroe-LTI recently received funding from the DPSC to set up the computer job training portion of the MCRC program.

Recreation at the facilities is inconsistently provided from facility to facility. Some of the children told HRW that during the recreational period at EBR-LTI they are often made to sit on the floor in the gym and do nothing for the entire hour; for outside recreation time the children said that they are often made to sit on the sidewalk. OK, age eighteen, said, "yesterday, I'm a dormitory rep, I go to a meeting and tell them the dormitory needs some outside rec, the man ain't letting us out, he come ready to hit because I told he didn't give us outside rec."

Many of the children at TCCY said that there was not enough to do at the facility and that there was more to do at EBR-LTI. The children at Monroe-LTI and Bridge City-LTI, except those in isolation, of course, generally said that they had lots of things to do and that the activities were interesting and, in some cases, enjoyable. At Monroe-LTI there is a "boys club" which operates a canteen and has various activities including pottery, pool and weights. The children interviewed at Monroe-LTI commented favorably on the club activities.

The three LTI's all provide vocational training. Monroe-LTI has the most highly developed vocational training program. It includes working as apprentices to various trades. On the day that Human Rights Watch visited, two children were helping to set up an air conditioning system in the school. The regular vocational programs focus on small engine repair, upholstery and carpentry.

There are also parenting skills programs, to differing degrees, at each of the LTI's. At Monroe-LTI the parenting program is operated on an annual grant of \$25,000 from the state formula grant money distributed by the OJJDP and awarded through the State Advisory Group. The parenting program started out as a comprehensive program that included an overnight visit component. A small house was assigned for use by the program and set up to mimic a home. As part of the program the confined children's babies were able occasionally to spend an entire weekend in this monitored "home" situation with their parents. Human Rights Watch was told by an official who requested anonymity that although no problems ever occurred, the administration of Governor Edwards stopped the overnight visit component of the program, citing liability risks. Bridge City-LTI also has a parenting program, and EBR-LTI provides some parenting skills training to girls who are pregnant. When a girl has a child during her term at the LTI, the baby is taken from her immediately after delivery and placed in the care of a family member or put into foster care.

At Bridge City-LTI there is a program called the Short Term Offender Program (STOP). STOP is for children, boys only, who are generally first time property offenders. The boys are required to serve only ninety days in the program, which includes components on substance abuse and victim impact awareness. TCCY ostensibly has a Louisiana Intensive Training and Education Program, the "LITE" program, which is for boys serving shorter sentences, and a regular LTI program. The "LITE" program is supposed to be a boot camp program. The children interviewed said that there did not seem to be any difference between the two programs, and many were given conflicting information on which program they were participating in. Human Rights Watch was unable to discern the difference between the programs, and none of the children interviewed said that they were participating in boot camp type activities beyond some drills. However, Bridge City-LTI, which does not purport to be a boot camp, has an atmosphere more akin to a boot camp. At Bridge City-LTI the children's heads are shaved close and they are required to do marching style drills for at least one hour every day, often more, and sometimes for as much as four hours on the weekend.

International standards clearly enunciate the principle that children who are incarcerated are to be cared for and treated. The goal of the incarceration is to prepare children for their return to society. Incarceration is not for punishment, but rather for treatment. To that end the international standards develop the concept of "normalization." "Normalization" requires an institution to minimize the differences between life inside and life outside the institution. International standards encourage interaction between the children and their

community, treatment with respect and dignity and the development of alternatives to incarceration.

The physical surroundings of the four correctional facilities foster intimidation and punishment. The programming and counselling are inadequate to provide a full treatment program and on the days Human Rights Watch visited, there was little evidence that the children were being treated with respect and dignity at most times. The total lack of privacy magnifies the punishment atmosphere of the institutions.

A judge in Orleans parish who did not want to be named said, "people may mouth treatment, but they don't mean it," and another judge in Jefferson parish told Human Rights Watch that the State was just "warehousing kids" in the LTI's and that he "did not have much confidence in the LTI's...I only send kids to LTI's as a last resort; you can't count on good, effective treatment." Even Superintendent Dunavant, of Monroe-LTI, told Human Rights Watch that keeping children in the LTI's until they are twenty-one years old means that when they are released, they cannot function as adults in society.⁷⁰

Some children in the institutions told us that they are not getting treatment or preparation for reintegration into society. JK, age eighteen, who had been at Monroe-LTI for three and a half years said, "I'm somewhat institutionalized. When they keep you a long time it just makes it worse. If they would have some type of rehab. courses, it would be better."

EK, age nineteen, at Monroe-LTI, summed up the systemic and societal problems that are carried over to the LTI's, saying, "They just slap you up...I came from a family like that, that's all I had to go through all my life, being locked up ain't changing me...when they slap us up, it ain't doing nothing but pumping up anger in me...I mostly grew up in the system...since everyone telling me how it was, I knew I would be at LTI someday."

This sentiment was echoed by Dr. Cecile Guin who has worked in the field of juvenile justice in Louisiana for eighteen years. She said, "No one cares enough to rock the boat so that the system can be changed ... Once the youth enters a juvenile institution, his or her chances of becoming a productive member of society are significantly decreased ... It is more likely that the youth has serious educational deficiencies that are not addressed during incarceration, is brutalized one way or another through the system and is released at a full term date with little or no preparation for reintegration into society ... Louisiana has never really implemented a comprehensive treatment program in the state."

A particular issue that is symptomatic of the general treatment accorded to the children is that many are not even given the fundamental right to know when they are to be released from the facility, or they are given an adjudicated date of release by the court, but it is somehow modified or let to pass without formal extension of the date. According to the children we spoke with this is due to the fact that an aftercare plan has not yet been prepared for the child,⁷¹ or that there is no space yet in the alternative or aftercare program for which the child is slated, or that the child is simply not able to contact his or her lawyer before a court date so that he or she is then unable to make arrangements to attend court. The problem is particularly acute for the children from Orleans parish because of the large number of children from the parish who need an aftercare program and the lack of resources of the parish.

KN, age fourteen, said, "I seen a lot of people here that are supposed to go home but they never leave, it worries me because they take so long." At TCCY, SC said his release date was supposed to be March 7 (he was interviewed on May 3) but that he had heard nothing about his release and he could not get in touch with anyone because all the phone calls are collect and the lawyers do not accept the calls.

