

***S.H., ET AL. V. STICKRATH* FACT SHEET**



In May 2008, the Ohio Department of Youth Services (DYS) settled a federal class action brought on behalf of all the children who are in or will be placed in the custody or under the supervision of DHS. This stipulated judgment is years in the making and requires sweeping changes to Ohio's juvenile justice system. The hope is that stakeholders around the state will work collectively to build a juvenile justice system that has better outcomes for Ohio youth and help DHS achieve its mission of "encourag[ing] positive change in the lives of youthful offenders through collaborative partnerships and culturally relevant therapeutic and academic interventions that support public safety and prepare youth to lead productive lives." This fact sheet highlights the circumstances that led to the filing of the lawsuit and the provisions of the settlement that attorneys for the youth and state officials negotiated to respond promptly to the identified problems and to avoid costly litigation.

Why was the Lawsuit Filed?

Overall, it was claimed that the conditions of confinement at DHS were unsafe for youth and that DHS failed to protect the health and well-being of children in their care. The class action¹ was filed to stop practices that violated or deprived DHS-committed youth of their constitutional rights and standard of care afforded under both federal and state laws, including the right of due process, to be living in safe and humane conditions, and to have access to proper education and health care. Specifically, the lawsuit outlined the:

- ✓ Use of excessive force, isolation, seclusion, and discipline;
- ✓ Failure to provide adequate care (mental, medical and dental);
- ✓ Failure to provide programming and mandated educations;
- ✓ Violation of youths' privacy;
- ✓ Use of inadequately trained and supervised staff by DHS;
- ✓ Failure to provide equal access to placements and services; and
- ✓ Insufficient grievance system.

What Did the Independent Investigative Team of Experts Find?

A team of experts conducted an intensive and independent examination of DHS facilities and compiled their findings in a report that was filed with the court and ultimately used to facilitate the settlement. The experts found that every allegation in the lawsuit had some credence and "most ODYS facilities were found to be overcrowded, understaffed, and underserved in such vital areas as safety, education, mental health treatment and rehabilitative programming."² The report confirmed that conditions of confined for Ohio's youth fell below the constitutional and statutory standards in all categories addressed by the fact finding team. For example:

- ✓ That needless and excessive use of force is engrained within DHS;
- ✓ Six out of 8 DHS facilities were operating at 141% of capacity;
- ✓ For all intents and purposes no mental health system of care existed;
- ✓ The arcane, legislatively created release authority process created a negative impact throughout the entire system.
- ✓ Juvenile correction officers were understaffed, overworked, and not properly trained and functioned more as prison guards versus partners in a rehabilitative process.

Silence never won rights. They are not handed down from above; they are forced by pressures from below.

~Roger Nash Baldwin,
Civil Rights Activist

Our nation's current approach to juvenile justice is costly, discriminatory, dangerous and ineffective.

~ Douglas W. Nelson, President/CEO,
The Annie E. Casey Foundation

The settlement is consistent with nationally recognized principles³ for juvenile justice reform efforts and strategies that have been previously proposed and are underway by DYS. While much of it focuses on the back end of the system, it also supports and urges front-end reform. This includes steps to reduce institutionalization, reduce racial disparity, ensure access to quality counsel, creating a range of community-based programs, responding to youth on an individualized basis in order to enhance outcomes and meet any special needs, creating smaller rehabilitative institutions, improving aftercare and reentry, maximizing youth, family and community participation, and keeping youth out of adult prisons.

What are the Opportunities?

By taking part in this effort and working toward reform collaboratively, Ohio is reinvesting in its youth. The settlement is a comprehensive commitment by Ohio to move the state's juvenile correctional model away from large institutions to a regional small facility delivery system. Ohio can be one of the first states to develop a comprehensive continuum of care that emphasizes individualized prevention, care, intervention, treatment and rehabilitative services in local communities using evidence-based promising practices for programming, education and therapeutic care. It embraces a holistic approach that starts in the community and when needed, supports the rehabilitation of youth from the onset of their involvement in the justice system in order to promote a positive outcome on their transition back to the community.

Principles Guiding the Work:

The agreement is built upon a foundation of guiding principles that outline the vision for Ohio's juvenile justice system. These are to:

- Provide a safe and humane environment.
- Develop youth-focused responses, taking into account the individual, familial, social, educational, developmental, and psychological needs of each youth served.
- Offer services in the least restrictive environment possible.
- Create a comprehensive continuum of care in a regionalized service delivery system.
- Enhance communication among courts and DYS.
- Use cost effective measures.
- Treat all youth equitably and reduce racial disparity.
- Use validated risk and needs assessment instruments upon admission and on an ongoing basis.
- Provide quality treatment interventions.
- Engage families.
- Hire and maintain a DYS qualified workforce.
- Ensure education, structured programming and strong reentry programs.
- Create a grievance system and a fair and effective release process.
- Provide access to advocates and attorneys.
- Have mechanisms for accountability and monitoring.

1. Case 2:04-cv-01206-ALM-TPK (S.D. Ohio 2008).
2. Cohen, Fred, Final Fact-Finding Report, *S.H., et al, v. Stickrath* (Dec. 31, 2007).
3. Stipulation for Injunctive Relief, *S.H., et al, v. Stickrath* (filed April 3, 2008).
4. The Annie E. Casey Foundation, *Summary: A Road Map for Juvenile Justice Reform*, 2008 KIDS COUNT Essay (2008); Youth Transition Funders Group, *A Blueprint for Juvenile Justice Reform*.

Lawsuit's Quick Reference Guide

Timeline:

- 12/20/04 Initial complaint filed
- 04/04/07 Second amended class action complaint filed
- 05/18/07 Case management plan filed under which the parties agreed to a joint fact finding team
- 07/09/07 Certified as a class action
- 12/31/07 Fact finding report filed
- 05/21/08 Stipulated judgment (settlement) approved by court.

Plaintiffs' Attorneys:

- Gerhardtstein & Branch
- Children's Law Center, Inc.
- Ohio Justice and Policy Center
- Sirkin, Pinales & Schwartz
- Youth Law Center

Facilities Covered by Settlement:

- Circleville
- Cuyahoga Hills
- Freedom Center
- Indian River
- Marion
- Mohican
- Ohio River Valley
- Scioto
- Lighthouse Youth Center, Paint Creek

Implementation Priorities:

- Use of force
- Isolation practices
- Absence of acceptable mental health care and other appropriate programming
- Overcrowding
- Deficiencies in education
- These areas should be addressed with proper training and support for personnel
- Reform release process