The overall atmosphere of the institutions, in particular EBR-LTI and TCCY, is one of hostility and anger. Very little appears to be done to assist children in their reintegration into society. Among the people Human Rights Watch spoke to in the institutions and outside of them, there seemed to be little hope that the children at the secure facilities would stay out of trouble once released.

4

RECOMMENDATIONS

Human Rights Watch offers the following recommendations regarding the human rights aspects of the confinement of children in Louisiana.

To the state of Louisiana:

C The Louisiana state government should develop mandatory standards that at minimum comply with international standards on the conditions of confinement for children and that are applicable to all public and private facilities.

C Physical abuse by staff against children should be strictly prohibited. Staff found to have abused children should be appropriately disciplined, including dismissal. Where appropriate, criminal charges should be brought against the staff. Staff should be fully informed of the rules and consequences concerning physical abuse of children.

C The Administrative Remedy Procedure should be made accessible and effective. The ARP should be written in clear language that can be easily understood and should be fully explained to children upon their arrival at an institution. Steps should be taken to ensure that the ARP is readily accessible, including the availability at all times of the proper forms on which to file a complaint. At each institution the ARP should be administered by a person independent of the institutional administration who can receive complaints without the involvement of security staff. Complaints should be responded to and thoroughly and promptly investigated.

C Health care personnel should be employees of the Department of Health or other entity separate from the DPSC in order to have the independence required to report suspected abuse.

C Isolation should never be used as a disciplinary measure.

C Administrative segregation should be used only where absolutely necessary for the protection of a child. A decision to place a child in administrative segregation should be promptly and systematically reviewed.

C Pre-disciplinary isolation should never be used, as it is punishment without benefit of due process.

C Instruments of restraint like handcuffs or shackles should be used only where all other control methods have been exhausted and failed, and only where necessary to prevent the child from causing self-injury or injury to others.

C Handcuffs and shackles should never be used as punishment. Handcuffs and shackles should not be used as a means of preventing escape unless all other control methods have been exhausted and failed and where is no less intrusive method is available.

C Denial of access to reading matter should never be used as a disciplinary measure.

C Denial of outdoor time should never be used as a disciplinary measure. Children should be allowed at least one hour of daily outdoor exercise.

C The use of large dormitories should be phased out.

C The physical environment in which children are confined should be changed so as to afford children privacy while using the toilet facilities. Ideally each institution should contain single person rooms with toilet facilities contained within the room, as preferred by both international and national standards. As an interim measure, toilet facilities should be partitioned.

C In any future construction of correctional facilities for children, the DPSC should build smaller facilities and should make every effort to confine children as close to their homes as possible to facilitate the maintenance of family bonds, important to the social development and reintegration of the child in society.

C TCCY should be required to provide conditions which at minimum are consistent with the conditions at the state facilities.

C Children should be released on the date specified by the court. Children should be told in advance of their release dates and should be given the opportunity to contact their lawyer at the expense of the facility in advance of the court date.

C The institutions should develop a policy and practice of facilitating the pursuit of higher education by children who have completed their Graduate Equivalency Degrees.

C Education should be provided to children at the JRDC.

C The processing at JRDC should be completed within a reasonable time and, in any event, children should stay at JRDC for no longer than seven days.

C The institutions should provide adequate programming and educational instruction to ensure that the children are not spending their time without any activity. The purpose of the programming and education is to prepare the child for a successful reintegration into society.

C Children should be treated by staff with respect and dignity.

To the Federal government:

C The Office of Juvenile Justice and Delinquency Prevention should, in accordance with the stated purposes of the Juvenile Justice and Delinquency Prevention Act, develop mandatory standards for the administration of juvenile justice. These standards should at minimum comply with international standards on the conditions of confinement for children and be applicable to all public and private facilities.

C The Office of Juvenile Justice and Delinquency Prevention should, in accordance with the stated purposes of the Juvenile Justice and Delinquency Prevention Act, assist state and local governments in improving the administration of justice.

C The Office of Juvenile Justice and Delinquency Prevention should, in accordance with the Juvenile Justice and Delinquency Prevention Act, monitor the states that participate in the formula grants program to ensure that status offenders are not held in secure confinement and that children are not held with adults.

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

C

The Department of Justice, in accordance with the mandate of the Civil Rights of Institutionalized Persons Act, should regularly initiate investigations into the conditions in which children are confined to determine that they are in compliance with U.S. constitutional law.

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 counselling 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 practise 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 offences 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 endeavour 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 defence;

(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; counselling; 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 offence.

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 favour 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 favour 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.

United Nations 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, colour, 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 offence, 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 labour and young workers should apply to juveniles deprived of their liberty.

45. Wherever possible, juveniles should be provided with the

opportunity to perform remunerated labour, 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 offence 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, counselling 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 defence 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. Labour

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 offence;
- (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 defence, 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 counsellors, 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, counsellors, 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 favourable 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 III: UNITED NATIONS STANDARD MINIMUM RULES FOR THE ADMINISTRATION OF JUVENILE JUSTICE (THE 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 endeavour 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 behaviour, 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.

Commentary

These broad fundamental perspectives refer to comprehensive social policy in general and aim at promoting juvenile welfare to the greatest possible extent, which will minimize the necessity of intervention by the juvenile justice system, and in turn, will reduce the harm that may be caused by any intervention. Such care measures for the young, before the onset of delinquency, are basic policy requisites designed to obviate the need for the application of the Rules.

Rules 1.1 to 1.3 point to the important role that a constructive social policy for juveniles will play, inter alia, in the prevention of juvenile crime and delinquency. Rule 1.4 defines juvenile justice as an integral part of social justice for juveniles, while rule 1.6 refers to the necessity of constantly improving juvenile justice, without falling behind the development of progressive social policy for juveniles in general and bearing in mind the need for consistent improvement of staff services.

Rule 1.5 seeks to take account of existing conditions in Member States which would cause the manner of implementation of particular rules necessarily to be different from the manner adopted in other States.

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, colour, 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 offence in a manner which is different from an adult;
- (b) An offence is any behaviour (act or omission) that is punishable by law under the respective legal systems;
- (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 offence.

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.

Commentary

The Standard Minimum Rules are deliberately formulated so as to be applicable within different legal systems and, at the same time, to set some minimum standards for the handling of juvenile offenders under any definition of a juvenile and under any system of dealing with juvenile offenders. The Rules are always to be applied impartially and without distinction of any kind.

Rule 2.1 therefore stresses the importance of the Rules always being applied impartially and without distinction of any kind.

The rule follows the formulation of principle 2 of the Declaration of the Rights of the Child.

Rule 2.2 defines "juvenile" and "offence" as the components of the notion of the "juvenile offender", who is the main subject of these Standard Minimum Rules (see, however, also rules 3 and 4).

It should be noted that age limits will depend on, and are

explicitly made dependent on, each respective legal system, thus fully respecting the economic, social, political, cultural and legal systems of Member States. This makes for a wide variety of ages coming under the definition of "juvenile", ranging from 7 years to 18 years or above. Such a variety seems inevitable in view of the different national legal systems and does not diminish the impact of these Standard Minimum Rules.

Rule 2.3 is addressed to the necessity of specific national legislation for the optimal implementation of these Standard Minimum Rules, both legally and practically.

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 behaviour 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.

Commentary

Rule 3 extends the protection afforded by the Standard Minimum Rules for the Administration of Juvenile Justice to cover:

- (a) The so-called "status offences" prescribed in various national legal systems where the range of behaviour considered to be an offence is wider for juveniles than it is for adults (for example, truancy, school and family disobedience, public drunkenness, etc.) (rule 3.1);
- (b) Juvenile welfare and care proceedings (rule 3.2);
- (c) Proceedings dealing with young adult offenders, depending of course on each given age limit (rule 3.3).

The extension of the Rules to cover these three areas seems to be justified. Rule 3.1 provides minimum guarantees in those fields, and rule 3.2 is considered a desirable step in the direction of more fair, equitable and humane justice for all juveniles in conflict with the law.

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.

Commentary

The minimum age of criminal responsibility differs widely owing to history and culture. The modern approach would be to consider whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of her or his individual discernment and understanding, can be held responsible for essentially antisocial behaviour.

If the age of criminal responsibility is fixed too low or if there is no lower age limit at all, the notion of responsibility would become meaningless. In general, there is a close relationship between the notion of responsibility for delinquent or criminal behaviour and other social rights and responsibilities (such as marital status, civil majority, etc.). Efforts should therefore be made to agree on a reasonable lowest age limit that is applicable internationally.

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 offence.

Commentary

Rule 5 refers to two of the most important objectives of juvenile justice. The first objective is the promotion of the well-being of the juvenile. This is the main focus of those legal systems in which juvenile offenders are dealt with by family courts or administrative authorities, but the well-being of the juvenile should also be emphasized in legal systems that follow the criminal court model, thus contributing to the avoidance of merely punitive sanctions. (See also rule 14.)

The second objective is "the principle of proportionality". This principle is well-known as an instrument for curbing punitive sanctions, mostly expressed in terms of just deserts in relation to the gravity of the offence. The response to young offenders should be based on the consideration not only of the gravity of the offence but also of personal circumstances. The individual

circumstances of the offender (for example social status, family situation, the harm caused by the offence or other factors affecting personal circumstances) should influence the proportionality of the reactions (for example by having regard to the offender's endeavour to indemnify the victim or to her or his willingness to turn to wholesome and useful life).

By the same token, reactions aiming to ensure the welfare of the young offender may go beyond necessity and therefore infringe upon the fundamental rights of the young individual, as has been observed in some juvenile justice systems. Here, too, the proportionality of the reaction to the circumstances of both the offender and the offence, including the victim, should be safeguarded.

In essence, rule 5 calls for no less and no more than a fair reaction in any given cases of juvenile delinquency and crime.

The issues combined in the rule may help to stimulate development in both regards: new and innovative types of reactions are as desirable as precautions against any undue widening of the net of formal social control over juveniles.

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.

Commentary

Rules 6.1, 6.2 and 6.3 combine several important features of effective, fair and humane juvenile justice administration: the need to permit the exercise of discretionary power at all significant levels of processing so that those who make determinations can take the actions deemed to be most appropriate

in each individual case; and the need to provide checks and balances in order to curb any abuses of discretionary power and to safeguard the rights of the young offender. Accountability and professionalism are instruments best apt to curb broad discretion. Thus, professional qualifications and expert training are emphasized here as a valuable means of ensuring the judicious exercise of discretion in matters of juvenile offenders. (See also rules 1.6 and 2.2.) The formulation of specific guidelines on the exercise of discretion and the provision of systems of review, appeal and the like in order to permit scrutiny of decisions and accountability are emphasized in this context. Such mechanisms are not specified here, as they do not easily lend themselves to incorporation into international standard minimum rules, which cannot possibly cover all differences in justice systems.

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.

Commentary

Rule 7.1 emphasizes some important points that represent essential elements for a fair and just trial and that are internationally recognized in existing human rights instruments. (See also rule 14.) The presumption of innocence, for instance, is also to be found in article 11 of the Universal Declaration of Human rights and in article 14, paragraph 2, of the International Covenant on Civil and Political Rights.

Rules 14 seq. of these Standard Minimum Rules specify issues that are important for proceedings in juvenile cases, in particular, while rule 7.1 affirms the most basic procedural safeguards in a general way.

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 labelling.

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

Commentary

Rule 8 stresses the importance of the protection of the juvenile's right to privacy. Young persons are particularly susceptible to stigmatization. Criminological research into labelling processes has provided evidence of the detrimental effects (of different kinds) resulting from the permanent identification of young persons as "delinquent" or "criminal".

Rule 8 stresses the importance of protecting the juvenile from the adverse effects that may result from the publication in the mass media of information about the case (for example the names of young offenders, alleged or convicted). The interest of the individual should be protected and upheld, at least in principle.

(The general contents of rule 8 are further specified in rule 2 1.)

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.

Commentary

Rule 9 is meant to avoid any misunderstanding in interpreting and implementing the present Rules in conformity with principles contained in relevant existing or emerging international human rights instruments and standards-such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and the Declaration of the Rights of the Child and the draft convention on the rights of the child. It should be understood that the application of the present Rules is without prejudice to any such international instruments which may contain provisions of wider application.

(See also rule 27.)

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.

Commentary

Rule 10.1 is in principle contained in rule 92 of the Standard Minimum Rules for the Treatment of Prisoners.

The question of release (rule 10.2) shall be considered without delay by a judge or other competent official. The latter refers to any person or institution in the broadest sense of the term, including community boards or police authorities having power to release an arrested person. (See also the International Covenant on Civil and Political Rights, article 9, paragraph 3.)

Rule 10.3 deals with some fundamental aspects of the procedures and behaviour on the part of the police and other law enforcement officials in cases of juvenile crime. To "avoid harm" admittedly is flexible wording and covers many features of possible interaction (for example the use of harsh language, physical violence or exposure to the environment). Involvement in juvenile justice processes in itself can be "harmful" to juveniles; the term "avoid harm" should be broadly interpreted, therefore, as doing the least harm possible to the juvenile in the first instance, as well as any additional or undue harm. This is especially important in the initial contact with law enforcement agencies, which might profoundly influence the juvenile's attitude towards the State and society. Moreover, the success of any further intervention is largely dependent on such initial contacts. Compassion and kind firmness are important in these situations.

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.

Commentary

Diversion, involving removal from criminal justice processing and, frequently, redirection to community support services, is commonly practised on a formal and informal basis in many legal systems. This practice serves to hinder the negative effects of subsequent proceedings in juvenile justice administration (for example the stigma of conviction and sentence). In many cases, non-intervention would be the best response. Thus, diversion at the outset and without referral to alternative (social) services may be the optimal response. This is especially the case where the offence is of a non-serious nature and where the family, the school or other informal social control institutions have already reacted, or are likely to react, in an appropriate and constructive manner.

As stated in rule 11.2, diversion may be used at any point of decision-making-by the police, the prosecution or other agencies such as the courts, tribunals, boards or councils. It may be exercised by one authority or several or all authorities, according to the rules and policies of the respective systems and in line with the present Rules. It need not necessarily be

limited to petty cases, thus rendering diversion an important instrument.

Rule 11.3 stresses the important requirement of securing the consent of the young offender (or the parent or guardian) to the recommended diversionary measure(s). (Diversion to community service without such consent would contradict the Abolition of Forced Labour Convention.) However, this consent should not be left unchallengeable, since it might sometimes be given out of sheer desperation on the part of the juvenile. The rule underlines that care should be taken to minimize the potential for coercion and intimidation at all levels in the diversion process. Juveniles should not feel pressured (for example in order to avoid court appearance) or be pressured into consenting to diversion programmes. Thus, it is advocated that provision should be made for an objective appraisal of the appropriateness of dispositions involving young offenders by a "competent authority upon application". (The "competent authority," may be different from that referred to in rule 14.)

Rule 11.4 recommends the provision of viable alternatives to juvenile justice processing in the form of community-based diversion. Programmes that involve settlement by victim restitution and those that seek to avoid future conflict with the law through temporary supervision and guidance are especially commended. The merits of individual cases would make diversion appropriate, even when more serious offences have been committed (for example first offence, the act having been committed under peer pressure, etc.).

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.

Commentary

Rule 12 draws attention to the need for specialized training for all law enforcement officials who are involved in the administration of juvenile justice. As police are the first point of contact with the juvenile justice system, it is most important

that they act in an informed and appropriate manner.

While the relationship between urbanization and crime is clearly complex, an increase in juvenile crime has been associated with the growth of large cities, particularly with rapid and unplanned growth. Specialized police units would therefore be indispensable, not only in the interest of implementing specific principles contained in the present instrument (such as rule 1.6) but more generally for improving the prevention and control of juvenile crime and the handling of juvenile offenders.

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.

Commentary

The danger to juveniles of "criminal contamination" while in detention pending trial must not be underestimated. It is therefore important to stress the need for alternative measures.

By doing so, rule 13.1 encourages the devising of new and innovative measures to avoid such detention in the interest of the well-being of the juvenile. Juveniles under detention pending trial are entitled to all the rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners as well as the International Covenant on Civil and Political Rights, especially article 9 and article 10, paragraphs 2 (b) and 3.

Rule 13.4 does not prevent States from taking other measures against the negative influences of adult offenders which are at least as effective as the measures mentioned in the rule.

Different forms of assistance that may become necessary have been enumerated to draw attention to the broad range of particular needs of young detainees to be addressed (for example females or males, drug addicts, alcoholics, mentally ill juveniles, young persons suffering from the trauma, for example, of arrest, etc.).

Varying physical and psychological characteristics of young detainees may warrant classification measures by which some are kept separate while in detention pending trial, thus contributing to the avoidance of victimization and rendering more appropriate assistance.

The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in its resolution 4 on juvenile justice standards, specified that the Rules, inter alia, should reflect the basic principle that pre-trial detention should be used only as a last resort, that no minors should be held in a facility where they are vulnerable to the negative influences of adult detainees and that account should always be taken of the needs particular to their stage of development.

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.

Commentary

It is difficult to formulate a definition of the competent body or person that would universally describe an adjudicating authority. "Competent authority" is meant to include those who preside over courts or tribunals (composed of a single judge or of several members), including professional and lay magistrates

as well as administrative boards (for example the Scottish and Scandinavian systems) or other more informal community and conflict resolution agencies of an adjudicatory nature.

The procedure for dealing with juvenile offenders shall in any case follow the minimum standards that are applied almost universally for any criminal defendant under the procedure known as "due process of law". In accordance with due process, a "fair and just trial" includes such basic safeguards as the presumption of innocence, the presentation and examination of witnesses, the common legal defences, the right to remain silent, the right to have the last word in a hearing, the right to appeal, etc. (See also rule 7.1.)

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.

Commentary

Rule 15.1 uses terminology similar to that found in rule 93 of the Standard Minimum Rules for the Treatment of Prisoners.

Whereas legal counsel and free legal aid are needed to assure the juvenile legal assistance, the right of the parents or guardian to participate as stated in rule 15.2 should be viewed as general psychological and emotional assistance to the juvenile-a function extending throughout the procedure.

The competent authority's search for an adequate disposition of the case may prove fit, in particular, from the co-operation of the legal representatives of the juvenile (or, for that matter, some other personal assistant who the juvenile can and does really trust). Such concern can be thwarted if the presence of parents or guardians at the hearings plays a negative role, for instance, if they display a hostile attitude towards the juvenile, hence, the possibility of their exclusion must be

provided for.

16. Social inquiry reports

16.1 In all cases except those involving minor offences, 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 offence has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority.

Commentary

Social inquiry reports (social reports or pre-sentence reports) are an indispensable aid in most legal proceedings involving juveniles. The competent authority should be informed of relevant facts about the juvenile, such as social and family background, school career, educational experiences, etc. For this purpose, some jurisdictions use special social services or personnel attached to the court or board. Other personnel, including probation officers, may serve the same function. The rule therefore requires that adequate social services should be available to deliver social inquiry reports of a qualified nature.

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 offence 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 offences 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.

Commentary

The main difficulty in formulating guidelines for the adjudication of young persons stems from the fact that there are unresolved conflicts of a philosophical nature, such as the following:

- (a) Rehabilitation versus just desert;
- (b) Assistance versus repression and punishment;
- (c) Reaction according to the singular merits of an individual case versus reaction according to the protection of society in general;
- (d) General deterrence versus individual incapacitation.

The conflict between these approaches is more pronounced in juvenile cases than in adult cases. With the variety of causes and reactions characterizing juvenile cases, these alternatives become intricately interwoven.

It is not the function of the Standard Minimum Rules for the Administration of Juvenile Justice to prescribe which approach is to be followed but rather to identify one that is most closely in consonance with internationally accepted principles. Therefore the essential elements as laid down in rule 17.1 , in particular in subparagraphs (a) and (c), are mainly to be understood as practical guidelines that should ensure a common starting point; if heeded by the concerned authorities (see also rule 5), they could contribute considerably to ensuring that the fundamental rights of juvenile offenders are protected, especially the fundamental rights of personal development and education.

Rule 17.1 (b) implies that strictly punitive approaches are not appropriate. Whereas in adult cases, and possibly also in cases of severe offences by juveniles, just desert and retributive sanctions might be considered to have some merit, in juvenile cases such considerations should always be outweighed by the interest of safeguarding the well-being and the future of the young person.

In line with resolution 8 of the Sixth United Nations Congress,

rule 17.1 (b) encourages the use of alternatives to institutionalization to the maximum extent possible, bearing in mind the need to respond to the specific requirements of the young. Thus, full use should be made of the range of existing alternative sanctions and new alternative sanctions should be developed, bearing the public safety in mind. Probation should be granted to the greatest possible extent via suspended sentences, conditional sentences, board orders and other dispositions.

Rule 17.1 (c) corresponds to one of the guiding principles in resolution 4 of the Sixth Congress which aims at avoiding incarceration in the case of juveniles unless there is no other appropriate response that will protect the public safety.

The provision prohibiting capital punishment in rule 17.2 is in accordance with article 6, paragraph 5, of the International Covenant on Civil and Political Rights.

The provision against corporal punishment is in line with article 7 of the International Covenant on Civil and Political Rights and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the draft convention on the rights of the child.

The power to discontinue the proceedings at any time (rule 17.4) is a characteristic inherent in the handling of juvenile offenders as opposed to adults. At any time, circumstances may become known to the competent authority which would make a complete cessation of the intervention appear to be the best disposition of the case.

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 counselling 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.

Commentary

Rule 18.1 attempts to enumerate some of the important reactions and sanctions that have been practised and proved successful thus far, in different legal systems. On the whole they represent promising opinions that deserve replication and further development. The rule does not enumerate staffing requirements because of possible shortages of adequate staff in some regions; in those regions measures requiring less staff may be tried or developed.

The examples given in rule 18.1 have in common, above all, a reliance on and an appeal to the community for the effective implementation of alternative dispositions. Community-based correction is a traditional measure that has taken on many aspects. On that basis, relevant authorities should be encouraged to offer community-based services.

Rule 18.2 points to the importance of the family which, according to article 10, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, is "the natural and fundamental group unit of society". Within the family, the parents have not only the right but also the responsibility to care for and supervise their children. Rule 18.2, therefore, requires that the separation of children from their parents is a measure of last resort. It may be resorted to only when the facts of the case clearly warrant this grave step (for example child abuse).

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.

Commentary

Progressive criminology advocates the use of non-institutional over institutional treatment. Little or no difference has been found in terms of the success of institutionalization as compared to non-institutionalization. The many adverse influences on an individual that seem unavoidable within any institutional setting evidently cannot be outbalanced by treatment efforts. This is especially the case for juveniles, who are vulnerable to negative influences. Moreover, the negative effects, not only of loss of liberty but also of separation from the usual social environment, are certainly more acute for juveniles than for adults because of their early stage of development.

Rule 19 aims at restricting institutionalization in two regards: in quantity ("last resort,") and in time ("minimum necessary period"). Rule 19 reflects one of the basic guiding principles of resolution 4 of the Sixth United Nations Congress: a juvenile offender should not be incarcerated unless there is no other appropriate response. The rule, therefore, makes the appeal that if a juvenile must be institutionalized, the loss of liberty should be restricted to the least possible degree, with special institutional arrangements for confinement and bearing in mind the differences in kinds of offenders, offences and institutions.

In fact, priority should be given to "open" over "closed" institutions. Furthermore, any facility should be of a correctional or educational rather than of a prison type.

20. Avoidance of unnecessary delay

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

Commentary

The speedy conduct of formal procedures in juvenile cases is a paramount concern. Otherwise whatever good may be achieved by the procedure and the disposition is at risk. As time passes, the juvenile will find it increasingly difficult, if not impossible, to relate the procedure and disposition to the offence, both intellectually and psychologically.

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.

Commentary

The rule attempts to achieve a balance between conflicting interests connected with records or files: those of the police, prosecution and other authorities in improving control versus the interests of the juvenile offender. (See also rule 8.) "Other duly authorized persons" would generally include among others, researchers.

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.

Commentary

The authorities competent for disposition may be persons with very different backgrounds (magistrates in the United Kingdom of Great Britain and Northern Ireland and in regions influenced by the common law system; legally trained judges in countries using Roman law and in regions influenced by them; and elsewhere elected or appointed laymen or jurists, members of community-based boards, etc.). For all these authorities, a minimum training in law, sociology, psychology, criminology and behavioural sciences would be required. This is considered as important as the organizational specialization and independence of the competent authority.

For social workers and probation officers, it might not be feasible to require professional specialization as a prerequisite for taking over any function dealing with juvenile offenders. Thus, professional on-the job instruction would be minimum qualifications.

Professional qualifications are an essential element in ensuring the impartial and effective administration of juvenile justice.

Accordingly, it is necessary to improve the recruitment, advancement and professional training of personnel and to provide them with the necessary means to enable them to properly fulfil their functions.

All political, social, sexual, racial, religious, cultural or any other kind of discrimination in the selection, appointment and advancement of juvenile justice personnel should be avoided in order to achieve impartiality in the administration of juvenile justice. This was recommended by the Sixth Congress. Furthermore, the Sixth Congress called on Member States to ensure the fair and equal treatment of women as criminal justice personnel and recommended that special measures should be taken to recruit, train and facilitate the advancement of female personnel in juvenile justice administration.

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.

Commentary

Disposition in juvenile cases, more so than in adult cases, tends to influence the offender's life for a long period of time. Thus, it is important that the competent authority or an independent body (parole board, probation office, youth welfare institutions or others) with qualifications equal to those of the competent authority that originally disposed of the case should monitor the implementation of the disposition. In some countries, a *juge de l'exécution des peines* has been installed for this purpose.

The composition, powers and functions of the authority must be flexible; they are described in general terms in rule 23 in order to ensure wide acceptability.

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.

Commentary

The promotion of the well-being of the juvenile is of paramount consideration. Thus, rule 24 emphasizes the importance of providing requisite facilities, services and other necessary assistance as may further the best interests of the juvenile throughout 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.

Commentary

This rule reflects the need for a rehabilitative orientation of all work with juvenile offenders. Co-operation with the community is indispensable if the directives of the competent authority are to be carried out effectively. Volunteers and voluntary services, in particular, have proved to be valuable resources but are at present underutilized. In some instances, the co-operation of ex-offenders (including ex-addicts) can be of considerable assistance.

Rule 25 emanates from the principles laid down in rules 1.1 to 1.6 and follows the relevant provisions of the International Covenant on Civil and Political Rights.

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.

Commentary

The objectives of institutional treatment as stipulated in rules 26.1 and 26.2 would be acceptable to any system and culture. However, they have not yet been attained everywhere, and much more has to be done in this respect.

Medical and psychological assistance, in particular, are extremely important for institutionalized drug addicts, violent and mentally ill young persons.

The avoidance of negative influences through adult offenders and the safeguarding of the well-being of juveniles in an institutional setting, as stipulated in rule 26.3, are in line with one of the basic guiding principles of the Rules, as set out by the Sixth Congress in its resolution 4. The rule does not prevent States from taking other measures against the negative influences of adult offenders, which are at least as effective as the measures mentioned in the rule. (See also rule 13.4)

Rule 26.4 addresses the fact that female offenders normally receive less attention than their male counterparts. as pointed out by the Sixth Congress. In particular, resolution 9 of the Sixth Congress calls for the fair treatment of female offenders at every stage of criminal justice processes and for special

attention to their particular problems and needs while in custody. Moreover, this rule should also be considered in the light of the Caracas Declaration of the Sixth Congress, which, inter alia, calls for equal treatment in criminal justice administration, and against the background of the Declaration on the Elimination of Discrimination against Women and the Convention on the Elimination of All Forms of Discrimination against Women.

The right of access (rule 26.5) follows from the provisions of rules 7.1, 10.1, 15.2 and 18.2. Inter-ministerial and inter-departmental co-operation (rule 26.6) are of particular importance in the interest of generally enhancing the quality of institutional treatment and training.

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.

Commentary

The Standard Minimum Rules for the Treatment of Prisoners were among the first instruments of this kind to be promulgated by the United Nations. It is generally agreed that they have had a world-wide impact. Although there are still countries where implementation is more an aspiration than a fact, those Standard Minimum Rules continue to be an important influence in the humane and equitable administration of correctional institutions.

Some essential protections covering juvenile offenders in institutions are contained in the Standard Minimum Rules for the Treatment of Prisoners (accommodation, architecture, bedding, clothing, complaints and requests, contact with the outside world, food, medical care, religious service, separation of ages, staffing, work, etc.) as are provisions concerning punishment and

discipline, and restraint for dangerous offenders. It would not be appropriate to modify those Standard Minimum Rules according to the particular characteristics of institutions for juvenile offenders within the scope of the Standard Minimum Rules for the Administration of Juvenile Justice.

Rule 27 focuses on the necessary requirements for juveniles in institutions (rule 27.1) as well as on the varying needs specific to their age, sex and personality (rule 27.2). Thus, the objectives and content of the rule interrelate to the relevant provisions of the Standard Minimum Rules for the Treatment of Prisoners.

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.

Commentary

The power to order conditional release may rest with the competent authority, as mentioned in rule 14.1 or with some other authority. In view of this, it is adequate to refer here to the "appropriate," rather than to the "competent" authority.

Circumstances permitting, conditional release shall be preferred to serving a full sentence. Upon evidence of satisfactory progress towards rehabilitation, even offenders who had been deemed dangerous at the time of their institutionalization can be conditionally released whenever feasible. Like probation, such release may be conditional on the satisfactory fulfilment of the requirements specified by the relevant authorities for a period of time established in the decision, for example relating to "good behaviour" of the offender, attendance in community programmes, residence in half-way houses, etc.

In the case of offenders conditionally released from an institution, assistance and supervision by a probation or other officer (particularly where probation has not yet been adopted) should be provided and community support should be encouraged.

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 centres and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

Commentary

The importance of care following a period of institutionalization should not be underestimated. This rule emphasizes the necessity of forming a net of semi-institutional arrangements.

This rule also emphasizes the need for a diverse range of facilities and services designed to meet the different needs of young offenders re-entering the community and to provide guidance and structural support as an important step towards successful 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 analyse 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.

Commentary

The utilization of research as a basis for an informed juvenile justice policy is widely acknowledged as an important mechanism for keeping practices abreast of advances in knowledge and the continuing development and improvement of the juvenile justice system. The mutual feedback between research and policy is

especially important in juvenile justice. With rapid and often drastic changes in the life-styles of the young and in the forms and dimensions of juvenile crime, the societal and justice responses to juvenile crime and delinquency quickly become outmoded and inadequate.

Rule 30 thus establishes standards for integrating research into the process of policy formulation and application in juvenile justice administration. The rule draws particular attention to the need for regular review and evaluation of existing programmes and measures and for planning within the broader context of overall development objectives.

A constant appraisal of the needs of juveniles, as well as the trends and problems of delinquency, is a prerequisite for improving the methods of formulating appropriate policies and establishing adequate interventions, at both formal and informal levels. In this context, research by independent persons and bodies should be facilitated by responsible agencies, and it may be valuable to obtain and to take into account the views of juveniles themselves, not only those who come into contact with the system.

The process of planning must particularly emphasize a more effective and equitable system for the delivery of necessary services. Towards that end, there should be a comprehensive and regular assessment of the wide-ranging, particular needs and problems of juveniles and an identification of clear-cut priorities. In that connection, there should also be a co-ordination in the use of existing resources, including alternatives and community support that would be suitable in setting up specific procedures designed to implement and monitor established programmes.

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 disfavourably, 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.

¹ BG (not his actual initials), age eighteen. To preserve the anonymity of the children the initials used to identify a child bear no relation to the actual initials or name of the child.

² EM, age fifteen.

³ The word "children" is used in this report to mean anyone under the age of eighteen. The United Nations Convention on the Rights of the Child 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).

⁴ Annie E. Casey Foundation, 1994 Data Book on Louisiana's Children (1994).

⁵ LSA-Ch.C. Added by Acts 1991, No. 235, para. 1, eff. Jan. 1, 1992.

⁶ Because Human Rights Watch visited only two detention centers for children, the Rivarde Memorial Home in Jefferson Parish and the Youth Study Center in Orleans Parish, this report does not attempt to evaluate conditions in all detention centers in the state. Although the conditions at the detention facilities are not included, Human Rights Watch extends its thanks to Superintendent Richard Winder of the Youth Study Center, Dr. Walter Maestri, Director of Juvenile Services in Jefferson Parish and his staff and Mr. Ernest Thomas, Detention Home Supervisor at Rivarde Memorial Home; all of whom were helpful to us.

⁷ Now known as the Jetson Correctional Center for Youth (JCCY).

⁸ G.A. Res. 44/25, November 20, 1989; entered into force September 2, 1990.

⁹ G.A. Res. 45/113, April 2, 1991.

¹⁰ G.A. Res. 40/33, November 29, 1985.

¹¹ G.A. Res. 45/112, March 28, 1991.

¹² ECOSOC Res. 663 C (XXIV), July 31, 1957, and 2076 (LXII), May 13, 1977.

¹³ G.A. Res. 43/173, December 9, 1988.

¹⁴ As a result of the emphasis on naturalization and treatment in the standards applicable to children, many of the requirements are more detailed than the standards applicable to adults. For example, the specifications for the physical environment of adult facilities deal primarily with the tangible material environment like the size of the cell, the bed, the shower and the toilet. The standards for children's facilities call for facilities small enough to enable individualized treatment and of a design in keeping with the rehabilitative aims. There are virtually no programming requirements for adult facilities. Institutions housing children are required to provide education, vocational training and work opportunities, as well as recreational and physical training. Solitary confinement is prohibited for children, though not for adults.

¹⁵ *Bell v. Wolfish*, 441 U.S. 520, 99 S.Ct. 1861 (1979).

¹⁶ References to U.S. Constitutional Law will draw on a paper by Sue Burrell, Staff Attorney at the Youth Law Center in San Francisco, entitled, *Legal Issues Relating to Conditions of Confinement for Detained Children*, presented at the NJDA 6th Annual National Juvenile Services Training Institute, 1994. See also Soler et al., *Representing the Child Client*, (Matthew Bender Publishing, 1994).

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

[18](#) *Youngberg v. Romeo*, 457 U.S. 307, 102 S.Ct. 2452 (1982).

[19](#) ACA, *Standards for Juvenile Training Schools*, 3rd ed., May 1991, p. xiv.

[20](#) For example, ACA standards allow the use of isolation for up to five days, whereas international standards prohibit its use for children.

[21](#) 42 USC 5601.

[22](#) Interview with Mark Soler, President, Youth Law Center, September 8, 1995.

[23](#) 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.

[24](#) Section 223(a)(3) of the Act provides for the formation of a state advisory group to prepare the plan for use of the federal funds.

[25](#) The five sets of standards referred to are: i) standards published by the Task Force on Juvenile Justice and Delinquency Prevention in *Juvenile Justice and Delinquency Prevention* in 1976; ii) ACA standards; iii) *Architecture of Facilities, Corrections Administration, and Interim Status: The Release, Control, and Detention of Accused Juvenile Offenders between Arrest and Disposition* published in 1979 by the Institute of Judicial Administration/American Bar Association's Juvenile Justice Standards Project; iv) *Standards for the Administration of Juvenile Justice* published in 1980 by the National Advisory Committee for Juvenile Justice and Delinquency Prevention; and v) *Standards for Health Services in Juvenile Confinement Facilities* published in 1984 by the National Commission on Correctional Health Care. These standards were reviewed in the preparation of this report. Human Rights Watch considers the ACA standards to be the most comprehensive; they are, therefore, the only standards referred to in the report.

[26](#) 42 USC 1997.

[27](#) 20 USC 1401.

[28](#) Interview with Mark Soler, President, Youth Law Center, September 8, 1995.

[29](#) Children serving a juvenile life sentence in Louisiana may continue to be held in juvenile facilities between the ages of eighteen and twenty.

[30](#) Since our visit this facility has changed its name to the Jetson Correctional Center for Youth. For purposes of this report, the name of the facility at the time of Human Rights Watch's investigation will be retained.

[31](#) Interview with Mrs. Perla Steele, Director of Diagnostic Services, who administers the operations of JRDC, on March 16, 1995.

[32](#) Interview with Secretary Richard Stalder of the Department of Public Safety and Corrections, on May 4, 1995.

[33](#) This information was provided to Human Rights Watch in a letter dated August 25, 1995, from George White, Deputy Assistant Secretary, Office of Youth Development, Department of Public Safety and Corrections.

[34](#) Human Rights Watch was not able to obtain this statistical information from TCCY.

[35](#) *Hayes Williams, et al v. John McKeithen, et al*, December 27, 1984, USDC, Middle District of Louisiana, Civil Action No. 71-98-B.

[36](#) Progress Report by Superintendent Jerry Goodwin to Secretary Richard Stalder, dated March 8, 1995.

[37](#) In *Pena v. New York State Division for Youth*, 419 F. Supp. 203 (S.D.N.Y. 1976), at pp. 203-206, the court said that there was an "absolute proscription against punishment and retribution as permissible objectives" in the juvenile justice system. For other references to this issue see also: *D.B. Tewksbury*, 545 F. Supp. 896 (D.Or. 1982); *Morgan v. Sproat*, 432 F. Supp. 1130 (S.D. Miss. 1977); and Burrell, *Legal Issues Relating to Conditions of Confinement for Detained Children*, at p. 26.

[38](#) The term EBR-LTI will be used throughout the report, unless otherwise indicated in the text, to include the long term campus and JRDC.

[39](#) Interview with Reginald Grace, Assistant Secretary to the Secretary of the Department of Public Safety and Corrections, March 16, 1995.

[40](#) Convention on the Rights of the Child, article 28; U.N. Rules for the Protection of Juveniles Deprived of their Liberty, Rule 38.

[41](#) To preserve the anonymity of the children, the initials used to identify a child bear no relation to the actual initials or name of the child.

[42](#) Interview with Secretary Richard Stalder of the Department of Public Safety and Corrections, May 4, 1995.

[43](#) The details of the April 19, 1995, disturbance at TCCY are drawn from a report dated April 20, 1995 prepared by Superintendent Goodwin of TCCY and sent to the Deputy Secretary of the DPSC.

[44](#) ACA, *Standards for Juvenile Training Schools*, Section C, 3-JTS-2C-01; U.N. Rules for the Protection of Juveniles Deprived of their Liberty, Rule 33; U.N. Standard Minimum Rules for the Treatment of Prisoners, Rule 9.

[45](#) "We found that the percentage of juveniles in dormitories is positively associated with juvenile-on-juvenile injury and the use of short-term confinement. Juveniles in dormitories injure other juveniles more often, and staff in facilities with dormitories more frequently rely on short-term isolation to control juvenile behavior. The finding with respect to juvenile-on-juvenile injury is consistent with prior research that shows that increased social density has more negative effects on juveniles' behavior than reduced space does." OJJDP, *Conditions of Confinement: Juvenile Detention and Corrections Facilities* (1994), at p. 68. Ernest Thomas, Detention Home Supervisor at Rivarde Memorial Home in Jefferson Parish told Human Rights Watch that, "dorms create sexual harassment and violence...it is the intimidation of the setting."

[46](#) *Hayes Williams, et al v. John McKeithen, et al*, Annual Reports of Louisiana Training Institutes to the United States District Court, Middle District of Louisiana, July 1995.

[47](#) Interview with Superintendent Robert Dunavant, May 3, 1995.

[48](#) U.N. Rules for the Protection of Juveniles Deprived of their Liberty, Rules 8, 30 and 87; U.N. Standard Minimum Rules for the Administration of Juvenile Justice, Rule 26.

[49](#) U.N. Standard Minimum Rules for the Administration of Juvenile Justice.

[50](#) *Bell v. Wolfish*, 441 U.S. 520, 99 S. Ct. 1861 (1979).

[51](#) *Pena v. New York Division for Youth*, 419 F. Supp. 203 (S.D.N.Y. 1976); *Thomas v. Mears*, 474 F. Supp. 908 (E.D. Ark. 1979); and Burrell, *Legal Issues Relating to Conditions of Confinement for Detained Children*, at p. 29.

[52](#) Throughout the report the terms isolation and lockdown will be used interchangeably. Both refer to the same thing, but 'lockdown' is the term commonly used in Louisiana.

[53](#) Interview with Superintendent Elijah Lewis at the East Baton Rouge-LTI, March 16, 1995; interview with Superintendent Robert Dunavant at the Monroe-LTI, May 3, 1995.

[54](#) Ninety new beds have been built since HRW visited, all of which are single cell housing. It is not clear whether they are intended for administration segregation. HRW was told that they were reserved for the most aggressive children at the facility.

[55](#) U.N. Rules for the Protection of Juveniles Deprived of their Liberty, Rule 24; Standard Minimum Rules for the Treatment of Prisoners, Rule 35.

[56](#) For example, the violation of "defiance" is defined in part in the following manner: "No offender shall threaten an employee in any manner, including threatening with legal redress during a confrontation situation (this does not mean telling an employee of planned legal redress outside a confrontation situation and does not mean the actual composition or filing of a writ or suit)." Department of Public Safety and Corrections, *Disciplinary Rules and Procedures for Juvenile Offenders*, 1st ed., 1993, Section IV.2.

[57](#) Interview with Secretary Richard Stalder, May 4, 1995.

[58](#) CRC, Article 37(a): "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment..."

[59](#) Beijing Rules, Rule 17.3: "Juveniles shall not be subject to corporal punishment." U.N. Rules, Rule 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."

[60](#) Department of Public Safety and Corrections, Standard Operation Procedure No. 03-01-031, as revised March 02, 1994.

[61](#) The terms "guard," "correctional officer" and "security staff" refer to the same position at the facilities. The guards are strictly for security purposes. The counselors referred to by the children provide guidance and counseling to the children and do not have primary responsibility for security. The allegations of abuse primarily involved members of the security staff.

[62](#) Interview with Secretary Richard Stalder of the Department of Public Safety and Corrections, May 4, 1995.

[63](#) The quotes which appear in this report are verbatim records of what the children said to HRW, with the addition of words necessary for grammatical purposes. Where an additional word seemed to be required for clarity for the reader it is indicated by square brackets.

[64](#) Ms. Gagneaux is employed by the DPSC.

[65](#) The source of these statistics is the DPSC form 7, under department regulation 30-1, Summary of ARPS by Subject Code, as submitted by each of the juvenile institutions on a monthly basis. This information was provided to us by the DPSC.

[66](#) Because of the complexity of the ARP requirements, many children may complain in an incorrect manner and they are, therefore, ignored.

[67](#) Letter from Superintendent Elijah Lewis to Secretary Richard Stalder of the Department of Public Safety and Corrections, August 22, 1995.

[68](#) The secretary of the DPSC supplied Human Rights Watch with the notification to him by Superintendent Lewis of EBR-LTI of the correctional officer's emergency suspension. Letter to HRW, June 13, 1995.

[69](#) Following Human Rights Watch's visit the Department of Public Safety and Corrections sent us information it had gathered from each of the institutions certifying that the food allowances met U.S.D.A., American Dietetic Association and Department of Education dietary allowance requirements. Letters from the Department of Public Safety and Corrections to Human Rights Watch, dated May 24, 1995 and September 1, 1995.

[70](#) Interview with Superintendent Robert Dunavant, May 3, 1995.

[71](#) This problem does not occur for children in the MCRC program at EBR-LTI, because the development of an aftercare program is part of the overall MCRC program.

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